

Advisory Memorandum

To: The U.S. Commission on Civil Rights

From: The Illinois Advisory Committee to the U.S. Commission on Civil Rights

Date: May, 2016

Subject: Civil Rights and Environmental Justice in Illinois

On March 09, 2016, the Illinois Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) convened a public meeting to hear testimony regarding concerns of environmental justice in the State. Key to the Committee's inquiry was an examination of factors contributing to disproportionately poor air quality and other environmental hazards on the basis of race, color, or national origin; particularly in the Chicago neighborhoods of Little Village, South Lawndale, Pilsen, and the City's Southeast side, as well as the City of Waukegan, Illinois.

The following advisory memorandum results from the testimony provided during the March 09, 2016 meeting of the Illinois Advisory Committee, as well as related testimony submitted to the Committee in writing during the relevant period of public comment. It begins with a brief background of the issue to be considered by the Committee. It then presents an overview of the testimony received. Finally, it identifies primary findings as they emerged from this testimony, as well as recommendations for addressing related civil rights concerns. This memo is intended to focus specifically on concerns of disparate impact regarding hazardous environmental contamination on the basis of race, color, or other federally protected category. While other important topics may have surfaced throughout the Committee's inquiry, those matters that are outside the scope of this specific civil rights mandate are left for another discussion. This memo and the recommendations included within it were adopted by a majority of the Committee on May 06, 2016.

Background

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.¹ U.S. Environment Protection Agency (EPA) regulations implementing Title VI further bar disproportionate impact, not only intentional discrimination, in the administration of environmental programs, including siting and enforcement for recipients of federal financial assistance.² Additionally, on February 11, 1994, President Clinton's Executive Order (E.O.) 12,898, required each federal agency, "to the greatest extent practicable and permitted by law . . . make achieving environmental justice part of its mission by identifying and addressing, as

¹ 42 U.S.C. § 2000(d).

² 40 C.F.R. §§ 7.30 and 7.35, - Available at: <https://www.law.cornell.edu/cfr/text/40/7.30> and <https://www.law.cornell.edu/cfr/text/40/7.35> (last accessed May 23, 2016)

appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations . . .”³

The Committee notes that the U.S. Commission on Civil Rights (Commission) is presently conducting a study on the EPA’s compliance with Title VI and E.O. 12,898 as part of its 2016 statutory enforcement report to be submitted to Congress and the President. Specifically, the Commission’s topic is “Environmental Justice: Toxic Materials, Poor Economies, and the Impact on the Environment of Low-Income, Minority Communities.” To fulfill this study, the Commission has requested its advisory committees consider undertaking studies on environmental justice generally, and coal ash disposal facilities where applicable. As such, and in keeping with their duty to inform the Commission of: (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,⁴ the Illinois Advisory Committee submits the following findings and recommendations to the Commission regarding environmental justice in Illinois. These findings and recommendations are intended to highlight the most salient civil rights themes as they emerged from the Committee’s inquiry. In recognition of the Commission’s continued study on this topic, in lieu of providing a detailed discussion of each finding presented, the Committee offers a general outline of themes, along with appropriate additional resources, as topics of reference for the Commission’s 2016 statutory enforcement report. The complete meeting transcript is included in Appendix A for further reference.

Overview of Testimony

The Committee approached this project from a neutral posture, and at the direction of a designated subcommittee, sought input from involved stakeholders representing all relevant perspectives. During the March 09, 2016 Committee meeting in Chicago, the Committee heard from academic experts and legal professionals in the fields of environmental law and health; community advocates; local, state, and federal government officials; and individual community members impacted by environmental contamination near their homes.⁵ The Committee also heard testimony from experts in renewable energy alternatives which may provide some solutions to the environmental contamination concerns presented. In addition, the Committee received a number of written statements offering supplemental information on the topic.⁶

³ Despite this direct mandate to address concerns of environmental justice, the Order explicitly denies private enforcement or judicial review of the Order. Therefore, it is not binding on any executive department or independent regulatory agency. Exec. Order No. 12, 898, 59 Fed. Reg. 7629 (Feb. 16, 1994), *available at* <http://www.archives.gov/federal-register/executive-orders/pdf/12898.pdf> (last accessed April 25, 2016), *See also:* 32 C.F.R. § 651.17

⁴ 45 C.F.R. § 703.2

⁵ The complete agenda and minutes from this meeting can be found in Appendix B

⁶ Written testimony submitted can be found in Appendix C

The Committee notes that where appropriate, all invited parties who were unable to attend personally were offered the opportunity to send a delegate; or, at a minimum, to submit a written statement offering their perspective on the civil rights concerns in question. KCBX Terminal, a subsidiary of Koch Minerals, submitted a series of letters sent to the community surrounding their 10730 Burley site in Chicago between 2013 and 2015, describing the company's efforts to control contamination.⁷ The final letter dated May 06, 2016 describes the company's eventual decision to cease operations and remove existing coal and petroleum coke storage at the location—citing new city environmental regulations as the cause of the closure. Notably, despite several outreach attempts, no other officials or representatives from the industries involved with the contamination in question choose to participate in any of the aforementioned formats.⁸ Regrettably, such limited participation prevented the Committee from obtaining the intended range of perspectives. It is within this context that the Committee presents the findings and recommendations that follow.

Findings

The following findings result directly from the testimony received, and reflect the views of the cited panelists. While each assertion has not been independently verified by the Committee, panelists were chosen to testify due to their professional experience, academic credentials, subject expertise, and firsthand experience with the topics at hand. A brief biography of each panelist and his or her credentials can be found in Appendix D.

1. Industrially produced toxic waste and air pollutants are disproportionately concentrated in and around communities of color, particularly Black, Latino, and American Indian populations.⁹
 - a. Improperly controlled toxins from industrial activity contribute to a number of chronic health issues including asthma, cancer, lung disease, and heart disease.¹⁰

⁷ Estadt written testimony. Appendix C. pages 38-43

⁸ The Committee also reached out to the IL Environmental Regulatory Group, an industry member organization; NRG, the owner of Waukegan's currently operating coal-fired power plant, as well as the former power plant sites in Chicago; Midwest Generation, the former owner of the Chicago coal fired power sites; Agri-Fine Corporation; and British Petroleum. The Committee also solicited the support the office of IL Senator Dick Durbin's office in reaching out to a number of facilities he had previously contacted about their policies regarding the handling of petroleum coke. (See: <http://www.durbin.senate.gov/imo/media/doc/Letters%20to%20Companies.pdf>, last accessed April 25, 2016). The Senator's office reported that they were "not able to engage in meaningful dialogue with most of the companies."

⁹ Waterhouse Testimony. Transcript, Civil Rights and Environmental Justice in Illinois. Meeting of the IL Advisory Committee to the U.S. Commission on Civil Rights. March 09, 2016. p. 15 lines 01-04 & p. 17 line 11-p.18 line 05 (See Appendix A, Hereafter cited as *Transcript*)
Hood-Washington Testimony, *Transcript*, p. 38 lines 18-22 & p. 77 lines 10 -23; Urbaszewski Testimony, *Transcript*, p. 47 lines 19-23 & p. 48 lines 01-10; Ortiz Testimony. *Transcript*, p. 154 lines 02 – 13 & p. 156 line 11 through p. 157 line 06; Figueroa Testimony. *Transcript*, p. 199 lines 07-17; Davis Testimony. *Transcript*, p. 126 line 03 through p. 127 line 18.

These increased risks can extend to a radius of several (possibly hundreds of) miles surrounding a polluting site.¹¹

- b. Certain ancestral traits among African Americans and Latinos, which could be affected by environmental exposures, may contribute to an even greater risk of chronic asthma and other health conditions.¹²
 - c. The intersection between race and poverty compounds the health impact of environmental pollution in communities of color. When chronic disease does occur, low-income communities demonstrate worse health outcomes than affluent communities.¹³
 - d. Both historical and current housing segregation amplifies the burden of toxic industrial waste on communities of color.¹⁴ Insufficient public education often leaves residents unaware of the presence of dangerous toxins that are not immediately observable,¹⁵ while cultural, familial, and economic ties keep residents in the community despite these hazards.¹⁶
 - e. Contamination from industrial waste disrupts cultural, recreational, economic, and subsistence activity such as farming, hunting, and fishing.¹⁷
2. Environmental protection laws already exist requiring that clean air, water, and land be available to everyone regardless of wealth or social group.¹⁸ However, without proper enforcement, these laws fail the communities who depend on them.¹⁹ Civil rights

¹⁰ Hood-Washington Testimony. *Transcript*, p. 36 lines 16-21 & p. 37 lines 14 -24; Urbaszewski Testimony. *Transcript*, p. 46 lines 15-19 & p. 73 line 15 through p. 75 line 16; Wasserman Testimony, p. 119 lines 14-20; Nannicelli Testimony. *Transcript*, p. 189 lines 16-22; Figueroa Testimony. *Transcript*, p. 198 line 12 through p. 200 line 11

¹¹ Hood-Washington Testimony. *Transcript*, p. 36 line 22 through p. 37 line 04; Urbaszewski Testimony. *Transcript*, p. 53 line 18-p. 55 line 02; Klipp Testimony. *Transcript* p. 170 lines 10-20

¹² Urbaszewski Testimony. *Transcript*, p. 48 line 11 through p. 53 line 03

¹³ Urbaszewski Testimony. *Transcript*, p. 55 lines 03 – 18 & p.69 line 21 through p.71 line 22; Davis Testimony. *Transcript*, p. 103 lines 08-10

¹⁴ Hood-Washington Testimony. *Transcript*, p. 34 line 14 through p. 35 line 03 & p. 78 line 01 through p. 79 line 13; Waterhouse Testimony. *Transcript*, p. 15 line 05 through p. 16 line 09; Davis Testimony. *Transcript* p. 109 line 16 through p. 110 line 13 & p. 128 line 04 through p. 132 line 02; Davis Testimony. *Transcript*, p. 118 line 04 through p. 119 line 02

¹⁵ Hood-Washington Testimony. *Transcript*, p. 38 lines 01-08; Wasserman Testimony. *Transcript*, p.86 line 16 through p. 87 line 13; Nannicelli Testimony. *Transcript*, p. 191 lines 10-12; Villalobos Testimony. *Transcript*, p. 272 line 08 through p. 273 line 20

¹⁶ Wasserman Testimony, *Transcript*, p. 93 line 15 through p. 94 line 14; Nannicelli Testimony. *Transcript*, p. 186 lines 07 -24

¹⁷ Waterhouse Testimony. *Transcript*, p. 17 line 11-p.18 line 05; Ortiz Testimony. *Transcript*, p. 154 lines 14 – 23 & p. 157 lines 07-12; Nannicelli Testimony. *Transcript*, p. 181 lines 16-20 & p. 190 line 16 through p. 191 line 09

¹⁸ Harley Testimony. *Transcript*, p. 63 line 20 through p. 64 line 03

¹⁹ Harley Testimony. *Transcript*, p. 65 lines 18-23; Ortiz Testimony. *Transcript* p. 159 lines 07-16 & p. 161 lines 10-22 & p. 209 line 02 through p. 212 line 13; Nannicelli Testimony. *Transcript*, p. 182 lines 10-22

enforcement is necessary because despite existing laws, environmental standards are not being upheld for everyone.²⁰ Cooperation between federal, state, city, and local officials is necessary to address current environmental justice challenges.²¹

- a. While community involvement is critical,²² individual and community-based advocacy is likely insufficient to adequately address the health impact of industrial contamination, particularly in low-income communities of color. Citizen groups and individual citizens often lack the time, awareness, and technical expertise necessary to effectively advocate for environmental reforms.²³ Chicago residents organized for more than a decade before the closure of the local coal-fired power facilities in their neighborhood.²⁴
- b. Community Advisory Groups (CAGs) established by the EPA to make local recommendations regarding the cleanup of contaminated “superfund” industrial sites often include industry representatives and may be disproportionately influenced by industry funding.²⁵
- c. The Illinois Environmental Protection Agency (IEPA) has allowed some industrial facilities in the state to operate without permits for years. Without a permit, community members and advocates have limited legal recourse to oppose operations.²⁶ Operating without a permit may also circumvent protections within the IEPA, which require additional review of permits issued in “environmental justice” communities.²⁷
- d. The EPA’s environmental justice goals specifically state that the agency is striving to ensure “equal access to the decision making process” and “meaningful involvement of all people ... with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.”²⁸ However, financial contributions from industry such as power companies to public officials may impede enforcement efforts. This is particularly true for low income

²⁰ Harley Testimony, *Transcript*, p. 64 line 24 through p. 65 line 05 & p. 66 lines 03-16

²¹ Sylvester Testimony, *Transcript*, p. 244 line 21 through p. 245 line 03

²² Wheat Testimony, *Transcript*, p. 263 line 21 through p. 264 line 06 & p. 341 line 08 through p. 342 line 07

²³ Ortiz Testimony, *Transcript*, p. 162 line 05 through p. 163 line 17 & p. 217 line 23 through p. 218 line 03; Nannicelli Testimony, *Transcript*, p. 188 lines 02-07 & p. 194 lines 04 through 12; Villalobos Testimony, *Transcript* p. 274 lines 11-23

²⁴ Wheat Testimony, *Transcript*, p. 268 lines 12-16

²⁵ Klipp Testimony, *Transcript* p. 167 line 14 through p. 170 line 01 & p. 213 line 02 through p. 214 line 01 & p. 170 line 21 through p. 171 line 11; Villalobos Testimony, *Transcript* p.275 lines 02-17

²⁶ Klipp Testimony, *Transcript*, p. 173 line 11 though p. 174 line 03 & p. 176 lines 02-17; *See also* Ortiz Testimony, *Transcript*, p. 159 lines 07-16; Nannicelli Testimony, *Transcript* p. 195 line 12 through p. 196 line 21; Villalobos Testimony, *Transcript*, p.280 line 24 through p. 281 line 07

²⁷ Page Testimony, *Transcript*, p. 301 line 16 though p. 302 line 10

²⁸ U.S. EPA, Environmental Justice, available at <https://www.epa.gov/environmentaljustice> (last accessed April 25, 2016)

communities of color who may not have the economic resources to compete for sufficient influence over their elected officials.²⁹

- e. A lack of coordination between regulators charged with ensuring land, air, and water purity may impede enforcement efforts, and may create a failure of regulators to consider the cumulative impact of multiple sources of contamination on a single community.³⁰
 - f. Some environmental enforcement cases filed by the State of Illinois Attorney General's office that affect communities with environmental justice challenges have remained pending without complete resolution for years, based on vigorous defense and appellate court review process.³¹ Environmental litigation can be complex, especially in the area of land pollution if the contamination occurred prior to the passage of the Illinois "Environmental Protection Act"³² While some facilities have closed or switched to cleaner energy forms during the time litigation is pending,³³ any settlement negotiations should include court enforceable requirements.³⁴
3. Under Title VI, the EPA, Office of Civil Rights, has the authority to withdraw funding from any programs or contracting agencies that have the *effect* of discrimination, regardless of discriminatory intent.³⁵ The highly discretionary nature of environmental protection makes it critical that the EPA enforce environmental civil rights protections.³⁶
- a. Despite this authority, the agency does not have sufficient resources to effectively investigate all Title VI complaints, or to conduct routine reviews of funds recipients.³⁷ A number of challenges, such as a lack of political support, and a lack of sufficient alternatives for program implementation, have prevented the

²⁹ Wasserman Testimony, *Transcript*, p. 91 line 23 through p. 92 line 22 & p. 93 lines 03-05 & p. 94 line 15 through p. 95 line 24; Klipp Testimony, *Transcript* p. 174 line 15 through p. 175 line 05 & p. 214 lines 11-24; Figueroa Testimony, *Transcript*, p. 200 line 22 through p. 202 line 01; Villalobos Testimony, *Transcript*, p. 278 lines 02 -23

³⁰ Nannicelli Testimony, *Transcript* p. 191 line 16 through p. 192 line 14; Klipp Testimony, *Transcript*, p. 174 lines 04-14

³¹ Sylvester Testimony, *Transcript*, p. 238 line 07 through p. 239 line 03 & p. 243 line 11 through p. 244 line 20

³² Sylvester Testimony, *Transcript*, p. 251 lines 02-08; 415 Ill. Comp. Stat. 5.

³³ Sylvester Testimony, *Transcript*, p. p. 239 lines 04-17

³⁴ Sylvester Testimony, *Transcript*, p. 252 line 05 through p. 253 line 01; Davis Testimony, *Transcript*, p. 149 lines 04 through 16

³⁵ Waterhouse Testimony, *Transcript*, p.22 line 16 through p. 23 line 20; *see also* p.18 line 06-p.19 line 03; Nannicelli Testimony, *Transcript*, p. 187 lines 01-01; Walts Testimony, *Transcript*, p. 312 line 02 through p. 313 line 12

³⁶ Harley Testimony, *Transcript*, p. 66 lines 06-16

³⁷ Waterhouse Testimony, *Transcript*, p.24 line 03 through p.25 line 02; Walts Testimony, *Transcript*, p. 329 lines 04-10

EPA from utilizing its full authority to enforce nondiscrimination under Title VI.³⁸

- b. In its enforcement of Title VI, the EPA has narrowly defined disparate impact as relating to environmental risk from pollution. It has not included odors, noise, smoke, traffic, or other hazards that may disrupt children's development and contribute to health conditions such as asthma.³⁹
 - c. Enforcement under Title VI is limited to changing future practices. If, for example, the Illinois Environmental Protection Agency (IEPA) has issued operating permits to industrial facilities disproportionately impacting communities of color, the EPA cannot revoke those permits under Title VI. It may however, work with the IEPA to change future permitting practices.⁴⁰
 - d. Despite testimony from both EPA and IEPA officials that the State of Illinois environmental justice program is one of the strongest in the country,⁴¹ certain panelists voiced concerns about the EPA Office of Civil Rights in its efforts to enforce Title VI. They cited long delays in case processing, and attempts to mediate cases rather than investigate and enforce standards.⁴² In part in response to these criticisms, the State of Illinois reported several recent efforts to strengthen community engagement and provide increased transparency in its environmental justice programs.⁴³
4. Small particulate matter in the air, regardless of the makeup of the particulate, poses a significant threat to human health.⁴⁴
- a. Children under the age of 18 and adults over the age of 64 are most at risk for respiratory illness such as asthma and Chronic Obstructive Pulmonary Disease (COPD).⁴⁵

³⁸ Waterhouse Testimony. *Transcript*, p 19 line 04 through p. 20 line 03 & p. 25 line 10 through p. 26 line 19; Wasserman Testimony. *Transcript* p. 143 line 02 through p. 144 line 03; Walts Testimony. *Transcript*, p. 312 line 17 through p. 313 line 23

³⁹ Waterhouse Testimony. *Transcript*, p. 20 line 04 through p.21 line 10 & p. 27 line 12 through p. 28 line 08

⁴⁰ Harley Testimony, *Transcript*, p 80 line 03 through p. 81 line 14

⁴¹ Walts Testimony, *Transcript*, p. 315 lines 13-19; Page Testimony. *Transcript*, p. 297 line 17 through p. 298 line 12

⁴² Harley Testimony. *Transcript*, p. 65 line 11 through p. 66 line 02; Wasserman Testimony. *Transcript*, p.98 line 16 through p. 99 line 02 & p.140 line 02 through p. 143 line 01; See

<http://www.epa.illinois.gov/topics/environmental-justice/grievances/index> for current Illinois resolutions and settlements. (last accessed May 05, 2015)

⁴³ Page Testimony, *Transcript*, p. 299 line 14 through p. 301 line 11 & p. 302 line 11 through p. 306 line 12 & p. 307 line 23 through p. 309 line 02

⁴⁴ Urbaszewski Testimony. *Transcript*, p. 73 line 15 through p. 75 line 16

⁴⁵ Mudd Testimony. *Transcript*, p. 41 lines 08-20 & p. 67 lines 11-16

- b. Diesel emissions are a significant source of such pollution, especially for those living near highways, rail yards, and construction sites.⁴⁶
 - c. Higher concentrations of fine particulate matter exist in Chicago and East St. Louis; both areas may fail to meet one or more federal air quality standards.⁴⁷
 - d. Coal fired power plants are among the single largest sources of air pollution in America today.⁴⁸ Many older plants continue to operate without the pollution controls required of new facilities; though even with required pollution controls, coal-fired energy produces more air pollution than alternative energy sources.⁴⁹
5. Insufficient data exists to accurately assess air quality in high risk areas; the limited data that is currently available is not disaggregated by race, color, national origin, or other federally protected category.⁵⁰
- a. Current air quality monitoring data is aggregated by region, which is insufficient to measure the exposure faced by individuals living near areas with higher than average emissions.⁵¹ Air pollution reduction goals must be disaggregated at the local level.⁵²
 - b. While Illinois is currently meeting minimum standards for air quality monitoring under the federal Clean Air Act,⁵³ there are fewer monitors in Chicago than there are in other major urban areas throughout the country, and there is currently only one monitor in all of Lake County, IL.⁵⁴ The placement of available air quality monitors may disproportionately neglect low income communities of color at the highest risk for contamination.⁵⁵
 - c. Due to mishandling of air quality data between 2011 and 2013, insufficient continuous data exists for the EPA to make a determination about Waukegan's air

⁴⁶ Mudd Testimony. *Transcript*, p. 42 lines 03-10; Urbaszewski Testimony. *Transcript*, p. 73 line 15 through p. 75 line 16

⁴⁷ Urbaszewski Testimony. *Transcript*, p. 47 lines 13-18

⁴⁸ Urbaszewski Testimony. *Transcript*, p.53 lines 04-06; Nannicelli Testimony. *Transcript*, p. 187 lines 18-22 & p. 188 line 21 through p. 189 line 01

⁴⁹ Urbaszewski Testimony. *Transcript*, p. 53 lines 07-17

⁵⁰ Mudd Testimony. *Transcript*, p. 42 lines 03-21

⁵¹ Mudd Testimony. *Transcript*, p. 41 line 21 through p. 42 line 02 & p. 42 lines 11-13; Urbaszewski Testimony. *Transcript*, p. 73 line 15 through p. 75 line 16

⁵² Sylvester Testimony. *Transcript*, p. 239 line 20 through p. 240 line 04

⁵³ 42 U.S.C. §7401, et seq.

⁵⁴ Mudd Testimony. *Transcript*, p. 72 lines 10-17; Nannicelli Testimony. *Transcript*, p. 190 lines 07-15

⁵⁵ Klipp Testimony. *Transcript*, p. 171 line 20 through p. 172 line 14; Villalobos Testimony. *Transcript*, p. 281 lines 08-12. See Appendix E for mapping of current air quality monitors and their placement in the Chicagoland area by vulnerable population. Submitted by Panelist Susan Mudd.

quality in relation to the federal Clean Air Act.⁵⁶ Without a classification, the EPA cannot compel the state to implement pollution control measures or advise the public of air quality problems. This data will be unavailable until 2018.⁵⁷

- d. High concentrations of fine particulate matter exist within one thousand feet of roadways. However, air quality measurements collected by the EPA are designed to monitor general background levels of particulate matter. Therefore, these measurements do not capture the exposure faced by people living, working, and going to school very near major roadways.⁵⁸ Some studies in Washington and New York have attempted to measure this impact, though the data has not been sustained over time due to a lack of funding.⁵⁹
 - e. The EPA is currently looking at new technologies to collect additional air quality data.⁶⁰ Some low-cost monitoring technology may be available in the future, though its development is currently in the early stages of evaluation.⁶¹
6. Communities impacted by industrial contamination may not benefit economically from the offending industry, especially when considering the health and environmental costs.⁶² This is particularly important because the purported economic benefits of industrial development are often used to justify disparate environmental and health impacts on low-income communities of color.
- a. Residents in Chicago and Waukegan living near coal-fired power facilities testified that a majority of jobs, especially career-oriented, high wage positions are held by individuals who commute rather than those living in the community near the facility.⁶³ Furthermore, advocates have estimated that economic losses from emergency room visits, parent days off work to tend to children with asthma, and lost revenues for local businesses far outweigh any local tax benefits to the community.⁶⁴

⁵⁶ 42 U.S.C. §7401, et seq.

⁵⁷ Klipp Testimony. *Transcript*, p. 172 line 15 through p. 173 line 10; Mudd Testimony. *Transcript*, p. 72 line 18 through p. 73 line 12

⁵⁸ Urbaszewski Testimony. *Transcript*, p. 74 line 22 through p. 75 line 16.

⁵⁹ Urbaszewski Testimony. *Transcript*, p. 75 line 17 through p. 76 line 01

⁶⁰ Mudd Testimony. *Transcript*, p. 42 line 22 through p. 43 line 05

⁶¹ Urbaszewski Testimony. *Transcript*, p.76 lines 02 through 07

⁶² Waterhouse Testimony. *Transcript*, p.28 line 17 through p.30 line 22; Wasserman Testimony. *Transcript*, p. 88 lines 13-18 & p. 117 lines 12-16; Ortiz Testimony. *Transcript*, p. 156 lines 09-10 & p. 216 line 08 through p. 218 line 03 & p. 164 lines 15-20; Klipp Testimony. *Transcript* p. 170 lines 05-09

⁶³ Wasserman Testimony. *Transcript*, p. 88 lines 19-22 & p. 89 lines 18 – 19 & p. 90 lines 05-12; Nannicelli Testimony. *Transcript*, p. 187 lines 03-09; Davis Testimony. *Transcript*, p. 134 line 16 through p.138 line 18

⁶⁴ Wasserman Testimony. *Transcript*, p.91 lines 06 – 22; Nannicelli Testimony. *Transcript*, p. 189 line 23 through p. 190 line 06

- b. Electricity generated by the coal-fired power facilities in Chicago and Waukegan is primarily sold out of state, rather than serving the impacted community.⁶⁵
 - c. Industrial facilities in Illinois are often not required to decontaminate their sites after operations cease.⁶⁶ This leaves community members and local tax payers with the economic burden of cleanup costs, deterring future investment and delaying economic development opportunity.⁶⁷ This burden may be particularly devastating for economically disadvantaged communities in need of renewal.⁶⁸ It was reported that the City of Waukegan has spent over \$8 million over the past five fiscal years for land remediation from industrial contamination.⁶⁹
 - d. Some studies suggest remediation of a contaminated site takes an average of 9 years before the land is again safe for human use, though testimony from Waukegan suggested remediation efforts have taken 20-30 years, and is still in progress.⁷⁰
 - e. Declining home values due to environmental contamination disproportionately impacts communities of color. African American families tend to build their wealth based on property ownership at a higher rate than white families.⁷¹
7. “Clean energy” alternatives such as solar can be economically viable and help to meet consumer demand.⁷² Solar energy may help low income individuals control their own energy costs and provide economic stimulus to struggling communities.⁷³ Additionally, solar energy production may be a viable use for “brownfields” that are unsafe for other uses due to previous industry contamination.⁷⁴

⁶⁵ Wasserman Testimony. *Transcript*, p. 89 line 19 through p. 90 line 04; Nannicelli Testimony. *Transcript*, p. 187 lines 12-17

⁶⁶ Nannicelli Testimony. *Transcript*, p. 193 lines 08-11; Sylvester Testimony. *Transcript*, p. 254 line 02 through p. 255 line 12; Wheat Testimony. *Transcript*, p. 322 lines 07 – 23; Villalobos Testimony, *Transcript*, p. 336 lines 01-15; *Note: though a majority of panelists cited cases in which remediation had not been required, Ken Page of the IEPA stated that in some cases remediation may be required. See: Page Testimony. Transcript*, p. 334 line 03 through p. 335 line 13

⁶⁷ Wasserman Testimony. *Transcript*, p. 120 line 20 through p. 122 line 19; Ortiz Testimony. *Transcript*, p. 153 line 10 through p. 154 line 01 & p. 158 line 01 through p. 159 line 06; Villalobos Testimony. *Transcript*, p. 277 line 18 through p. 278 line 01 & p. 279 line 20 through p. 280 line 02 & p. 282 line 21 through p. 283 line 12

⁶⁸ Ortiz Testimony. *Transcript*, p. 159 lines 02-06 & p. 218 lines 04-22; Nannicelli Testimony. *Transcript*, p. 183 lines 15-18 & p. 185 lines 14 -24; Villalobos Testimony. *Transcript*, p. 283 lines 13 through p. 285 line 21

⁶⁹ Villalobos written testimony. Appendix C, p. 44

⁷⁰ Wheat Testimony. *Transcript*, p. 324 lines 02-13; Villalobos Testimony. *Transcript*, p. 336 line 16 through p. 337 line 05

⁷¹ Davis Testimony. *Transcript*, p. 105 line 20 through p. 106 line 15

⁷² Albrecht Testimony. *Transcript*, p. 221 line 22 through p. 223 line 15 & p. 225 line 23 through p. 226 line 13

⁷³ Albrecht Testimony. *Transcript*, p. 226 line 14 through p. 228 line 02 & p. 228 line 09 through p. 229 line 02 & p. 231 line 23 through p. 232 line 23

⁷⁴ Albrecht Testimony. *Transcript*, p. 225 lines 06-22 & p. 231 line 23 through p. 232 line 23

- a. Solar energy can help provide communities with local jobs, by re-training homebuilders, electricians, and other skilled trades' workers to bring affordable solar energy to residents.⁷⁵
- b. Grant and rebate programs available to homeowners who wish to participate in solar energy initiatives can result in large scale local economic investment, and help homeowners control the long term costs of their power—though they are not always available in underserved communities.⁷⁶

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws; and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.⁷⁷ In keeping with these responsibilities, and in consideration of the testimony heard on this topic, the Illinois Advisory Committee submits the following recommendations to the Commission. The Committee recommends that the U.S. Commission on Civil Rights consider these findings and recommendations in their 2016 Statutory Enforcement Report to Congress and the President.

The Committee notes that at the time of this memorandum's approval, some public comment may be pending. The Committee reserves the right to issue additional and/or amended recommendations based on such comment, at the conclusion of the 30-day open comment period following the date of approval, May 06, 2016.

1. As part of their 2016 statutory enforcement report on environmental justice, the U.S. Commission on Civil Rights should:
 - a. In addition to considering environmental justice as related to coal ash disposal, consider other sources of land and water contamination such as petroleum coke, polychlorinated biphenyls, lead contamination, and other heavy metals; as well as air quality concerns such as high exposure to diesel emissions and other sources of fine particulate matter. In particular, the Commission should consider the *cumulative* effect of these contaminants on environmental justice communities, and the extent to which a failure on the part of regulators to study such a cumulative effect may result in inadequate environmental justice protection.
 - b. Conduct a complete legal review of related federal law, including but not limited to the Toxic Substance Control Act;⁷⁸ the Safe Drinking Water Act;⁷⁹ the Clean

⁷⁵ Albrecht Testimony. *Transcript*, p. 226 line 23 through p. 228 line 03

⁷⁶ Albrecht Testimony. *Transcript*, p. 228 line 04 through p. 229 line 02

⁷⁷ 45 C.F.R. § 703.2.

⁷⁸ 15 U.S.C. §2601 et seq.

Water Act;⁸⁰ the Clean Air Act;⁸¹ the Federal Insecticide, Fungicide, Rodenticide Act;⁸² and the Resource Conservation Recovery Act.⁸³ Such a review should include an analysis of civil rights protections provided under each law, in order to identify any gaps in civil rights protections. The review should also identify any gaps in protections from particular pollutants that are not currently controlled, and make recommendations to Congress for addressing related areas of civil rights concern.

- c. Make a direct inquiry to the EPA regarding the designation of industrially contaminated sites as “superfund” sites. The Commission should inquire as to how sites receive a “superfund” designation, and whether or not consideration for disparate impact on federally protected categories is given.
 - d. Issue a recommendation that the U.S. Congress conduct a study of environmental justice enforcement requirements under Title VI of the Civil Rights Act.⁸⁴ Based on this study, the Congress should allocate the financial resources necessary for the EPA, Office of Civil Rights to conduct routine, proactive reviews of their funds recipients in addition to responding to Title VI complaints.
2. The U.S. Commission on Civil Rights should issue the following formal recommendations to the EPA:
- a. The agency should prohibit direct industry contributions to their Community Advisory Groups, established to make local recommendations on the cleanup of contaminated “superfund” sites. In lieu of direct financial contributions to community development and cleanup efforts, the EPA should establish a general fund to be distributed equitably to all superfund communities in the region.
 - b. The agency should limit the number of industry representatives and their affiliates permitted to participate in Community Advisory Groups, such that industry participation does not exceed that of the community. Community Advisory Group members designated as “community” representatives should be prohibited from employment or other financial conflicts of interests with the relevant industry (self or spouse).
 - c. The agency should prohibit its state partners, and any recipients of EPA funds, from allowing industrial facilities in their jurisdiction to operate without the

⁷⁹ 42 U.S.C. §300f et seq.

⁸⁰ 33 U.S.C. §1251 et seq.

⁸¹ 42 U.S.C. §7401 et seq.

⁸² 7 U.S.C. §136 et seq.

⁸³ 42 U.S.C. §6901 et seq.

⁸⁴ 42 U.S.C. § 2000(d).

appropriate permits. As a condition of permitting, industrial facilities should be required to set aside funding reserved for environmental remediation upon retirement, regardless of the reason for closure. Such requirements should be made uniform at the national level, to prevent disparate economic incentives in interstate commerce. The agency should conduct a study to determine appropriate remediation fund reserve guidelines.

- d. The agency should increase coordination between its bureaus of land, air, and water, and require all regulators under its environmental justice purview to consider the cumulative impact of multiple sources of contamination on a single community when issuing operating permits.
- e. The agency's Office of Civil Rights should conduct a study of the placement of air quality monitoring equipment by its Air Data division. The office should ensure that available air quality monitors capture readings near areas with higher than average emissions, and that communities with high environmental justice demographic indicators⁸⁵ are adequately represented. Furthermore, air quality data should be disaggregated at the neighborhood level, so that concerns of disparate impact may be appropriately assessed.

This advisory memorandum is the work of the Illinois Advisory Committee to the U.S. Commission on Civil Rights. The memorandum, which may rely on studies and data generated by third parties, is not subject to an independent review by Commission staff. State Advisory Committee reports to the Commission are wholly independent and reviewed by Commission staff only for legal and procedural compliance with Commission policies and procedures. State Advisory Committee reports are not subject to Commission approval, fact-checking, or policy changes. The views expressed in this memorandum and the findings and recommendations contained herein are those of a majority of the State Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. Government.

⁸⁵ U.S. EPA, EJSCREEN: Environmental Justice Screening and Mapping Tool: Overview of Demographic Indicators, available at <https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen> (last accessed May 06, 2015)

Appendix

- A. March 09, 2016 Illinois Advisory Committee, Environmental Justice Hearing Transcript
- B. Hearing Agenda & Minutes
- C. Written Testimony
- D. Panelist Biographies
- E. Map of Chicagoland Air Quality Monitors by Vulnerable Population
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U.S. COMMISSION ON CIVIL RIGHTS

CIVIL RIGHTS AND ENVIRONMENTAL JUSTICE IN ILLINOIS

March 9 2016

10:30 AM

1 CHAIRMAN LINARES: Good morning. The
2 meeting of the Illinois Advisory Committee to
3 the U.S. Commission on Civil Rights shall come
4 to order.

5 On behalf of the committee, I would like to
6 extend a welcome to all our panel members, the
7 members of our audience, and all those who are
8 present today.

9 For the benefit of those in the audience, I
10 shall introduce my colleagues and then myself.

11 The members of the Illinois Advisory
12 Committee who are present today are as follows:
13 Cindy Buys, Kendric Cobb, Richard Garcia,
14 Salina Greene, Bryant JACKSON GREEN, Reyahd
15 Kazmi, Sweta Shah and Anne Wortham.

16 Also present from the midwestern regional
17 office are David Mussatt, Chief of the Regional
18 Programs Unit, Melissa Wojnaroski, Civil Rights
19 Analyst, Carolyn Allen, Administrative
20 Assistant, and Chloe Gremaud and Christina
21 Rosales, who are interns with the office.

22 My name is Juan Carlos Linares, and I am
23 the chairman of the Illinois Advisory
24 Committee. In addition to my day job, with an

1 affordable housing developer and fair housing
2 agency here in Chicago, I also had the
3 opportunity to participate in a forum of the
4 U.N. Climate Summit as a delegate last December
5 in Paris. So these issues of potential
6 disparate impacts from an environmental and
7 civil rights perspective are very important to
8 me personally and professionally, as they are
9 to many of you. That said, we are pleased that
10 the chairman of the U.S. Commission on Civil
11 Rights, Marty Castro, is here today and will be
12 addressing you shortly as well.

13 In addition, the Staff Director of the
14 Commission, Mauro Morales, came from
15 Washington, D.C., to be in attendance with us
16 here today.

17 So thank you both for coming.

18 The U.S. Commission on Civil Rights is an
19 independent bipartisan agency of the federal
20 government charged with studying discrimination
21 or denial of equal protection of the laws
22 because of race, color, religion, sex, age,
23 disability, or national origin, or in the
24 administration of justice.

1 In each of the 50 states and the District
2 of Columbia, the Advisory Committee to the
3 Commission has been established, and they are
4 made up of responsible persons who serve
5 without compensation to advise the Commission
6 on relevant information concerning the
7 respective state.

8 Today our purpose is to hear testimony
9 regarding the environmental justice issues here
10 in Illinois in support of the Commission's
11 statutory enforcement report on that topic. If
12 the speakers begin to veer away from these
13 civil rights questions and begin discussing
14 possibly important but unrelated topics, as
15 chairman, I will interrupt and ask the speaker
16 to refrain from doing so.

17 We are fortunate and thankful to have such
18 a balanced and diverse set of panelists with us
19 today.

20 At the outset I do want to remind everyone
21 present of the rules. So there are rules.
22 This is a public meeting, open to the media and
23 the general public.

24 We have a very full schedule of people who

1 will be making presentations with the limited
2 time available. The time allotted for each
3 presentation must be strictly adhered to. This
4 will include a presentation by each participant
5 of approximately 12 to 15 minutes each. After
6 all the panelists have completed their
7 statements, the committee members will engage
8 them in question and answer.

9 To accommodate persons who are not on the
10 agenda but wish to make statements, we have
11 scheduled an open forum today at 6:20 p.m.

12 Anyone wishing to make a statement during
13 the period should contact Melissa Wojnaroski or
14 other Commission staff -- by the way, can you
15 raise your hands for the Commission staff who
16 are here? -- to have your name placed on the
17 list.

18 In addition written statements may be
19 submitted to Committee members or staff present
20 here today. Or they may be sent by U.S. mail
21 to the Commission on Civil Rights at 55 West
22 Monroe Street, Suite 410, Chicago, Illinois
23 60603 or by e-mail to Melissa Wojnaroski. Her
24 card will be available at the sign-in desk

1 outside the auditorium.

2 I do want to apologize because I see we are
3 also joined by Evelyn Rodriguez.

4 Though some of the statements made today
5 may be controversial, we want to ensure that
6 all invited guests do not defame or degrade any
7 person or organization.

8 As the chair, I reserve the privilege to
9 cut short any statements that defame, degrade,
10 or do not pertain to the issue at hand.

11 In order to ensure that all aspects of the
12 issues are represented, knowledgeable persons
13 with a wide variety of experience and
14 viewpoints have been invited to share
15 information with us. Any person or
16 organization that feels defamed or degraded by
17 statements made in the proceedings should
18 contact our staff during the meeting so that we
19 can provide a chance for a public response.

20 Alternatively, such persons or
21 organizations can file written statements for
22 inclusion in these proceedings.

23 I urge all persons making presentations to
24 be judicious in their statements.

1 The Advisory Committee appreciates the
2 willingness of all participants to share their
3 views and experience with this Committee.

4 Finally, the rules for the question and
5 answer portion of the panel discussions are as
6 follows: The Committee may ask questions of
7 the entire panel or individual members of the
8 panel after all panelists have had the
9 opportunity to provide their -- their prepared
10 statements.

11 Advisory Committee members must be
12 recognized by the chair before asking any
13 questions of the participants.

14 In addition, because of the large number of
15 members and short amount of time, each
16 Committee member will be limited to one
17 question plus a follow-up.

18 When five minutes are left in the session,
19 the Chair will announce that the last question
20 may be asked.

21 At this time I would like to turn the
22 meeting over to the chairman of the U.S.
23 Commission, Mr. Marty Castro.

24 CHAIRMAN CASTRO: Thank you, Mr. Chairman.

1 I want to thank you for your leadership and
2 service here in Illinois.

3 As a former chairman of this committee, I
4 know the important work that you do. I worked
5 in this committee for many years before
6 President Obama elevated me to chairman of the
7 Commission.

8 I want to thank each and every one of you
9 for accepting our appointment and serving. The
10 work that the Illinois Advisory Committee does,
11 not only on this issue but on the immigration
12 issue and a number of other issues that you
13 addressed over the last few years, has helped
14 in forming the work that we are doing at the
15 U.S. Commission on Civil Rights.

16 That's why I'm really glad today you are
17 focusing on environmental justice. It's an
18 issue that we are addressing as well at the
19 civil rights commission. Our particular focus
20 on the national level is on coal ash, and I
21 know you are looking at a number of other
22 issues.

23 The work that you do today, and the
24 information that you gather as part of your

1 report, I assure you will be part of the work
2 that we are going to do and the report that we
3 are going to present to the President and
4 Congress on this issue.

5 As was mentioned earlier, we have several
6 of our national staff here, including Darren
7 Fernandez from Office of Civil Rights
8 Evaluation whose job will be to incorporate the
9 data that we are gathered here today, that you
10 are gathering here today, into the national
11 report.

12 This is an important topic, not just here
13 in Illinois, but across the country.

14 It's also an important topic to many of us
15 individually.

16 As a nation, I can't help but think of the
17 Declaration of Independence. It says, "We hold
18 these truths to be self-evident, that all men
19 are created equal, that they are endowed by the
20 creator with certain inalienable rights. Among
21 those are life, liberty, and the pursuit of
22 happiness."

23 But when you look at this issue, while we
24 all are created equally, we are not all treated

1 equally.

2 We may find communities are more likely to
3 live next to a toxic dump or have hazardous
4 waste if they're communities of color or their
5 wallets are thin. They cannot enjoy life when
6 their children are drinking water that is
7 poisonous to them. They cannot pursue
8 happiness if, in fact, the very environment
9 that is supposed to nurture them is a threat to
10 them. They cannot have a life if they cannot
11 leave their homes, as we heard from some
12 individuals who testified in Washington,
13 because of the coal ash and the particulates
14 that circulate through their communities that
15 they have to keep their doors shut and their
16 windows bolted. They're prisoners in their own
17 home. That is not the promise of this country.
18 That is not the promise of our Declaration.
19 And for many of us we come from communities
20 that have been affected by this.

21 I'm from the southeast side of Chicago. We
22 will hear today testimony from individuals from
23 South Chicago, and if you look at those
24 communities that have steel mills and garbage

1 dumps and all sorts of chemical plants, when
2 you walk out into the community, you smell
3 rotten eggs, and you wonder is this how we are
4 supposed to have our children grow up, and you
5 see cancer clusters, and you wonder why is this
6 happening.

7 So the work that you are doing here today
8 is going to help us get to the bottom of that
9 to protect so many communities that,
10 unfortunately, remain defenseless in this day
11 and age.

12 The environmental is something that is dear
13 to us, and it should be something that protects
14 and grows, that it's not something that we fear
15 and that harms us.

16 So we'll be here all day, and I look
17 forward to the work that you are going to
18 present to us when you are done with your work.
19 Thank you.

20 (Applause.)

21 CHAIRMAN LINARES: Thank you again,
22 Commissioner, and we'll get started with the
23 panel in a moment.

24 So I'll introduce, if I can -- our first

1 panel will be broken up a little bit
2 differently from the rest.

3 Our first panel is focused on academic or
4 data around this issue of environmental
5 justice, and because we have a speaker who is
6 not present here today but will be joining us
7 online, we are going to allocate some time for
8 him, 12 to 15 minutes, and then we'll allocate
9 about 5 minutes of a question-and-answer period
10 for him specifically. Then we'll move on with
11 the rest of the panel.

12 So I would like to introduce then Carlton
13 Waterhouse, who is a professor of law and
14 Dean's Fellow at Indiana University, Robert H.
15 McKinley School of Law, via conference call.

16 So Professor Waterhouse, do you want to
17 begin for us please?

18 PROFESSOR WATERHOUSE: Yes. Thank you very
19 much. My name is Carlton Waterhouse, as has
20 been stated, and I've been working on the issue
21 of environmental justice since the very early
22 1990s.

23 It was one of the things that encouraged
24 me, when I went to law school, to examine the

1 question of civil rights.

2 So my initial examination of environmental
3 justice was always as a civil rights issue that
4 represented the intersection of civil rights
5 along with environmental law.

6 And so I began my opportunities working in
7 this area with the Lawyers Committee for Civil
8 Rights in Washington, D.C., and then also went
9 on from there to work with the Environmental
10 Protection Agency. I oversaw one of the
11 earliest environmental justice investigations
12 by the EPA under Title VI of the Civil Rights
13 Act of 1964 right in the nearby state where you
14 all are of Michigan in Genesee County and
15 Flint, Michigan.

16 So I've been working on these issues for
17 quite a long time, and I have to say that this
18 is a very long-standing problem in our broader
19 society that covers all the different aspects
20 of environmental law. And so I'll just take a
21 moment to discuss how and why environmental
22 justice is an important civil rights issue that
23 really needs to be given attention.

24 So with regards to environmental justice,

1 it represents the way in which people, based on
2 their racial identity or their income, at least
3 with regards to the way the issue has been
4 defined, find themselves disproportionately
5 exposed to pollution.

6 It also reflects the way people based on
7 their race -- and I'm going to narrow my focus
8 and talk about race from here on in because of
9 the mission of the -- of the Commission and the
10 committee I'm speaking before, and it also
11 represents the way that people are
12 disproportionately burdened by pollution
13 sources, excluded from participation in
14 decision-making, and also find themselves
15 without the benefits that are normally
16 associated with this -- these environmental
17 disamenities that are part of our society.

18 Now, in talking about the question of
19 environmental justice, there's been a great
20 deal of study that has examined this question
21 in terms of the veracity of the claims that
22 have been made that there really are
23 disproportionate burdens that are racially
24 identifiable. But the bulk and the weight of

1 research has shown that race is the greatest
2 predictor of exposure, and that goes
3 particularly for African-Americans as well as
4 Latinos.

5 Now, one of the issues that's often raised
6 around these questions of race, when people are
7 found to be disproportionately exposed, is,
8 well, they come to the nuisance, for lack of a
9 better word, the way we talk about it in law
10 school.

11 In other words, people say we can't help
12 that people move into communities where there
13 are pollution sources. And, of course, that
14 does happen; however, research indicates that
15 we still have disproportionate burdens even
16 when persons have been stable in communities
17 for long-standing periods of time.

18 For example, in Louisiana along cancer
19 alley we have one of the oldest
20 African-American communities in the country
21 that was founded during Reconstruction.

22 That also happens to be one of the largest
23 pollution sectors in the country and has large
24 numbers of petrol facilities and large

1 incidence of cancer. So breaking down the
2 analysis more specifically, I need to note that
3 the disproportionality can be found in
4 everything from exposure to air pollutants and
5 air toxics to issues with regards to exposure
6 to lead that comes both from lead exposure in
7 soils, lead exposure in paint, lead-based
8 paint, as well as lead exposure based on lead
9 coming out of the air.

10 There's also been found disproportionate
11 exposure to -- or at least proximity to
12 hazardous waste. That's hazardous waste in the
13 form of hazardous waste landfills that are
14 permitted and authorized and operating
15 landfills that dates back to a General
16 Accounting Office study going back to the early
17 19s and then also with regards to what are
18 called toxic waste sites.

19 And these would be unpermitted sites where
20 the government has identified that there are
21 toxic wastes present, and that can lead to
22 everything from small amounts of toxic waste,
23 all the way up to Superfund sites.

24 With regard to that, you can refer to

1 what's called Toxic Waste and Race at 20, which
2 was coauthored by Dr. Robert Bullard, one of
3 the foremost academic experts on the subject of
4 environmental justice.

5 And so we can see in everything from
6 exposure to waste and toxic sites, exposure to
7 different kinds of air pollutants and then also
8 in terms of exposure to lead, that there are
9 disproportionality and exposure issues relative
10 to people based on their racial identity.

11 Additionally, what has been found is that
12 there is disproportionality related to persons
13 who are part of Native populations. So Native
14 American tribes in the United States also find
15 themselves disproportionately burdened by
16 pollution, particularly around nuclear
17 radiation and nuclear waste, as well as the
18 destruction of habitats that they use for
19 traditional fishing, traditional farming, and
20 other kinds of traditional living.

21 Along with Native Americans, there's a
22 higher rate of subsistence fishing that goes on
23 in African-American and Latino communities.
24 And so when our waterways are impaired as a

1 result of pollution, these communities often
2 bear, again, disproportionate exposure to
3 pollution as a result of the contamination of
4 fish that are part of their regular subsistence
5 diet.

6 Now, the United States has a responsibility
7 to address these issues, even though under the
8 Constitution the federal courts over the past
9 20 years have not recognized this as a
10 demonstration of intentional discrimination,
11 because no one has brought forth evidence
12 that's been sufficient to show that the
13 decision to site a particular landfill was
14 based on racial identity; however, under Title
15 VI of the Civil Rights Act of 1964, the
16 Environmental Protection Agency has promulgated
17 regulations. And the regulations they have
18 promulgated do prohibit their grant recipients
19 from developing criteria or methods of
20 administering their environmental programs
21 which are run with federal grants in a way that
22 has the effect of discriminating based on race
23 as well as other identifiers like national
24 origin and color.

1 So to the degree that we find that there is
2 this high level of disproportionality, they do
3 run counter to EPA's regulations.

4 As a former worker -- as a former EPA
5 employee, a former EPA attorney, and a former
6 investigator with regards to civil rights
7 complaints, I can tell you that EPA finds
8 itself typically hamstrung, not really sure in
9 many instances how to address these problems
10 because of concerns that the Supreme Court will
11 not look favorably upon a potential EPA
12 decision to use its Title VI regulations.

13 Further, the agency has been criticized
14 frequently for its inability to be timely in
15 the way it addresses Title VI complaints that
16 have been raised by complainants.

17 And so today EPA has never found any
18 violations of Title VI. They've never issued a
19 finding that anyone has ever had any effects of
20 discriminating based on race or color, and that
21 I think is not a result of the failure of
22 discrimination to exist, but the agency's
23 failure to actively recognize it when it does
24 exist, perhaps because the consequences would

1 mean they may have to withdraw funds from one
2 of the grant recipients that, obviously, has
3 substantial and significant political outfall.

4 Further, I should say the agency needs to
5 be called to task on the issue of Title VI, not
6 just for those reasons, but also because the
7 agency has narrowly described discrimination to
8 be discrimination based on having a
9 disproportionate risk from pollution.

10 So it doesn't include exposure to odors,
11 exposure to noise, exposure to smoke, exposure
12 to truck traffic, these very normal,
13 traditional ways that people find themselves
14 within states disproportionately bearing the
15 burden of pollution in their communities
16 because of the way permits are issued in those
17 states, and the agency, however, doesn't see
18 those kinds of sources of harm, and they are
19 adverse, right? When you have large groups of
20 trucks driving through your neighborhood and
21 you have kids there or when you have high level
22 of smoke or odor or noise associated with
23 polluting facilities that disrupt children's
24 ability to study, that impact their ability to

1 play on the playground, which are triggering
2 potential asthma attacks, causing children to
3 have to miss school.

4 Even though these don't necessarily show an
5 increased risk of cancer, these are also
6 adverse effects, and when those adverse effects
7 are discriminatory, I would submit to the
8 Committee that these are also violations of
9 Title VI and violations of Title VI that EPA
10 has not been willing to address or to examine.

11 So I ask the Committee --

12 CHAIRMAN LINARES: I'm sorry to interrupt.

13 PROFESSOR WATERHOUSE: -- to look closely at
14 the issue in Illinois and also in making this
15 decision --

16 CHAIRMAN LINARES: You have five minutes.

17 PROFESSOR WATERHOUSE: -- to please provide
18 to the Commission more broadly a recommendation
19 that the issues that are present in Illinois be
20 addressed as quickly as possible.

21 And then I'll use the balance of my time to
22 take whatever questions may exist.

23 CHAIRMAN LINARES: Thank you, Professor.

24 So just a reminder of the rules, for any of the

1 panelists who wish to ask questions, please
2 raise your hand, and I will call on you.

3 Professor Waterhouse did not use all of his
4 time. So we'll have about seven minutes to
5 have a question-and-answer session.

6 Also remember -- thank you, Cindy -- to
7 please use the microphone when you ask your
8 question.

9 MS. BUYS: So I wondered if I could ask
10 Professor Waterhouse if he would just clarify
11 what you meant by the regulations, who they
12 apply to and how they do or don't take into
13 account the discriminatory impact.

14 PROFESSOR WATERHOUSE: Okay. Thank you
15 very much.

16 So when Title VI was issued in 1964 as part
17 of the Civil Rights Act, the Department of
18 Justice, encouraged by letters from the
19 Attorney General to different administrative
20 agencies of the federal government, a directive
21 that they should promulgate regulations that
22 would allow them to meaningfully implement
23 Title VI mandates.

24 Title VI, as a statute, basically says that

1 the federal government does not want to
2 supplement or subsidize discriminatory conduct.
3 As a result, it prohibits persons who receive
4 federal funds, in the way of federal grants,
5 from discriminating in the way they use that --
6 those funds that they receive.

7 So EPA implemented those Title VI
8 regulations saying that their grant recipients
9 in terms of running environmental programs
10 should not have -- should not discriminate
11 intentionally, nor should they run programs
12 that have criteria or methods that have the
13 effect of discriminating.

14 MS. BUYS: Thank you.

15 PROFESSOR WATERHOUSE: And that applies to
16 all of the grant recipients for EPA, so
17 Chicago, State of Illinois, other
18 jurisdictions, municipalities that have funds
19 that allow them to run their environmental
20 protection programs.

21 CHAIRMAN LINARES: Thank you.

22 Mr. Kazmi.

23 MR. KAZMI: Yes. Mr. Waterhouse, how often
24 does the EPA -- I don't want to say regulate

1 but review either of those grant-funded
2 organizations or companies?

3 MR. WATERHOUSE: That's hard to say, to be
4 very honest with you.

5 What I can say is that they try to address
6 complaints when they are raised, but they've
7 had a terrible backlog. And when complaints
8 are raised by individual citizens or persons
9 who, in fact, have themselves worked at a
10 former facility or otherwise are lawyers in the
11 area, they do investigate their grant
12 recipients based on those complaints.

13 Other than having complaints that trigger
14 it, I can't say that they have a methodical
15 mechanism that they use in the Office of Civil
16 Rights to go through all of the different
17 complaints.

18 Now, I should remind you that my work in
19 that office was way back in the mid 1990s. So
20 there certainly has been a lot of change since
21 I've come, but my continued examination of the
22 issue and monitoring of what EPA does suggests
23 that they've just been too swamped to be able
24 to just engage in routine reviews of recipients

1 as they are bogged down with just trying to
2 respond to all the complaints.

3 CHAIRMAN LINARES: Thank you.

4 Ms. Shah.

5 MS. SHAH: Mr. Waterhouse, can you detail
6 how many cases the EPA or DOJ has prosecuted
7 over Title VI? You said no violation was ever
8 found.

9 Have there been cases?

10 MR. WATERHOUSE: Yeah. There has been two
11 instances where the EPA has said either we
12 think there's a problem and so we want to have
13 you go through a compliance review, which means
14 we are just going to examine your program from
15 top to bottom, and then they've also entered
16 into a settlement with a recipient when they
17 said we also think there's a problem with the
18 way this is taking place in your program and
19 so, to avoid us having to withdraw the funds,
20 these are the kinds of actions that you should
21 take.

22 So all of these were preliminary kind of
23 decisions rather than any formal findings of
24 discrimination, but they have made some

1 preliminary decisions like our draft analysis
2 suggests that there's discrimination, let's try
3 to work something out.

4 So that's happened on two occasions in the
5 last 20 years.

6 CHAIRMAN LINARES: Yeah. Follow-up
7 question from Ms. Shah.

8 MS. SHAH: And the subjects of the EPA's
9 investigations, were they municipalities? Who
10 were the subjects?

11 MR. WATERHOUSE: Ah, okay. So in those
12 cases, these are program grant recipients. So
13 not necessarily the entire state -- and I don't
14 have all the details in front of me and my
15 memory is escaping me. But not necessarily the
16 entire state, but in the materials that I will
17 submit to you all, it will include those exact
18 references so you have specific details about
19 those cases.

20 MS. SHAH: Thank you.

21 CHAIRMAN LINARES: Thank you.

22 Further questions? Mr. Cobb.

23 MR. COBB: In your comments you mentioned
24 that the EPA regulation currently has I think

1 what you characterized as a narrow definition
2 of discrimination, and I may have recorded it
3 incorrectly, but I have it written as
4 discrimination being disparate, I guess,
5 possibility of a risk from pollution.

6 Could you clarify what that definition is?
7 Then also could you give me a little more
8 context as to what you think a more appropriate
9 definition should be, such that it would
10 encompass the risk that you mentioned that was
11 excluded from the current definition?

12 MR. WATERHOUSE: So I should say that it's
13 not regulations themselves that define what a
14 risk or a harm is.

15 The agency has developed guidance, though,
16 and so the guidance documents and the policy
17 that the agency has used has been a narrow
18 definition. And so it's within that -- the
19 agency's policy decision -- not any statutory
20 or regulatory requirement, but only their
21 policy decision has been to narrowly define
22 pollution, and that narrow definition has not
23 included adversity associated with very
24 traditional kinds of things that we might see

1 as adverse such as noise, odors, truck traffic,
2 smoke, but instead have focused on things that
3 can be quantified in terms of cancer risk or
4 toxic and acute injury. So they've kind of
5 limited civil rights violations based on some
6 kind of very limited health -- definable
7 healthy risk associated with cancer or other
8 acute injury.

9 CHAIRMAN LINARES: One more question.
10 Mr. Howard.

11 MR. HOWARD: Have you -- considering the
12 loss of industry as hard working-class people
13 throughout the country, have you considered
14 that increased litigation from the EPA might
15 limit industrial development and jobs from
16 areas that most need them?

17 MR. WATERHOUSE: Yeah. Actually I should
18 say something about that in two instances. One
19 instance is EPA's reticence over the past 20
20 years to address these issues very well may
21 reflect a political relation of the agency so
22 it neglects part of its civil rights mission,
23 but further I should suggest that in many cases
24 the argument that jobs are going to be lost is

1 a valuable one, but, unfortunately, the people
2 who live in these communities are rarely the
3 persons who are employed in these areas of
4 industries because they require very highly
5 technical jobs.

6 So often an multimillion-dollar facility
7 will not do much to employ more than one or
8 perhaps two people from a local community
9 because the kinds of jobs that are required can
10 be jobs that are related very much to high
11 levels of expertise, technical training,
12 advanced degrees and automation covers most of
13 the other kind of work.

14 So there are jobs created in the sense that
15 higher paying jobs, upper middle class jobs,
16 but the communities that have to end up hosting
17 these facilities actually don't get that
18 immediate benefit from the facilities.
19 Further, I would argue that the people who
20 employ -- the people who -- excuse me enjoy
21 those jobs don't live in those communities. So
22 the people who manage those plants, the people
23 who work in the high-tech aspect of those
24 plants, they get in their cars, and they drive

1 away. So they are not exposed to the harms
2 associated with it.

3 So the problem basically is we are
4 sacrificing communities and we are sacrificing
5 communities in the way that's racially
6 identifiable maybe for the benefit of the
7 whole. So you could say we have an utilitarian
8 complex, we are going to raise our tax revenue
9 in our particular county or our particular
10 municipality by bringing in this facility,
11 however, we are going to saddle the burden of
12 carrying that community, dealing with the harm
13 associated with it, dealing with the risks
14 associated with it, dealing with the injury to
15 the children -- children associated with it to
16 these people.

17 Now, the rest of us will get the benefit,
18 but they are the ones who are going to be stuck
19 holding the bag.

20 And I don't think that's what the Civil
21 Rights Act was intended to allow when that's
22 done in a racially identifiable way.

23 CHAIRMAN LINARES: Thank you so much,
24 Professor Waterhouse, for your time. We are

1 done with time for that one. Thank you for
2 your questions as well.

3 At this time now I'm going to call the rest
4 of the panelists for the academic panel.

5 In this order you will be presenting, but
6 if you can each take your seat by where your
7 name is.

8 They are Sylvia Hood Washington with the
9 Environmental Health Research Associates,
10 L.L.C.; Susan Mudd with the Environmental Law &
11 Policy Center, Brian Urbaszewski, Director,
12 Environmental Health Programs at Respiratory
13 Health Association, and Keith Harley, Attorney
14 at Law, Environmental Law Program, Chicago
15 Legal Clinic.

16 So what we'll do here is everyone will
17 get -- just as a refresher of the rules,
18 everyone will get the maximum of 15 minutes.

19 What I do ask here -- and please don't be
20 offended. We appreciate having you here, but I
21 will have a five-minute sign and a one-minute
22 sign for each of you, and then we'll move on to
23 the next panelist.

24 It will be the same process at the very

1 end, and we'll have the opportunity to ask
2 questions of you.

3 So without further ado, I'd like to start
4 us off with Ms. Sylvia Hood Washington please.

5 DR. HOOD WASHINGTON: Thank you. I'll just
6 give a short introduction to my relationship
7 between my expertise in environmental justice.

8 I actually started working in the field as
9 an environmental scientist and environmental
10 engineer in 1979 for the Cleveland Electric
11 Illuminating Company. I used to do white
12 papers on acid rain and coal combustion. This
13 was in Ohio.

14 And eventually I was the enforcer, actually
15 boots on the ground, hardhat, making sure that
16 the Clean Air Act, Clean Water Act,
17 Conservation Recovery Act was properly enforced
18 by the Cleveland Electric Illuminating Company
19 as well as presenting papers to Electric Power
20 Research Institute.

21 I moved from that to actually being a plant
22 environmental engineer. So I actually got to
23 see power being generated. We had to be
24 trained in how power was generated, what type

1 of waste drains were being developed as a
2 result of power generation from coal and fossil
3 fuels. So I actually got to see the ash being
4 created, put in stacks and seeing it being
5 absorbed by electric static precipitators,
6 actually seeing plumes generated that were
7 illegal plumes because sometimes we were
8 actually bringing our power generators online
9 that had not been properly maintained. The
10 Coast Guard would actually show up at Lake
11 Erie, because this was a lakeshore plant, and
12 actually see that we were in violation of the
13 Clean Air Act.

14 From there I went to -- into my master's in
15 systems and control engineering at Case Western
16 Reserve where we were actually trying to model
17 our power generation and actually trying to
18 determine the best way to minimize the output
19 from power generation of fossil fuels. And so
20 I have a master's on system and control
21 engineering from Case Western Reserve paid for
22 by NASA and the Society of Women Engineers and
23 did mathematical modeling of potable take of
24 solar systems -- power systems to augment power

1 generation.

2 And then I eventually went to work for NASA
3 and looked at power generations and public
4 health impact as a NASA engineer.

5 I was their first African-American woman to
6 become a journeyman engineer in NASA Region 5,
7 and I started my Ph.D. in history of science
8 and technology and environment because at that
9 point in time we knew that whatever technology
10 that we were creating had a public health
11 consequence.

12 Being on the ground -- and let me back this
13 up a little bit.

14 As an African-American woman who was born
15 in 1959, I was also blessed with the experience
16 of being in a segregated African-American
17 community and actually witnessing firsthand
18 pollution of those black communities before
19 there was a civil rights legislation to protect
20 us. So actually having parents who were
21 activists and trying to make sure that this
22 illegal dumping that was taking place in the
23 '60s and '70s was stopped before the
24 promulgation of environmental legislation, I

1 got to see firsthand as a child, then as a
2 scientist and as an engineer. This has driven
3 my research throughout this whole time.

4 My Ph.D. was actually a study of technology
5 and water and pollution and race because you
6 could understand then, even living through it,
7 that certain communities were not being treated
8 fairly in terms of where the waste was being
9 placed and how this illegal waste was being
10 managed once they complained. So that's the
11 backdrop of what informs me.

12 My final research effort that I did here at
13 Great Lakes -- I'm from the Great Lakes -- was
14 paid for by the National Science Foundation. I
15 had a National Science Foundation grant,
16 engineering infrastructure, environmental
17 justice. We were trying to examine how this
18 disparate pollution was being driven by water
19 from a technology perspective.

20 I'm currently an Environmental Justice
21 Commissioner for the State of Illinois. I'm
22 also the founding editor and chief of the
23 Environmental Justice Journal. Again, I have a
24 master's in engineering, a master's in public

1 health and epidemiology, a Ph.D. in history,
2 science, technology, environment, and I have 30
3 years of experience as a practicing scientist
4 and scholar, and my book Packing Them In: An
5 Archeology of Environmental Racism in Chicago
6 specifically --

7 THE REPORTER: I'm sorry. Could you slow
8 down just a little bit?

9 DR. HOOD WASHINGTON: Sorry.

10 So you have an understanding.

11 So my biggest concern here today, I wanted
12 to come here today because I think it is
13 important to understand the history of how
14 environmental justice emerges and how that
15 plays out into continuing disparities.

16 In Chicago African-Americans represent over
17 30 percent of the population. Whatever
18 discussion we have about environmental justice
19 in the state of Illinois, particularly in
20 Chicago, must include that population. They
21 also have one of the highest rates of asthma.

22 Let me go back to just the science of air
23 pollution and power generation.

24 We know -- we teach courses in

1 environmental health sciences that the most
2 detriment to the human body from the
3 environmental health perspective is within 30
4 miles radius of that power plant.

5 You cannot localize the discussion on just
6 one type of community, especially when you have
7 an African-American community with one of the
8 highest asthma statistics in the United States.
9 They are within that 30-mile geographic radius.

10 Secondly, I have a concern about looking at
11 environmental justice issues based on a center
12 city like Chicago. And I acknowledge there are
13 some hideous problems here.

14 LVEJO is to be commended for their efforts
15 in shutting down those power plants, but I live
16 in DuPage County. And in DuPage County, you
17 have some of the largest numbers of Superfund
18 sites in the state of Illinois. This is the
19 Kirby Superfund site. This is also the topic
20 of my master's in public health, my capstone.
21 Five Superfund sites, high cancer rates from
22 thorium decay products. What they thought was
23 a resolved issue from that exposure is not
24 resolved.

1 Now we have communities, Hispanic
2 communities, who are moving into the suburbs
3 who are not being told about this -- these
4 thorium-contaminated homes. What they thought
5 were remediated are not remediated. So now we
6 are seeing increase in cancer clusters there.
7 So things we feel are resolved are not
8 resolved.

9 The state is large. Okay? I have people
10 travel to see me, as environmental health
11 research consultants, who say, Dr. Washington,
12 what about the other issues in the state of
13 Illinois? Those communities must be addressed
14 if we do environmental justice.

15 But let's just stick with race not being
16 constricted to one or two populations and now
17 this other issue.

18 Coal ash, I just came to the issue -- to
19 speak about the coal ash, of the 24 coal ash
20 sites in Illinois, four are outside of Chicago
21 in Joliet or the Joliet area, the Joliet/Aurora
22 area.

23 Joliet is about 43 percent Hispanic and
24 black. So they need to be looked at. And

1 people are complaining about contamination of
2 those populations.

3 We also need to consider the -- the risks
4 that are now becoming through for tire
5 facilities.

6 We had an Environmental Justice Commission
7 meeting last week where now we know that about
8 two or three tire disposal facilities are going
9 to be located outside of Chicago, one in Aurora
10 and one near Joliet.

11 And, again, this is concern for
12 mosquito-borne diseases, for more standing
13 water. So there's a lot of communities outside
14 of Chicago which are struggling with
15 environmental justice issues which need to be
16 part of this discourse.

17 CHAIRMAN LINARES: Thank you very much for
18 that.

19 We'll pass it along to Ms. Susan Mudd
20 please.

21 MS. MUDD: Good morning. Thank you for the
22 invitation to be a part of this panel today.

23 The questions raised by the Illinois
24 Advisory Committee to the U.S. Commission on

1 Civil Rights are certainly important and
2 relevant to the lives of many in Chicago -- of
3 Chicagoans.

4 I'm focusing on the second question posed
5 by the Illinois Advisory Committee: What are
6 the current federal regulatory policies and
7 standards regarding the collection of air
8 quality data in these communities? Is
9 available data disaggregated by race, color,
10 national origin, or other protected categories?

11 Environment Law & Policy Center, where I
12 work, is concerned with asthma rates and
13 hospitalizations in Chicago, and I'm sure you
14 will hear many more details about that from
15 Brian Urbaszewski and others this morning, but
16 ELPC is concerned about that and the connection
17 with diesel emissions contributing to those
18 health problems for many citizens and residents
19 here in Chicago.

20 Given the ELPC's focus, my knowledge --
21 excuse me -- of the EPA's current ambient air
22 quality data is focused on small particulate
23 matter, so-called PM 2.5. The data which EPA
24 receives, which U.S. EPA receives from Illinois

1 EPA regarding Chicago is from a handful of
2 monitors in the city and surroundings and are
3 considered regional averages.

4 At present the only Illinois EPA regional
5 monitor for small particulate matters in the EJ
6 communities named by the subcommittee is in the
7 southeast side of Chicago.

8 ELPC prepared maps, which I have copies of
9 for the committee, overlaying data on the major
10 sources of diesel emissions in Chicago. These
11 are primarily but not solely transportation
12 related and, overlaid with that, one of the key
13 indicators of populations vulnerable to small
14 particulate matter, that being age, as many of
15 you are no doubt aware, children, those under
16 age 18, whose lungs are not yet fully
17 developed, and those over age 64 are both
18 especially sensitive to small particulate
19 pollution, whether it's asthma for children,
20 COPD for others.

21 The maps prepared demonstrate that
22 different areas receive different levels of
23 diesel emissions and thus effects may well
24 vary. Regional averages are unlikely to give a

1 complete picture of many individuals' actual
2 daily exposures.

3 Many residents of the community which the
4 subcommittee is looking at live near highways,
5 congested arterials, and other sources of
6 diesel emissions, trucks passing through the
7 neighborhood, trucks stuck in traffic idling on
8 a local arterial, trains, rail yards,
9 intermodal facilities and construction
10 equipment operating on local streets and roads.

11 The monitor system does not appear to be
12 set up to understand specific sites which could
13 have higher-than-average emissions.

14 Calculated as regional averages, the data
15 is not disaggregated by race, color, national
16 origin, or other protective category.

17 Thus the current ambient air monitoring
18 system appears limited in its ability to
19 identify and address the impacts of exposure to
20 above-average emissions and to those who live
21 near those above-average emissions.

22 We are aware that U.S. EPA has been testing
23 new and emerging technologies and exploring the
24 data available through additional monitoring

1 including that conducted by citizen science.

2 We are very encouraged with EPA in seeking
3 additional data to more fully understand the
4 exposures experienced by residents in their
5 daily lives.

6 And with that, that's the end of my
7 prepared remarks.

8 I'd be glad to circulate. I don't
9 know what -- how you'd like to receive the
10 maps. I could explain them. They are not
11 needed.

12 CHAIRMAN LINARES: We'll utilize one of the
13 staff.

14 Do you want to take time to explain the
15 map?

16 MS. MUDD: I think it would probably help
17 because there's a lot of information packed in
18 the map.

19 CHAIRMAN LINARES: I'm assuming the map
20 would be made part of the record?

21 MS. MUDD: Yes.

22 So the first map is a compilation of -- the
23 various red lines and dots are the major
24 sources of diesel emissions in Chicago, and

1 this -- this work was limited to Chicago. So
2 this is in no way contravening some of the
3 things that Dr. Washington and others brought
4 up, but our work was limited to the city of
5 Chicago.

6 So the major arterials, the heavily
7 congested corridors, the intermodal facilities
8 where trucks and trains are -- there's often
9 very old, dirty equipment transferring --
10 diesel equipment transferring between those
11 things.

12 And then the overlay is vulnerable
13 populations by age, that one particular factor
14 that we called out, which is certainly not the
15 only factor which adds to one's vulnerability,
16 except for one that we used here.

17 And so that the darker blue are areas with
18 higher percentages of vulnerable populations,
19 and the red areas are the high-exposure routes.

20 On the second map we overlaid that with the
21 locations of the Illinois EPA PM 2.5 monitors.
22 So this is specifically the small particulate
23 matter that would be related to diesel.

24 There are certainly some other air quality

1 monitors looking for other pollutants, but I'm
2 just being very specific about this one aspect.

3 The areas within the city that this
4 committee or subcommittee was focused on are
5 outlined in red, and you'll see that the
6 southeast side, down in the right -- bottom
7 right corner of the map is the only one where
8 there's a PM 2.5 monitor located in an area
9 that has both high exposure and high vulnerable
10 populations.

11 The others have a combination of exposure
12 but no monitor that's in the area. That would
13 give a sense of what people are being exposed
14 to.

15 And, again, the regional -- the monitoring
16 system is such that all that's being looked for
17 are regional averages.

18 CHAIRMAN LINARES: Thank you very much for
19 that.

20 Next we'll pass it on to Brian Urbaszewski.
21 I apologize. I think I mispronounced your name
22 earlier.

23 MR. URBASZEWSKI: It was a perfect
24 pronunciation. Thank you.

1 And I do have copies of my statement as
2 well, and since there are lot of members,
3 percentages, I wanted to offer that to the
4 members.

5 I want to thank you for the opportunity to
6 speak today. My name is Brian Urbaszewski.
7 I'm the Director of Environmental Health
8 Programs for Respiratory Health Association.
9 RHA is a lung health charity founded in 1906 on
10 the west side of Chicago that works to fight
11 lung disease and to promote lung health through
12 research advocacy and education.

13 On the topic of air pollution, we have been
14 continuously active in efforts to set good
15 clean air policy since the 1960s. We have been
16 active in efforts to reduce emissions from
17 coal-fired power plants, precisely because of
18 the direct impact pollution from such
19 facilities have on human health. And by the
20 same token of health concerns driven by global
21 warming emissions from fossil fuel use
22 generally, we are proponents of transitioning
23 our energy system to greatest reliance on clean
24 renewable power sources and maximizing the use

1 of energy efficiency.

2 Being a large urban area, the Chicago
3 region has more concentrated economic activity,
4 more industrial activity, and more traffic than
5 the more rural areas of the state. So it's not
6 surprising that air pollution monitors measure
7 higher concentrations of health-damaging air
8 pollution such as ozone or fine particulate
9 matter here than in more rural areas. The
10 metro East St. Louis area shows the same
11 pattern for the same reasons. Both areas fail
12 to attain one or more federal air quality
13 standards. With most of Illinois' population
14 living in these urban areas that fail to meet
15 minimal health standards, more people in
16 Illinois are exposed to unhealthy
17 concentrations of many air pollutants than are
18 not.

19 Compared to the state of Illinois as a
20 whole, African-Americans and those of Hispanic
21 descent are disproportionately concentrated in
22 these urban areas that fail to meet air quality
23 standards.

24 Just to give one example based on the U.S.

1 Census 2014 estimates, 68 percent of all
2 African-Americans in Illinois live in Cook
3 County. 41 percent of Illinois' total
4 population lives there. But less than 27
5 percent of the Caucasian population in Illinois
6 lives in Cook County. Even within counties
7 where the difference is not as stark,
8 African-Americans are disproportionately likely
9 to live in communities that place them in
10 closer proximity to pollution sources.

11 But you also have to take into account that
12 the population demographics of urban areas like
13 Chicago and these metropolitan regions differ
14 in ways other than raw numbers would suggest.
15 There's also an elevated probability of
16 developing lung disease that puts members of
17 minority populations at additional health risks
18 above and beyond simply being more likely to
19 live in an area with higher concentrations of
20 air pollution. Ancestral genetics does play
21 some part in the additional risk people face.
22 It is not something a person facing this risk
23 based simply on who their ancestors were can
24 change. One example of this situation is the

1 current challenge of asthma in many minority
2 communities.

3 Asthma is a lifelong illness that affects
4 the lungs and airways of approximately 25
5 million Americans.

6 People with asthma have sensitive airways
7 that swell and narrow when exposed to triggers
8 such as pollen, dust mites, pets, smoke,
9 pollution, and exercise. And while there's no
10 cure, asthma can be largely controlled with
11 proper medication and education.

12 Unfortunately, asthma is the most chronic --
13 most common chronic condition among children,
14 affecting one in ten in the United States.

15 The rate of asthma among adults in the
16 United States is 1 in 12.

17 In the United States in 2013, asthma
18 prevalence was found to be highest among
19 non-Hispanic blacks, or African-Americans, at
20 9.9 percent and Puerto Ricans at 14.6 percent.

21 More than 10 million U.S. children age 17
22 and younger have ever been diagnosed with
23 asthma. 6.9 million children have active
24 asthma. Of these children, non-Hispanic

1 African-American children were more likely than
2 other children to have ever been diagnosed with
3 asthma, 22 percent, and who still have asthma,
4 16 percent. In the United States, non-Hispanic
5 black, African-American, children are three
6 times more likely to be admitted to the
7 hospital for asthma as compared to non-Hispanic
8 whites, or Caucasian children. Disturbingly,
9 the burden from asthma in Chicago is highest
10 among the non-Hispanic blacks,
11 African-American, children who have
12 age-adjusted emergency department and
13 hospitalization rates nine and six times higher
14 than rates observed among non-Hispanics whites,
15 or Caucasians. That's astronomical.

16 In a report several years ago, the U.S.
17 Centers for Disease Control found that between
18 2001 and 2009 the asthma prevalence rate for
19 African-American children nationally actually
20 increased 50 percent, 5-0 percent, in that time
21 period of less than a decade, going from
22 approximately one in nine African-American
23 children to one in every six living with
24 asthma.

1 In the United States in 2013, non-Hispanic
2 blacks were three times more likely to die from
3 asthma-related causes than non-Hispanic whites,
4 Caucasians. In Illinois 15.4 percent of
5 non-Hispanic black, or African-American, adults
6 have asthma, as opposed to 12.2 percent of
7 non-Hispanic white and Caucasian adults.

8 The picture with the Hispanic population in
9 urban areas is more complicated, with people
10 from different ethnic backgrounds having
11 varying risk for developing asthma. But,
12 similar to African-Americans, 61 percent of the
13 Hispanic population lives -- in Illinois lives
14 in Cook County, compared to 27 percent of
15 Caucasian populations, putting them at higher
16 risk of exposure to elevated air pollution
17 concentrations, and even in counties where the
18 percentages are not as stark, Hispanic
19 communities are often still in those areas of
20 the county where air pollution is concentrated
21 such as Waukegan in Lake County, Illinois.

22 In Chicago, asthma rates are significantly
23 higher for African-Americans, 13 percent
24 compared to 8.4 percent. 8.4 percent for

1 Hispanics and 7.6 percent for Caucasians.
2 However, a 2010 study of 494 children in a
3 predominantly Puerto Rican neighborhood found
4 that 24.9 percent had a doctor's asthma
5 diagnosis, almost one in four. Probable asthma
6 was identified in an additional 16.2 percent.
7 Those are folks or children who had not yet
8 received a doctor's diagnosis. That puts it at
9 about 40 percent.

10 There are other potentially disturbing
11 patterns as well. A team led by Kamal
12 Eldeirawi at University of Illinois at Chicago
13 found that Mexican-American children born in
14 the United States were more than twice as
15 likely to have asthma as Mexican-American
16 children born in Mexico. In addition, the
17 prevalence of asthma among Mexican-American
18 children born in Mexico was linked to the
19 length of time they had spent, or the level of
20 acculturation, in the United States. There
21 appears to be something about migrating to and
22 living in the United States, in other words,
23 that contributes to asthma and possibly other
24 health conditions in immigrant children. This

1 is important because in the United States
2 Hispanics are 60 percent more likely to visit a
3 hospital for asthma as compared to Caucasians.

4 Coal-fired power plants are among the
5 largest single sources of air pollution in
6 America today.

7 The pollution they emit can reach into
8 thousands or even tens of thousands of tons
9 yearly. Many plants continue to operate today
10 without even the minimal pollution controls
11 required on new power plants built 35 years
12 ago. Even with the addition of pollution
13 controls, the emissions from coal plants are
14 still more polluting than alternative
15 commercial ways of generating electricity
16 available today from natural gas, to wind, to
17 solar.

18 In addition, I want to point out that all
19 pollution from coal-fired power plant does not
20 simply stay in the immediate neighborhood of
21 the power plant. While there is a higher risk
22 of health damage the closer the person is in
23 proximity to a coal-fired power plant and its
24 emissions, the fact is power plants have tall

1 smokestacks for a reason. They are designed
2 that way to send the pollution as far downwind
3 as possible. Much of that time -- much of the
4 time that happens, but when it doesn't, you can
5 get highly elevated local sulfur dioxide
6 concentrations in the air near a coal-fired
7 power plant. In fact, the EPA just proposed
8 that two coal plants in Illinois be included in
9 new sulfur dioxide nonattainment areas just
10 last month. They would join three other plants
11 in existing Illinois nonattainment areas for
12 sulfur dioxide.

13 More are almost certainly on the way. If
14 you are wondering if caustic sulfur dioxide gas
15 and the sulfuric acid droplets which form when
16 combined with water vapor in the air are
17 respiratory irritants and asthma triggers, they
18 are.

19 But generally coal-fired power plants send
20 much of their health damage downwind, sometimes
21 hundreds of miles. The point I want to make is
22 that communities dealing with substandard air
23 quality and health impacts need not be
24 immediately adjacent to coal-fired power plants

1 to be substantially and disproportionately
2 impacted by the emissions those plants produce.

3 In conclusion I want to reiterate that
4 minority communities are at greater risk of
5 being impacted by air pollution-related health
6 problems because, one, they are much more
7 likely to live in large urban areas that have
8 high air pollution levels and fail to meet
9 minimal federal air quality standards; two,
10 some of those population subgroups have higher
11 risks of developing lung diseases like asthma;
12 and, three, which I have only touched upon, the
13 overlay of disproportionate poverty in many
14 minority communities contributes to much worse
15 outcomes for disease exacerbations when they do
16 occur, making them far more severe and deadly,
17 as illustrated by some of the statistics I laid
18 out.

19 I want to thank the advisory committee for
20 hosting this hearing in Illinois and for
21 allowing me to speak today.

22 Thank you very much.

23 CHAIRMAN LINARES: Thank you so much.

24 We will pass it on to Mr. Harley. 15

1 minutes.

2 MR. HARLEY: Good morning. As a roadmap
3 for my testimony first, I would like to
4 describe my work at the Chicago Legal Clinic,
5 which forms the basis of my point of view.

6 Second, I would like to describe the ways
7 in which environmental issues directly affect
8 the health, safety, and welfare of the Chicago
9 Legal Clinic's clients, almost all of whom are
10 African-American or Latino, and why these
11 clients are dependent on the promises of our
12 environmental laws to be fulfilled in their
13 lives.

14 Third, perhaps most importantly for today's
15 purposes, I've been the attorney of record in
16 five Title VI civil rights complaints based on
17 environmental issues in the Chicago area, and I
18 would like to describe to you the practical
19 realities of the Title VI complaint process and
20 how that process needs to be dramatically
21 improved in order to be available to protect
22 vulnerable communities.

23 First, I am an attorney at the Chicago
24 Legal Clinic. The Chicago Legal Clinic is a

1 legal services provider. It has offices here
2 in Pilsen, on the west side in the Austin
3 neighborhood. It has an office on the
4 southeast side of Chicago. It has a downtown
5 office. It also has attorneys in virtually
6 every major courthouse in Cook County to
7 provide on-the-spot legal services to pro se
8 litigants.

9 In 1988 I was hired at the Chicago Legal
10 Clinic to initiate one of the first of its kind
11 environmental legal service programs in the
12 country.

13 Over the past 25-plus years, I've
14 represented several organizations in Chicago.
15 For example, People for Community Recovery,
16 based in Chicago, Housing Authority Community
17 Altgeld Gardens. In that case I represented
18 PCR to address lead-based paint problems in CHA
19 Public Housing Communities for Families. That
20 case led to agreed-upon reforms to address lead
21 threats to children in CHA and was a major
22 catalyst in the plan for transformation at CHA
23 which eliminated lead-bearing substances from
24 CHA's public housing. Groups like the

1 Southeast Environmental Task Force, I
2 represented SETF to dramatically improve water
3 quality in the Calumet area water system so
4 that those waters were safe for recreational
5 uses. Today I represent SETF to address pet
6 coke facilities in the releases of particulate
7 matter from those facilities into immediately
8 adjacent residential communities.

9 Little Village Environmental Justice
10 Organization, which you'll hear from later
11 today, I have worked with LVEJO in order to
12 transform former industrial and commercial
13 sites into community beneficial future uses
14 like La Villita Park, the former Celotex
15 hazardous waste site, like the Troy Community
16 Garden, a site formerly a solvent manufacturer.
17 In Pilsen I've represented a group called
18 Pilsen Environmental Rights and Reform
19 Organization to address issues of unhealthy
20 lead air quality problems and the facilities
21 which contribute to those problems and also the
22 legacy lead which is in soil which now needs to
23 be remediated in multiple locations in Pilsen.

24 I've represented a Joliet-Lockport-based

1 group in Will County called Citizens Against
2 Ruining the Environmental to address safe
3 drinking water issues arising from elevated
4 levels of radioactive elements in drinking
5 water in those communities and today in a
6 federal district court action under the Clean
7 Air Act a citizen suit against the operating
8 coal-fired power plants in the Chicago region.

9 And as I mentioned for purposes of today, I
10 will end my testimony by stressing our
11 involvement in five Title VI civil rights
12 complaints that we brought on behalf of some
13 organizations like this.

14 So today the Chicago Legal Clinic provides
15 services to clients in these kinds of cases
16 through a clinical partnership with Chicago
17 Kent College of Law. I'm very pleased that I
18 have two law students with me today, Alexa
19 Coringo (phonetic) and Val Velasquez who are
20 working with me today on cases like the ones I
21 just described that are designed to provide
22 environmental advocacy services for communities
23 in Chicago that are attempting to improve
24 conditions in their neighborhoods.

1 The second thing that I want to talk about
2 is the ways in which environmental issues
3 directly affect the health, safety, and welfare
4 of its various clients.

5 I want you to imagine three concentric
6 circles, and in that innermost concentric
7 circle, we see the ways that environmental
8 issues directly affect the health, safety, and
9 welfare of people living in Chicago based on
10 environmental conditions every day in their
11 living space. The most dramatic example of
12 this is the continued existence of lead-based
13 paint.

14 Michael Hawthorne of the Chicago Tribune
15 recently completed an investigation in which he
16 identified that over 10,300 preschool children
17 in the city of Chicago today are -- annually
18 are lead poisoned, creating permanent
19 impairments that will limit the future of those
20 children and cause profound disruptions to
21 their families.

22 Another indoor threat is the threat of
23 drinking water quality, what comes out of the
24 tap.

1 We are very fortunate in Chicago that the
2 source of our drinking water, Lake Michigan, is
3 almost entirely lead-free, but because of the
4 infrastructure through which that water is
5 transported to individual residents, many
6 residents face threats when that water comes
7 from the tap based on lead and other
8 substances.

9 Asbestos-containing material in people's
10 living space. Asbestos is very common. It
11 must be contained very carefully. If it isn't
12 through do-it-yourself remodeling projects,
13 then asbestos can be released and cause a
14 threat to people in their living spaces.

15 The indiscriminate use of pesticides,
16 rodenticides, and insecticides. In Chicago we
17 had a very prominent example of this when a
18 pesticide, very effective but designed only for
19 outside use, methyl parathion, became the
20 pesticide of choice for several landlords,
21 leading to several residential properties in
22 Chicago having to be rehabbed. These are all
23 threats that people face in their living spaces
24 themselves.

1 They also face threats when they open their
2 doors and they go outside into their
3 communities.

4 Those threats are posed by the fact that in
5 Chicago in many Chicago communities, including
6 the communities that I feature in the initial
7 part of my testimony, people live directly
8 across the fence line from existing industrial
9 and commercial sources which have air emissions
10 which are discharging pollutants into the sewer
11 system, into waterways, which are transporting
12 hazardous waste into or out of their
13 facilities.

14 A second way that people are directly
15 affected by environmental conditions in their
16 communities is that virtually everyone in
17 Chicago lives near a former industrial
18 commercial site or a waste disposal site,
19 meaning that their health, safety, and welfare
20 is directly affected by the hazardous leftovers
21 which exists on these sites and which limit the
22 ability to remediate and reuse, create new
23 opportunities for those communities, and as
24 Professor Waterhouse emphasized in his

1 testimony, also in communities there are
2 opportunities for reusing old sites to create
3 profound community amenities in terms of open
4 space that are being squandered.

5 Without that kind of access to open space,
6 it is very difficult to have healthy, thriving
7 neighborhoods in the city of Chicago.

8 The third concentric circle, regional
9 issues that directly affect the health, safety,
10 and welfare of people living in a complex urban
11 environment like Chicago. The profound issues
12 of regional air quality directly affect, as
13 Brian has testified, the well-being of people
14 who are living in Chicago neighborhoods.

15 Every level of people's existence, of their
16 health, safety, and welfare, is being directly
17 impacted by these kind of environmental issues
18 in their homes, in their neighborhoods, and
19 regionally.

20 Fortunately, the law should be on the side
21 of these people. Environmental laws in the
22 United States do not include sacrifice zones.

23 The promises of environmental law is for
24 clean air, clean water, and safe, reusable land

1 are not limited to wealthy or majority
2 communities. They are supposed to be effective
3 in every community.

4 We have laws under the Toxic Substances
5 Control Act to protect people against the
6 threats.

7 We have the Safe Drinking Water Act to
8 protect the levels of pollutants in drinking
9 water.

10 The Clean Air Act controls
11 asbestos-containing materials and how it can be
12 affected.

13 The Federal Insecticide, Fungicide,
14 Rodenticide Act affects pesticide use indoors.

15 Clean Air Act, Clean Water Act, and
16 Resource Conservation Recovery Act are all
17 there for these communities, but these laws
18 I've found are entirely dependent on human
19 agents to make them work. And many times those
20 human agents are failing the members of these
21 communities who entirely depend on them, as
22 we've seen recently in what's happened on a
23 large scale in Flint, Michigan.

24 That reality is happening every day in the

1 neighborhoods of Chicago in slow motion and on
2 a smaller scale in terms of the actual impact
3 of these promises of these environmental laws
4 in these communities, and this is why Title VI
5 of the Civil Rights Act is so important.

6 We filed five Title VI civil rights
7 complaints. The settlements of four of these
8 complaints are publically available, and I can
9 provide the site where any -- where the members
10 of your Committee can review those settlements.

11 But I will say that, when communities that
12 I represent have attempted to use Title VI of
13 the Civil Rights Act, by filing complaints with
14 U.S. EPA Office of Civil Rights, they have
15 experienced long and unexplained delays, they
16 have experienced the unwillingness of the staff
17 of the Office of Civil Rights to share critical
18 case information, they have experienced the
19 lack of clear standards as to what constitutes
20 illegal discriminatory conduct, they've
21 experienced coercive attempts to force
22 mediation instead of a sincere commitment to
23 actually investigate the complaints which are
24 before the Office of Civil Rights, and they

1 have experienced unprofessional case
2 management.

3 It is vital that the Office of Civil Rights
4 is available to communities as a tool for
5 enforcement.

6 Because of the highly discretionary nature
7 of the business of environmental protection,
8 because fulfilling the promises of those
9 environmental laws is inevitably dependent on
10 the discretionary choices of state-funded
11 partners like the Illinois EPA, it is vital
12 that U.S. EPA Office of Civil Rights vigorously
13 enforce environmental civil rights provisions,
14 especially in response to complaints that it
15 receives from groups like those that are based
16 here in Chicago. Thank you.

17 CHAIRMAN LINARES: Thank you very much.
18 And before we go into questions, I do want to
19 make one announcement, that the copies of the
20 maps that Ms. Mudd provided will be available
21 to e-mail to those who signed in and provided
22 their e-mail addresses.

23 So with that, I will open it up to
24 questions. We have 15 minutes and, Mr. Kazmi.

1 MR. KAZMI: Ms. Mudd, I have a question
2 about the map. I appreciated that.

3 So I know you mentioned that you utilize
4 this age range of 18 to 64. Is that just the
5 most vulnerable population or is it you use it
6 because you just wanted to use that range?
7 What was the purpose of that, for example, not
8 looking at younger kids whose bodies may not be
9 more adept or protected or strong enough as an
10 older person?

11 MS. MUDD: I'm sorry if I was not clear.
12 We looked at under age 18 because --

13 MR. KAZMI: Gotcha. And over 65?

14 MS. MUDD: And over 65.

15 MR. KAZMI: Gotcha. Okay. Good.

16 Cool. Thank you for the clarification.

17 MR. HOWARD: Ms. Mudd, on the map, I'm
18 trying to coordinate the two maps here. You
19 said the Ward 10 corresponds to what on Page 6?

20 MS. MUDD: The Ward 10 is the southeast
21 side which has been referred to in testimony by
22 others. The southeast side has both very high
23 rates of a number of air pollutants. It's --
24 were you asking where it is? I'm sorry.

1 MR. KAZMI: He's saying it's not in color.
2 It's whited out.

3 MR. HOWARD: On the first page, yeah, I'm
4 trying to locate --

5 MS. MUDD: Good point. It should be on the
6 far right-hand bottom corner, and I apologize.
7 I don't know what happened on the first page.

8 On the second page you'll notice that it
9 shows up --

10 MR. HOWARD: Yeah.

11 MS. MUDD: Okay. Brian made a good point.
12 The population there, it's very largely
13 industrial. So it doesn't show up in terms of
14 population there because it's lower density
15 population.

16 MR. HOWARD: Okay.

17 MS. MUDD: But as you can see from the
18 second one, of those who live there, it's high
19 vulnerability and very high levels of, in this
20 case, diesel small particulate emissions.

21 MR. HOWARD: Thank you.

22 CHAIRMAN LINARES: There's a follow-up from
23 Mr. Kazmi.

24 MR. KAZMI: For Ward 10, is that the big

1 Ford plant, I'm assuming?

2 MS. MUDD: In terms of diesel emissions?

3 MR. KAZMI: Yes.

4 MS. MUDD: Yeah. And there's also a lot of
5 truck traffic there because of many, many
6 different facilities. There is also highways.
7 So there's many different sources.

8 MR. KAZMI: Skyway. I gotcha.

9 CHAIRMAN LINARES: Mr. Cobb.

10 MR. COBB: Sure. I have a question I guess
11 for Mr. Urbaszewski and then maybe
12 Ms. Washington. But back to your testimony
13 about the asthma rates. And I guess what I'm
14 interested in is knowing what we know in terms
15 of the science, in terms of the cause of that
16 increased risk of asthma, can we identify
17 actual sources?

18 Is it environmental pollution? Is it the
19 combination with the genetics that you
20 mentioned? What exactly are the causes?

21 MR. URBASZEWSKI: Those are excellent
22 questions. I don't know if I can give you full
23 answers because asthma is a condition that's
24 based on the response that your body has to

1 certain triggers. It may have multiple causes.
2 It may have one cause. No one is really sure
3 why people get asthma.

4 What we do know now is that, if you are a
5 member of a minority group like being
6 African-American or having African-American
7 ancestry or Puerto Rican ancestry that you are
8 much more likely to develop asthma, and as I
9 said, it largely affects children at higher
10 rates because their lungs are a lot smaller.
11 So any constriction in the airways can affect
12 them a lot more than it would affect an adult.

13 So we know there are these certain
14 predispositions for developing asthma.

15 We don't know what a trigger would be, why
16 one person gets it versus another. There are
17 lots of ideas, but no one has found that magic
18 answer yet, and that's why I presented it the
19 way I presented it.

20 You have more people in minority
21 populations living in areas that have
22 substandard air quality, and they have this
23 greater propensity to develop asthma, which
24 would mean they would be much more likely to

1 have a health problem because of breathing bad
2 air quality, and then later on that you have
3 the triple whammy of poverty and community
4 dislocation, difficulty getting decent medical
5 care that leads to much more adverse outcomes,
6 other disease. So if someone has a stable
7 living situation, has a family doctor that
8 they've had for a long time, has easy access to
9 that doctor, they can develop an asthma action
10 plan, they can monitor those triggers, they can
11 see how they develop over time. They can learn
12 how to avoid those triggers to minimize the
13 chance that they wind up in a doctor's office,
14 in an emergency room, or worse. But if you
15 have poverty laid upon this greater propensity
16 to have the disease, people have much worse
17 outcomes.

18 An African-American child is much more
19 likely to wind up in the emergency room because
20 they don't get the education in how to manage
21 the disease and they don't have the easy access
22 that a lot of Caucasian folks do.

23 I hope that answers your question in an
24 unanswered way.

1 CHAIRMAN LINARES: Ms. Greene.

2 MS. GREENE: My question is for Ms. Mudd.

3 I have a question when you talk about that
4 there are a limited number of regional monitors
5 for PM 2.5.

6 Have there been any advocacy measures in
7 place to increase that number?

8 MS. MUDD: Brian may actually know the
9 history of this better than I.

10 I do know that there are -- in different
11 urban areas around the country, there are some
12 urban areas that have many more monitors and --
13 than the Chicago area.

14 I know that the number that are here are
15 what are determined to be required by the Clean
16 Air Act regulations. So Illinois is meeting
17 the requirements.

18 I can also tell you that there's been some
19 problem with getting data from the monitors.
20 For instance, one of the things that has
21 concerned us is that for the years 2011 to --
22 through 2013, the Illinois EPA monitors for PM
23 2.5, because of the way the data was handled by
24 the county lab, there was -- there's no data

1 available. And then in 2014, the lab came back
2 into compliance, but it wasn't a complete
3 season. So that year is not allowed to be
4 counted. And U.S. EPA requires three years of
5 continuous data to make a determination about
6 containment of the standard. So it will -- it
7 will not be until 2018, at the earliest, based
8 on data from 2015, 2016, and 2017 that we will
9 be able to find out whether or not Illinois or
10 the Chicago area -- but this is also true for
11 St. Louis -- whether or not we are in
12 attainment for the 2012 standards for PM 2.5.

13 So there's a -- now Brian may want to speak
14 to some of the other aspects.

15 MR. URBASZEWSKI: It is complicated. U.S.
16 EPA has air quality monitors all over the
17 country, and they are designed, like Susan
18 said, to capture general background air
19 pollution levels. So typically you can find
20 them on, like, top of schools, in a residential
21 area, or on a fire station, also sort of a
22 large residential area. They don't put them in
23 the middle of downtowns because there's a lot
24 of things that interfere with how the monitor

1 measures information and that's not
2 representative of the entire Chicago
3 metropolitan area, but when you look at the
4 actual pollution on the ground, using fine
5 particulates as a surrogate for this, fine
6 particulates are extremely small particles from
7 lots of different sources. It's not as
8 important as to what makes up those particles
9 as the size of the particles. Less than two
10 and a half microns per millionths of a meter in
11 diameter or less, extremely tiny. They are
12 small enough to get into the deepest recesses
13 of your lungs and actually cross over into your
14 bloodstream. They are that small. Larger
15 particles tend to get caught in the mucus of
16 your nose and throat and in your lungs and you
17 cough them up, swallow them or you sneeze and
18 blow them out, but these tiny particles are
19 dangerous because, once they get into the
20 system, they can have impacts on asthma attacks
21 or heart attacks or strokes.

22 And when you look at distribution across an
23 area, there's been a lot of small-scale studies
24 across the country, looking at the effect of

1 roadways.

2 The effect of roadways is felt about a
3 thousand feet per cell meaning you have very
4 high concentrations of fine particulates along
5 a roadway or right adjacent to it and it takes
6 about a thousand feet in either direction until
7 you kind of get back to general background
8 levels.

9 And those general background levels are
10 what the EPA monitors are measuring. So you
11 are missing, you know, the impact for people
12 living, working, children going to school
13 immediately adjacent to a roadway which are
14 likely being exposed to far higher levels of
15 fine particulates on a daily basis day in and
16 day out week in and week out year after year.

17 And, again, there have been science
18 experiments that have looked at that pattern.
19 I know of one done by the University of
20 Washington several years ago. I know New York
21 City has attempted to do it as well, but the
22 problem is those exercises are not sustained
23 over time, and so when you are looking for
24 stable data over time, it's just not there

1 because the funding isn't there.

2 There's a lot of experimenting going on now
3 with much more affordable low-cost pollution
4 monitoring devices that hold a lot of promise
5 to be able to get and to be able to afford
6 getting this picture of risk, but it's really
7 in the early stages right now.

8 But over the next few years that may be
9 something that comes to fruition.

10 MS. GREENE: Thank you.

11 CHAIRMAN LINARES: We have a few minutes
12 left. I'm going to go to Mr. Kazmi and
13 Mr. Howard.

14 MR. KAZMI: Sorry for all the questions,
15 but this is not one topic I was privy on. So
16 thank you.

17 Ms. Washington, I have a question for you.
18 You rattled off some stats about some of
19 various kinds of power plants and coal ash
20 plants that are throughout the state, and one
21 of them I wanted to ask you about. I didn't
22 get the rest because you were rattling them
23 off. So thank you.

24 You said there were 24 coal ash plants in

1 Illinois, and you kind of told us the
2 breakdown.

3 DR. HOOD WASHINGTON: Yes. I brought that
4 statistic. I apologize for giving so much
5 information.

6 MR. KAZMI: I appreciate it.

7 DR. HOOD WASHINGTON: I'm sorry?

8 But I do have a list of those plants here
9 with me if you'd like a copy of that.

10 But there are 24, 4 outside Chicago and
11 both -- in these areas, Joliet, Illinois, which
12 is a very heavily minority population,
13 African-American and Hispanic.

14 MR. KAZMI: So 20 you are saying are --

15 DR. HOOD WASHINGTON: 24 in the state of
16 Illinois.

17 MR. KAZMI: Right, but you said there's
18 four in Joliet. The others are in Chicago?

19 DR. HOOD WASHINGTON: No. They are not
20 even in Chicago. They are across the state.

21 MR. KAZMI: So all across the state.

22 The closest four here are Joliet, is what
23 you are saying?

24 DR. HOOD WASHINGTON: Yes.

1 Can I make another statement as an
2 epidemiologist about asthma?

3 I have an article that I would be more than
4 happy -- I'll give you a copy -- about the
5 relationship between race and asthma and
6 history.

7 When you look asthma, the statistics start
8 emerging in environments when African-Americans
9 and Hispanics migrate into an urban environment
10 where you have coal-fired plants.

11 The problem with African-Americans is that
12 they are restricted -- they have continued to
13 be restricted into segregated and marginalized
14 communities. So there is no mystery as to why
15 African-Americans continue to have high asthma
16 rates.

17 My own monographs show that, you know, the
18 red line, the restrictive covenants, and the
19 patterns of practice made by banks and other
20 institutions, African-Americans have not had
21 the leisure or the opportunity to move outside
22 of these highly toxic environments.

23 So asthma is not a mystery. Not in that
24 way.

1 That is the environmental justice issue at
2 hand. That is why history is very important
3 when you look at these communities.

4 Why are the African-Americans and Hispanics
5 leaving Chicago and going to even more toxic
6 environments like Joliet and Aurora?

7 Those are the areas where they are allowed
8 to move and to exist.

9 So we can be bogged down by the science,
10 but there's some patterns -- historical
11 patterns and practices which are shifting
12 certain populations into more toxic
13 environments.

14 CHAIRMAN LINARES: We have time -- we have
15 one more minute so --

16 DR. HOOD WASHINGTON: The article is called
17 "Inner City Asthma" that I can share with you.

18 CHAIRMAN LINARES: You want -- about having
19 the article in the record, as you mentioned --

20 DR. HOOD WASHINGTON: "Inner City Asthma."

21 CHAIRMAN LINARES: Mr. Howard, do you have
22 any questions?

23 MR. HOWARD: Mr. Harley, when you bring
24 suit with the Title VI Civil Rights Act, what

1 damages do you see and who pays for them and
2 et cetera, if you can generally talk about it?

3 MR. HARLEY: Title VI civil rights
4 complaints on environmental issues are directed
5 to U.S. EPA's Office of Civil Rights, and the
6 Office of Civil Rights, when it receives a
7 complaint, investigates to determine if a
8 federally funded state partner is making
9 decisions which result in discrimination based
10 on the Title VI protected classes.

11 The ultimate remedy that exists is for U.S.
12 EPA to decide to limit or eliminate the funding
13 of their state partner but that remedy has
14 never been imposed.

15 It's much more likely the U.S. EPA, if it
16 believes that a complaint is meritorious, which
17 has happened in the complaints that we filed,
18 will use the complaint as an opportunity to
19 create reforms within a state partner, in the
20 case of Illinois, the Illinois EPA, so that the
21 state agency in its primary practice is one
22 closely aligned with what EPA believes should
23 be in compliance in order to avoid
24 discrimination on an ongoing forward basis.

1 My complaints, when they file Title VI
2 complaints, are not trying to undo permit
3 decisions, for example, which cannot be done
4 through Title VI.

5 What they are attempting to do is to make
6 sure that the experience which they have, which
7 they cannot explain and which has had a bad
8 effect on their community, is not replicated in
9 the future.

10 What they are seeking to do is to
11 understand why the decision was made and to
12 ensure that reforms are instituted so that that
13 does not happen to other communities in the
14 future.

15 MR. HOWARD: Thank you.

16 CHAIRMAN LINARES: Thank you so much to
17 each of you.

18 We appreciate your time and your input.
19 And with that, we'll change panels and begin in
20 just a moment. Thank you so much.

21 (Applause.)

22 CHAIRMAN LINARES: We will have
23 Mr. Urbaszewski's statements passed out and
24 included in the record.

1 (Recess taken.)

2 CHAIRMAN LINARES: We are going to get
3 started very soon. Get settled. So we are
4 back in session.

5 I'm taking the liberty to use the gavel as
6 much as I can today.

7 So we have another panel that's up, and
8 thank you for the panelists that have joined
9 us.

10 We do have one or two that are confirmed
11 that, obviously, will not be here, and we will
12 be waiting for another.

13 That being said, because this panel runs
14 until 1:25 and there are only two current
15 panelists right now, what we will do is we'll
16 have the committee members ask questions of our
17 panelists, then an extra open session for those
18 in the audience who want to ask any questions.
19 We will do that until 1:25 p.m.

20 So with that, I would like to introduce Kim
21 Wasserman with the Little Village Environmental
22 Justice Organization and Naomi Davis who's with
23 Blacks in Green.

24 Each of you will have a maximum of 15

1 minutes to give a statement about your issues,
2 and then we'll have the other one go up in
3 their 15 minutes, and at that point the
4 panelists will ask questions.

5 So we will start with Kim Wasserman.

6 MS. WASSERMAN: I'm setting a timer so I
7 don't go over, unless --

8 CHAIRMAN LINARES: I have a timer. By the
9 way -- thank you for the reminder -- I will let
10 you know I have a sheet here that says five
11 minutes and then three minutes and then one
12 minute. So please don't be offended if -- and
13 if your microphone is not on, we can help you
14 with that. Okay.

15
16 MS. WASSERMAN: Good morning. My name is
17 Kim Wasserman, and I'm the director of
18 organizing and strategy at the Little Village
19 Environmental Justice Organization. We are a
20 20-year organization based on the southwest
21 side of Chicago working for environmental
22 justice for our community.

23 To give some background on who we are as a
24 community, I think it's important to know that

1 we are, as a community, only five miles in
2 radius. We are actually a really small
3 community, but we have 95,000 people living
4 within that five-mile radius. So we have a lot
5 of folks of which of that 95,000 people half of
6 them are under the age of 25. So we are very
7 good Catholics in our communities. We
8 procreate very well, and we love our babies.

9 And I share that with you because Little
10 Village is very unique. Little Village is the
11 second largest Mexican/Mexican-American
12 community outside of east Los Angeles. So we
13 are the Mexican capital of the midwest. It's
14 kind of like a little Mexico when you come
15 visit us. So our work really centers around
16 the question of how do we have a just
17 environment in the low-income communities like
18 Little Village?

19 In our community, about 15 years ago, our
20 community members really started to notice that
21 there was a very high rate of asthma and
22 breathing -- respiratory issues in our
23 neighborhood.

24 Some of the interesting statistics about

1 Latinos and asthma is that Mexican-Americans
2 actually have a lower rate of asthma compared
3 to Puerto Ricans in the United States, who have
4 a higher level of asthma. But in our community
5 that statistic did not stand true. In our
6 community we found many numbers of kids and
7 adults and teenagers were dealing with
8 respiratory issues. As a community we wanted
9 to understand where that was coming from.

10 And so this is the age before computers. I
11 can tell you, before you could just get on the
12 computer and Google, you know, what's in my
13 neighborhood, we actually had to walk around
14 the neighborhood and go check out what was in
15 your backyard.

16 So over the course of two years, our
17 organization worked with community members to
18 map out all the industry in our neighborhood
19 because we really wanted to understand how much
20 industry was there and how they were affecting
21 us.

22 And through that exercise, one of the
23 things we found is that we had a coal power
24 plant in our backyard.

1 Now some may say how do you not know that
2 you have a coal power plant in your backyard?
3 Well, you'd be surprised.

4 Little Village, like a lot of environmental
5 justice communities, is surrounded by and part
6 of an industrial corridor. We have industry
7 not down the road or across the tracks from us.
8 We have industry right next door to us. So you
9 have homes butt up against industry in our
10 neighborhood. You have homes right across the
11 street from industry in our neighborhood. And
12 I think living in a city like Chicago, that's
13 the reality of the industrial age and kind of
14 how planning was carried out in a city like
15 ours.

16 And so through our tour of the communities,
17 we came across this humongous plant in our
18 backyard, and a lot of folks really didn't know
19 what they did and a lot of folks weren't scared
20 of it because the smoke that came out of the
21 smokestack is white. It looks like steam. So
22 a lot of folks thought that doesn't look gray,
23 dark, it doesn't leave -- you know, it looks
24 very unassuming. So for a lot of our young

1 people, they actually refer to the coal power
2 plant as the cloud factory. That's where
3 clouds are made because that's the steam that
4 comes out of the smokestack.

5 And so when we started to investigate what
6 they actually did there and we learned that
7 they were a coal plant, even then we still were
8 unsure of what that meant. For a lot of our
9 folks, they thought that that meant that is
10 where they make things like Kingsford coals
11 which you put in your grill to barbecue, right?
12 And so we had to kind of really explain to
13 folks what a coal power plant meant.

14 So through educating our community members,
15 we started to learn that, in fact, the
16 proper -- our community is Little Village, and
17 right next door to us is the community of
18 Pilsen where we currently find ourselves in.

19 We had two, actually, coal power plants
20 right next door to each other.

21 The city of Chicago is one of the last
22 cities to have had two coal-fired burning
23 plants in their city limits.

24 So, again, Pilsen is its own neighborhood

1 with its own population. We're both
2 Mexican/Mexican-American communities, both
3 low-income communities of color, but here we
4 had two neighborhoods, very similar, with two
5 coal power plants right next to them.

6 And so we did our research and started to
7 talk to residents in Pilsen to understand what
8 you guys face in your neighborhood, what we
9 face in our neighborhood, and we found out a
10 couple things. We found out that both --
11 neither of these two coal power plants actually
12 employ folks from our neighborhood.

13 With 95,000 people in our neighborhood, we
14 could not find a single person who worked at
15 the coal power plant. The closest we came in
16 Little Village was a friend of a cousin who had
17 dated a girl who perhaps knew somebody who
18 worked at the plant.

19 In Pilsen we actually did find a couple
20 folks who did office jobs, some groundskeeping
21 jobs, but nothing really career-oriented, if
22 you will, at the plant.

23 And so it became very clear that we didn't
24 have the jobs incentives with the coal power

1 plants, but more importantly in 2002 Harvard
2 School of Public Health released a report that
3 talked about how the coal power plants in
4 Illinois were affecting the communities
5 surrounding them.

6 And so in our case in Little Village, we
7 were having 40 premature deaths a year because
8 of the coal power plants, over 1,500 emergency
9 visits, and over 2,000 asthma attacks a year in
10 our neighborhood alone.

11 Pilsen had their own numbers.

12 Waukegan had their own numbers.

13 Joliet had their own numbers.

14 So of the 11 or 12 coal power plants, the
15 Harvard School of Public Health really helped
16 identify how this coal power plant was
17 impacting us.

18 As I mentioned, no jobs. Right? Huge,
19 huge health impacts. And then I think the
20 straw that broke the camel's back for us was
21 the fact that the electricity generated at the
22 two coal power plants actually was not used or
23 sold to the City of Chicago or to the State of
24 Illinois.

1 The electricity produced at these coal
2 power plants was actually sold to the open
3 market in which the Pennsylvania area was the
4 primary consumer and purchaser of this power.

5 And so as a community, it became very clear
6 to us that we were being sacrificed for the
7 sake of a company making money. Right? Again,
8 no job incentives. Right? Very impactful
9 health impacts that we were having and somewhat
10 of a tax base. But other than that, we were
11 being killed as a community because of this
12 coal power plant.

13 And so what ensued was a 12-year battle to
14 shut down that coal power plant because, as a
15 community, we truly understood what this meant
16 to our people. 40 premature deaths a year.

17 We have schools -- one of our young people
18 mapped out all of the grammar schools,
19 kindergartens, preschools, high schools, and
20 colleges within a one-to-five-mile radius of
21 these two coal power plants.

22 We are talking about thousands of
23 developing lungs in students that were, eight
24 months out of the year, sitting within a mile

1 to five miles of these coal power plants.

2 And one of the things that we researched
3 was how the coal power plant was actually
4 impacting our community on an economic level as
5 well.

6 What we were able to gather was every time
7 a student at one of our schools missed class,
8 missed a day, that was about \$100 that that
9 school missed out on in revenue because of that
10 child missing school. You multiply that by the
11 number of children in our community who have
12 asthma and have asthma missed days, then you
13 calculate in the parents who have to lose work
14 because they have to stay home with their
15 children, then on top of that, you calculate
16 the loss of income coming into the stores, into
17 the businesses in our community, we were seeing
18 a huge loss on an economical front and on an
19 environmental front where, on the other hand,
20 that tax base came nowhere near what we were
21 spending on health and environment as a
22 community.

23 As so as I mentioned with this report, we
24 came to the city of Chicago. We came to the

1 mayor. We came to the department of
2 environment and said, here, it's not stories
3 about what's happening in our community. We
4 brought our moms. We brought our children.
5 That hasn't been enough. We have a report, and
6 not just from anybody. From the Harvard School
7 of Public Health.

8 I don't think you can do much better than
9 Harvard School of Public Health.

10 And what ended up happening was, instead of
11 having a conversation with us, the
12 administration closed the door on our face.
13 Right?

14 They were more concerned about the jobs
15 than they were about the environment and the
16 health of the community, and it became very
17 clear to us that this was a blatant example of
18 environmental racism.

19 It's okay to kill the poor brown people in
20 Little Village because we don't necessarily
21 vote, right? Because of legal status, because
22 of our language.

23 And for 12 years we had to fight tooth and
24 nail not just the company but the political and

1 administrative processes in our city to demand
2 justice in the sense of shutting down the coal
3 power plants. So for 12 years we banged on the
4 door, and we called. And we were told the jobs
5 were more important.

6 There's an actual interview in which the
7 former head of the department of environmental
8 actually came on the radio and said publically,
9 well, if you don't like living in Little
10 Village, perhaps you should move.

11 And so as a community resident, born and
12 raised in Little Village, I'm appalled at the
13 fact that somebody would even tell me, well,
14 you chose to live there.

15 I didn't choose to live there because it
16 was the only place. I chose to live there
17 because of the cultural heritage, because I
18 could afford my rent, because my family was
19 there, because that's where I came from,
20 because my parents live next door to me, my
21 aunt and uncle live five blocks away, because I
22 wanted to raise my children in a community
23 where our culture is still kept alive. Right?

24 But here I have a woman telling me that if

1 I don't want my children to be impacted by the
2 coal power plant, I need to move. My question
3 to her was: Are you going to pay my first and
4 last month's rent? Are you going to pay my
5 moving costs? And why should we have to move?
6 Why can't this coal power plant move? Why
7 can't they be kicked out of the city if we know
8 that they are impacting the health of our
9 community, not just Little Village?

10 The air pollution doesn't stop at the
11 boundaries of that community.

12 That air pollution travels for miles on
13 end. It impacts thousands of people in the
14 city of Chicago.

15 So over the course of 12 years, we tried
16 everything under the sun. You name it, we
17 probably did it, from protests, to marches, to
18 vigils, to elections, to referendums on the
19 ballot, to county tax possibilities, to city
20 ordinance possibilities, and every time we were
21 defeated.

22 Why? Because this company had deep
23 pockets. Our alderman in our neighborhood
24 didn't want to talk about this, for years

1 refused to talk about this. Why? Because he
2 was getting money from the power plant. A
3 measly \$5,000 every year was what they were
4 donating to his campaign to not get involved in
5 this issue.

6 And so when we put that information out
7 there, our young people found out, they put the
8 information out there, we would put that flyer
9 out on a Friday, that Sunday he was on the
10 front page of our local newspapers telling the
11 reporters I have had a change of heart, I am
12 now going to support this ordinance because
13 it's important to me, and I now recognize what
14 it's doing to the environment.

15 It took putting this person's business out
16 there in order to get them.

17 And in the case of Pilsen, the alderman had
18 to have a runoff in the election before getting
19 him to flip and support the campaign.

20 So once we were able to get these two
21 aldermen, our local aldermen, our local public
22 officials on board, then we were able to gain
23 momentum in the city to get an ordinance
24 possibly passed.

1 This ordinance demanded that the coal power
2 plants either clean up or shut down. And part
3 of this was, one, our mayor had to leave office
4 because for so many years, Mayor Daley was in
5 office as our mayor, and he refused to have
6 this conversation. It was constant jobs versus
7 the environment.

8 And what we were trying to explain to him
9 is it is not jobs versus the environment. We
10 care about the people who work in those plants
11 regardless of whether or not they come from our
12 community.

13 Those are jobs that they have, well-paying
14 jobs, but how are those jobs being impacted by
15 the health within working in that coal power
16 plant? Right?

17 It's not just about our community members.
18 It's also about those workers in that plant.
19 As much as we tried to work with them, we were
20 unable to work with them.

21 I think the conversation and the time was
22 not right for us to come together. And so a
23 third of their workforce ultimately retired, a
24 third was given a severance package, and a

1 third of the workforce ended up moving to other
2 plants.

3 But, again, for us it really took both
4 Mayor Daley retiring, a huge national effort, I
5 think, that really dawned, I think, on the
6 environmentalism community in the United
7 States. There's a lot of talking about the
8 environment and how you need to bring
9 recyclable bags to the grocery store, you have
10 folks thinking about their carbon footprint.
11 Right? So folks are becoming a little more
12 green and understanding what these things mean.

13 So as a community, as we educate ourselves,
14 we start to educate more and more communities
15 out there to say, look, this air quality issue
16 is impacting you, you should get involved, and,
17 again, once the mayor decided to retire and the
18 new folks who ran for office came up, through
19 the help and cooperation of the folks like the
20 Sierra Club and Green Peace and other clubs, we
21 were able to make this campaign one of the top
22 three issues of the two mayoral campaigns. So
23 every time there was a debate, one of the
24 questions was, if you were to become mayor of

1 Chicago, what would you do about the Crawford
2 and Fisk coal power plants?

3 And most of the folks who were running
4 said, I would deal with this issue. I would
5 shut them down.

6 And so really the combination of the mayor
7 retiring and a new mayor coming in, a national
8 campaign across the United States against coal
9 power plants and our 12 years of fighting this
10 coal power plant all culminated in 2012 with
11 this ordinance potentially going through, and I
12 really want to highlight how impactful it was
13 to be able to put an ordinance in the city of
14 Chicago that actually potentially looked at
15 regulating coal power.

16 And I want to highlight that because I
17 think it is amazing how hard communities have
18 to work in order to deal with environment
19 justice issues. Right?

20 Instead of being able to go to the EPA,
21 instead of being able to go to the resources we
22 had, we had to go to our city council and
23 basically ask our city council to become a
24 regulating agency to a certain extent. Right?

1 You have a mandate, the health of your
2 citizens in the city of Chicago. Right?

3 So the ordinance they proposed was either
4 clean up the coal power plants or shut them
5 down.

6 I will close by saying that that ordinance
7 received national attention for a reason.

8 Coal power plants across the United States
9 put pressure on Midwest Generation to say do
10 not allow this to happen because, if the city
11 of Chicago passes this ordinance, this sets a
12 precedent for any other city across the nation
13 to potentially regulate their coal power
14 plants, and Lord forbid that should happen to
15 the coal power plants or the companies.

16 And so for us it was amazing not only how
17 far we had come, right? But the work we had to
18 do to get there because, as a community, the
19 environmental justice community, our options
20 are very limited. Right?

21 And so in the course of 12 years, we
22 recognize that sometimes it takes not just the
23 whole community, it takes hundreds of
24 communities to be able to fight these lions, if

1 you will, and take them down.

2 So I'm very happy to say in 2012 the
3 company did not want to see that ordinance pass
4 and instead voluntarily chose to shut down.
5 And so that coal power plant has now been shut
6 down since 2012.

7 But now we're left with the legacy of a
8 coal power plant. Right?

9 We have this 60-acre site in our
10 neighborhood that is -- nothing is going to
11 happen with it.

12 They have no interest in doing anything
13 with it unless they are going to see their
14 revenues come back on it.

15 And so as a community, we are left with a
16 brownfield site in our community, that's doing
17 nothing for the community, and so right now we
18 have been working for the last couple of years
19 with the City of Chicago to really figure out
20 what does a community-led process on the new
21 development on this site look like?

22 Yes, it's privately owned, but we believe
23 the businesses that come into the city of
24 Chicago to do business need to do it in a

1 healthy way and a manner that lifts up
2 environmental justice.

3 Thank you very much.

4 CHAIRMAN LINARES: Thank you so much. And
5 for the benefit of our transcriber, if I may,
6 those are Crawford and Fisk coal plants.

7 MS. WASSERMAN: I tend to talk faster.

8 CHAIRMAN LINARES: Thank you so much, and
9 we'll pass it on to Ms. Naomi Davis with Blacks
10 in Green.

11 MS. DAVIS: Grateful to be here and to give
12 testimony on behalf of constituents who share
13 the challenges that I'm going to be describing
14 to you and my esteemed and beloved colleague
15 here whose work we dovetail with and complement
16 and, of course, we are honored to serve on the
17 Chicago Environmental Justice Network which is
18 led by LVEJO. And so, by the same token, I
19 want to be sharing with you a complementary
20 perspective.

21 We believe, of course, you might imagine,
22 that an organization called Blacks in Green has
23 something to do with black people. Okay?

24 And we are unapologetically

1 African-American.

2 And at the same time we are, you know, one
3 of America's most diverse eco wards and focused
4 on advancing what we call green village
5 building, which is our signature initiative.
6 We launched in 2007. We have a national
7 network. We are based in West Woodlawn, which
8 is Chicago's first African-American middle
9 class neighborhood, home of Lorraine Hansberry
10 and Emmett Till who are great figures of
11 American history.

12 And the work that we do revolves very
13 deeply around the cultural legacy of our
14 people.

15 You may or may not know that we are
16 celebrating -- I was racing here from the press
17 conference this morning launching the Great
18 Migration Centennial.

19 We are in the hundredth year of America's
20 greatest underreported story, I might
21 editorialize, the movement of six million
22 African-Americans what we call up south for
23 freedom and economic opportunities. And so we
24 work very close with the Black Metropolis

1 National Heritage Commission and those
2 associated with building up the remembrance of
3 that story and from an economic development
4 pillar.

5 So what you are going to hear from me today
6 reflects the Blacks in Green intersection at
7 environment and economy.

8 So we say that there is no environmental
9 justice without economic justice, and we are
10 deeply concerned and working very closely that
11 the story of our migration, our underground
12 railroad, the privacy of self-help and the
13 importance of creating allies across the bounds
14 of race and class are key to what we do, and at
15 the same time we feel very much bereft.

16 We feel that we've been abandoned, and we
17 have the case statistically to share that --
18 share that story.

19 We want to underscore the racial wealth
20 disparity as sort of the building block of the
21 challenge that we have in the African-American
22 community to live the health and wealth promise
23 of America.

24 Our unemployment is generally twice that of

1 whites; our poverty, nearly three times; our
2 homeownership, 60 percent; our wealth, about
3 one-tenth.

4 We are significantly more likely to be
5 pulled over for driving -- for traffic
6 violations, twice as likely to be searched.

7 Though the police are far more likely to
8 find drugs and weapons when searching whites,
9 that search ratio still remains out of kilter.

10 We are ten times more likely to live in
11 high-poverty census tracts than poor whites,
12 and in Chicago, 35 percent of poor
13 African-Americans live in poor neighborhoods
14 compared to four percent of whites.

15 Unfortunately education does not create the
16 buffer against this -- the structural
17 injustices that we might imagine.

18 When we talk about the African-American
19 community and issues of place, we want to make
20 sure that you understand that, in America right
21 now, across the country we are facing
22 displacement through gentrification and the
23 issue of ownership of the land is central to
24 our ability to build our household and

1 community wealth and, therefore, to be able to
2 vote with our pocketbooks about where we live.

3 We work very closely with the communities
4 associated with Altgeld Gardens, which many of
5 you will recognize as the ground -- the ground
6 of Hazel Johnson, the Godmother of the
7 environmental justice movement in America.

8 We -- we are very proud of the ties between
9 the research, the advocacy, and the
10 change-making that happened there and the
11 self-help that was evidenced by the underground
12 railroad, which came right through the Altgeld
13 Gardens area just south on the Little Calumet
14 River.

15 We are going to be constantly intertwining
16 the aspects of culture, the aspects of economy,
17 and the aspects of self-help that really depend
18 on our ability to increase household income
19 where our communities are located.

20 Homes are the largest investment that most
21 Americans will make and is by far the biggest
22 items in our wealth portfolio and much more so
23 for black families than white families. 53
24 percent versus 39 percent of African-Americans

1 will build their wealth based on their ability
2 to own a home.

3 The number of years that you own a home is
4 one of the leading factors in determining the
5 racial wealth gap. And so interrupters like
6 the recently experienced foreclosure tsunami,
7 where we were specifically targeted for losses
8 associated with our real estate, and then the
9 historical structural matters of restrictive
10 covenants and contract sales and discriminatory
11 land policies like the lack of government
12 subsidies after World War II and the veterans'
13 plans, the farmers, the USDA and the racist
14 land policies associated with financing for
15 African-American farmers.

16 These together have collapsed upon the
17 black community to create an environment where
18 economically we are not able to compete in the
19 marketplace for what have now become very, very
20 valuable inner city legacy communities.

21 Where we are located in West Woodlawn is
22 the southernmost tip of Bronzeville, which is
23 understood as an international tourism
24 destination and sort of the soul of authentic

1 African-American culture in Chicago.

2 We are just west of the University of
3 Chicago. We are just at the foot of a 400-acre
4 Frederick Olmsted Park. We are rich in
5 transportation. We are 15 minutes from
6 downtown, and we are highly coveted by
7 developers from around the world.

8 With the coming of the presidential center
9 to either Washington Park, where I live right
10 on the verge of, or Jackson Park, which is a
11 stone's throw, we recognize that bank
12 portfolios are recycling their ill-gotten gains
13 back into their coffers and portfolios that
14 will be sold to investors from London to
15 Kuwait.

16 We understand that the need for
17 middle-income housing and what we call at
18 Blacks in Green the walkable village where
19 every household can walk to work, walk to shop,
20 walk to learn, and walk to play, is fundamental
21 to the next hundred years of life in the
22 African-American community.

23 And Blacks in Green understands the
24 walkable village as a greenhouse gas reduction

1 strategy. And so we are deeply committed to
2 promoting the kind of local living economy that
3 is anchored in neighbor-owned businesses,
4 neighbor-owned buildings, and access to the
5 capital needed to sustain them.

6 We promote the conservation life-style in
7 everything that we do, but to do what we do,
8 the funding that is not proportionately shared
9 with smaller community-based organizations --
10 and it's something that we spend a lot of time
11 talking about, and we're preparing to really
12 ramp up our campaign so that funders can
13 recognize that the "help the Negro industry"
14 must die.

15 In its place must rise a culture of
16 financing, policy, and practices that directly
17 fund the very able, very interested parties on
18 the ground who are capable of taking care of
19 themselves, all things being equal.

20 So -- so we want to point attention to some
21 anomalies in the legislature that -- and in --
22 again the structural inequalities that we live
23 with that cause us to so often be sequestered
24 in what our good friend Majora Carter will

1 often describe as sort of the lungs or the
2 toilet of a town, where -- you know, where
3 developers and industry typically feel, well,
4 trash has got to be disposed of somewhere and,
5 you know, these waste materials have to be
6 processed someplace. Tough if you happen to be
7 the place where it's happening and too bad if
8 you can't afford to have a better place to
9 live.

10 I'm the proud granddaughter of Mississippi
11 sharecroppers who, when they left the farm in
12 Minter City, Mississippi, came to the big city
13 of Memphis, where my grandparents settled, of
14 all places, right across the street from the
15 city dump.

16 And we recognize as a family plagued by
17 asthma the truths that Ms. Wasserman, LVEJO,
18 has shared with us this morning, that we will
19 be disproportionately negatively impacted by
20 the consequences of our economic sequestration
21 into communities that are too often less
22 desirable, at the same time, improprieties,
23 that we called out, by the Chicago Housing
24 Authority, where they are aggregating hundreds

1 of millions of dollars rather than distributing
2 them fairly for people to have a good place to
3 live and where the legislature over the last 14
4 years has cut 25 percent of the budget for
5 housing, human services, and education, those
6 safety nets which are most important,
7 critically important, to the marginal survival
8 of the people of our community.

9 We believe that in Chicago the Distressed
10 Communities Index, which was recently
11 published, is a living, in-color proof of the
12 race-based segregated, disproportionate harm in
13 the economy that translates to the environment.

14 And we have documentation that we are happy
15 to share with you, leave -- leave with you
16 today, so that you can understand in a more
17 concrete way that we are suffering doubly at
18 the intersection of environment and economy.

19 I want to thank you for caring and taking
20 the time to listen. We are at your disposal as
21 agents for change and collaborators for the
22 greater good.

23 Thank you.

24 CHAIRMAN LINARES: Thank you so much. And

1 we will open it up for questions from the panel
2 for about 20 minutes, and then we'll open it up
3 for open session for about another 15, but our
4 Committee members will also be able to ask
5 questions during that time.

6 I'm going to take the liberty to ask the
7 first question. So let the record reflect the
8 chair is going to ask a question.

9 And this also goes back to the previous
10 panel actually with the data experts as well.

11 To what extent do either one of you see the
12 communities that you're serving -- to what
13 extent are they knowledgeable about these
14 issues?

15 So blight itself in buildings or coal
16 plants, you know, are very visual. They are
17 very -- you can observe that they are there.
18 But to use one of the terms from the previous
19 panel, the small particulate matter and these
20 other issues that probably or could lead to
21 asthma, to what extent is the community
22 knowledgeable about these, or are you going out
23 and educating communities about these to drive
24 interest and actions?

1 MS. DAVIS: Well, I think I have the
2 smaller answer, and then I'll yield to my
3 colleague.

4 We are, among other things, plagued by a
5 growing intermodal facility that is driven by
6 Norfolk Southern Railroad which works in tandem
7 with the federally funded Create project, which
8 is a conglomeration of 12 railroad corporations
9 which are driving the transformation of the
10 rail nexus.

11 You may know that Chicago is in the
12 epicenter of the rail industry and that it is
13 experiencing or feels that it is suffering
14 right now from congestion that is affecting
15 their bottom line.

16 As a result the -- a massive chunk of
17 Englewood, our neighbor to the west, has been
18 quietly and consistently over a period of -- an
19 obvious period of about six years to be
20 acquired parcel and parcel by Norfolk Southern,
21 and the result today is huge swaths of land,
22 the quadrupling of the number of trucks coming
23 in and out, removing topsoil, and otherwise the
24 industrial hygiene of the -- of the entire

1 scenario is questionable.

2 We do have a partner in our neighborhood
3 which has negotiated the installation of
4 sensors which are designed to track and measure
5 the particulate matter, and there have been
6 concessions by the railroad in terms of
7 retiring some of their older equipment in favor
8 of much more environmentally friendly
9 machinery.

10 However, to your point of what the
11 community knows and what they don't know, they
12 know their children are sick, but they have
13 understood that sickness to just kind of be in
14 the gene pool sometimes, without really
15 recognizing that the gene -- it's not the gene
16 pool. It is the environmental pool that -- the
17 water that they swim in.

18 And so organizations like Blacks in Green
19 and Sustainable Englewood have really tried to
20 push the envelope in letting people know that
21 there are -- there are answers and especially,
22 getting back to the economic part, that -- that
23 we should be making a benefits agreement with
24 all industrial neighbors who come to our -- our

1 communities, that we should be able to
2 negotiate with them for the -- in advance of
3 their being given acres and acres of city-owned
4 land, we should be able to negotiate with them
5 exactly what their particulate output is going
6 to be, how we can mitigate that, and what kinds
7 of insurance, what kind of health claims, what
8 kind of amendments to the homes can be paid
9 for, and I might add that, while their stock is
10 going up because they have successfully annexed
11 acres and acres of neighborhood land, our stock
12 in health is going down.

13 So it is a very, very time intensive,
14 relationship intensive kind of education. It's
15 a door-to-door, block-party-to-block-party kind
16 of event kind of programming, and so having the
17 money to do that kind of intervention is
18 extremely important for small organizations
19 like ours.

20 Kim?

21 MS. WASSERMAN: So I think at the beginning
22 of our campaign that question would be -- I
23 think a lot of people didn't know, but I think
24 because of this 12-year work that we did to not

1 just shut down the coal power plant, but we
2 also did a 15-year campaign to get a new park
3 in our neighborhood and a 5-year campaign for a
4 new bus line in our community. Folks
5 understand -- and I think culturally folks
6 understand and inherently folks understand that
7 there's something wrong with the environment.

8 You are in Chicago in March, and it's 60
9 degrees. 70 degrees yesterday. It's not
10 normal. And as much as people enjoy it, people
11 recognize that there is something seriously
12 wrong going on in the environment.

13 So I think in our case as a community the
14 conversation is ahead of the game, I think than
15 a lot of other communities because we have a
16 history of fighting for environmental justice.
17 So as our community won these amazing gains --
18 right? We have great clean air now. We have a
19 great new park in our neighborhood. We have
20 great public transportation now.

21 We are seeing a huge interest on behalf of
22 the city in our neighborhood to grow the
23 transportation market.

24 So as Naomi's community is seeing

1 intermodal, our community is seeing a huge rise
2 in diesel trucks, and off the bat community
3 members are asking how is it that you spent 12
4 years shutting down a coal power plant and now
5 we are going to get killed by all the diesel
6 emissions coming out of all these trucks?

7 Right?

8 And so the same conversation is happening.
9 And I will say that, to Naomi's point, we
10 actually want to see this conversation pushed
11 beyond community benefits agreements. Right?

12 As a community, we have over 164 industries
13 in our community. That is 164 potential
14 community benefits agreements that we have to
15 work on with five staff. That's nearly
16 impossible. Right?

17 So we are looking to engage with the City
18 of Chicago this year to talk about how do you
19 balance economic development with an
20 environmental justice plan. Right?

21 Because we have learned what happens when
22 you put a coal power plant in a low-income
23 community of color. We are seeing it in
24 Waukegan. We see it in Little Village. We see

1 what happens when you don't look at development
2 with an environmental justice plan. You end up
3 with communities like Englewood, like Woodlawn
4 with huge, huge breathing problems. Right?

5 So we think the time is now to have
6 conversations with EPE.

7 Our communities understand, are aware, and
8 know what's happening, either fundamentally in
9 their heart or scientifically they know.

10 So this conversation is not an option.
11 This is a real conversation that folks want to
12 have and say don't sell me on jobs. Let's talk
13 about the real cost of health and the
14 environment when we are talking about these
15 companies coming in and the types of jobs they
16 are going to offer.

17 CHAIRMAN LINARES: Thank you so much. Any
18 other questions?

19 MS. WORTHAM: I have one.

20 CHAIRMAN LINARES: I'm sorry. Can you move
21 the mic? Thanks.

22 MS. WORTHAM: Just listening to your
23 comments, as well as you, Naomi, and I would
24 like to leave here today, if possible, to have

1 a very good definition from your understanding
2 of what is meant by environmental racism. I
3 would very much appreciate that.

4 MS. DAVIS: Okay. When we -- when we find
5 the reality of the moment as a disproportionate
6 negative harm -- let's say -- let's just say it
7 wasn't intended to begin with, because in many
8 of the -- the places where industry is located,
9 many times those institutions preceded housing.
10 Okay? So let's -- let's give them the benefit
11 of the doubt there.

12 But when you add to that reality and you
13 recognize that a disproportionate number of
14 communities of color have now percolated up
15 around those industries, you are duty-bound as
16 a moral human being and, of course, as a
17 municipal steward to ask why people would live
18 in a location like that, is it okay with me
19 that they live in such a place with the hazards
20 associated thereto, and, three, if it's not
21 okay with me, what am I committed to doing
22 about it?

23 So environmental racism is the embrace of
24 that reality and the demure or the decline to

1 do anything about it because of a moral
2 willingness to allow people of color to suffer.

3 Does that sound --

4 MS. WASSERMAN: Absolutely.

5 CHAIRMAN LINARES: Mr. Jackson Green.

6 MR. JACKSON GREEN: Ms. Washington [sic],
7 you mentioned when you were discussing the
8 health impact of the Crawford and Fisk power
9 plants in Little Village, one statistic was
10 about 40 premature deaths per year, in that
11 region.

12 Were these respiratory illnesses or --

13 MS. WASSERMAN: So a lot of them were.

14 The reality is asthma can aggravate things
15 like high blood pressure, congenital heart
16 disease. So it's both respiratory but then
17 also the aggravations of current and forming
18 health issues. Right? So it's a combination
19 of both, so if you already have high blood
20 pressure, if you already have diabetes. Right?

21 So one of the issues we face in Little
22 Village is 95,000 people, 5 -- 5 -- did I
23 say -- 5 miles in radius, we have one park.
24 Right? One park for 95,000 people is...

1 Half the population is getting no exercise.

2 So all of those things then culminated by
3 not being able to breathe are going to
4 potentially lead to premature death. So it was
5 a combination of both.

6 CHAIRMAN LINARES: Ms. Shah has a question.

7 MS. SHAH: My question is to Ms. Wasserman.
8 I have a question about the legacy that you
9 spoke of, which is the brownfield site where
10 the power plant was shut down.

11 What is your understanding as to why the
12 owners were not required to clean the site
13 before exiting? And also is there a lasting
14 health impact from that site?

15 MS. WASSERMAN: So you asked an amazing
16 question that we like to call the chicken and
17 the egg question. So we, as an organization,
18 continually find ourselves asking this very
19 question.

20 There is nothing on the books that requires
21 industry when they leave to clean up their
22 mess. Right?

23 So if you are targeting our communities for
24 industry because the land is cheap, the labor

1 is cheap, nobody is really going to question
2 what's happening there. Right? So people pick
3 our communities for a reason to put the
4 industry in because we are going to be sold on
5 technical jobs, nobody is going to ask any
6 questions. Originally that was the intent.

7 So when industry leaves, there's no mandate
8 right now to get them to clean up what they
9 leave behind. And this is part of the problem.
10 Right?

11 Because developers and the city says, well,
12 if you don't know what the end use is going to
13 be, how can you clean it up to the right
14 standard, where, as a community, our point is
15 if you clean it up to a standard, anybody can
16 develop.

17 So how do you balance, right, both of those
18 things?

19 And for us, as a community, if you are
20 going to come in and do business in Little
21 Village, you should be required to take --
22 excuse my language -- your shit when you leave.

23 Like, we -- because it makes this -- you
24 are talking 65 acres that somebody now is going

1 to have to put up the money upfront to clean up
2 before they can do anything with it, whereas if
3 the company cleaned it up before they left, the
4 opportunity to develop it is much, much
5 greater, and it sends a message to other
6 industry to say, if you are going to come do
7 business again in Chicago, do it in a
8 responsible and respectful manner and be a good
9 neighbor so that, when you leave, that
10 community has -- is empowered to continue to
11 grow economically and is empowered to continue
12 to grow on a jobs front and not be stuck for
13 decades.

14 We just did a two-year project in which we
15 mapped all the brownfields in our neighborhood.

16 We have over 60 brownfields alone in our
17 neighborhood, 60 sites which could be developed
18 to anything, from parks, to recreational, to
19 youth.

20 Given the state that Chicago is currently
21 in with the violence that we have, the
22 necessities are great in our community, why are
23 we not redeveloping some of these brownfields
24 to the use of the community?

1 So, again, it becomes the question of what
2 comes first. And when you use a business
3 framework to have this conversation and exclude
4 environmental justice, you find communities
5 like ours.

6 CHAIRMAN LINARES: Ms. Wortham has
7 followup.

8 MS. WORTHAM: Did you say there is no
9 ordinance in the city of Chicago that requires
10 businesses to clean up their -- the area that
11 they use when they leave? There is nothing in
12 the law in this city?

13 MS. WASSERMAN: Not that I know of, no.
14 Not that I know of.

15 And when the coal power plant shut down --
16 I think the question was any repercussions.

17 So we had a huge concern. The coal mound
18 that was on the site for decades was outside.
19 It was not an enclosed site. It was a huge
20 mountain of coal that sat outside for 60 years.
21 Every time the wind blew, it carried the coal
22 dust out into the community.

23 Countless stories of communities having to
24 live in the summer with their windows closed.

1 The same thing is happening on the south side
2 with pet coke right now, same exact issue, dust
3 getting into your home, dust getting into your
4 apartment. Right?

5 So when they took all of that coal out,
6 you're left with the dirt of who knows 60, 70
7 years. Some of this coal has been mined with
8 uranium. Some of this coal has been mined with
9 other things.

10 So as that dust started to blow, community
11 members started to ask themselves, I know what
12 I was breathing when I was breathing in the
13 coal dust. What am I breathing in now that
14 rain, snow, sleet has deposited into the soil?

15 So we actually had to call U.S. EPA Region
16 5. They came out, did testing, both on an air
17 monitoring level and then on a soil sampling
18 level, if I'm not mistaken, and found,
19 thankfully enough, that there was not a
20 substantial danger coming off of the site.

21 But, again, we had to call U.S. EPA Region
22 5 because there is nothing right now that we
23 can lean to to say, before you leave, pick up
24 your mess. Right?

1 Now, what happens, in our communities as
2 well -- I believe you heard Keith Harley speak.

3 In one case we had a brownfield site in
4 which the remediation company was supposed to
5 clean up a brownfield, made a bigger mess.
6 Right? So in that case, you were able to go
7 after the company that made the bigger mess
8 because we knew who the responsible party was.

9 But even when we sometimes know the company
10 that's responsible, because of the way
11 transactions work and just the need to get
12 somebody else on the site, they sell a lot of
13 these sites as is. You're buying that
14 liability when you buy that property.

15 MS. WORTHAM: I am just shocked that a
16 city, any municipality anywhere, would not have
17 as part of its contract, leasing or purchasing
18 properties to whomever --

19 MS. WASSERMAN: Absolutely.

20 MS. WORTHAM: -- would not require those
21 leaving that property to leave it in good shape
22 or to pay an extraordinary fine for doing so.

23 MS. WASSERMAN: Absolutely.

24 MS. WORTHAM: And I confess ignorance. I

1 can't believe there is nothing in how this city
2 runs itself that permits it to --

3 MS. DAVIS: I want to chime in, if I may,
4 to say that, yes, there's a problem of
5 brownfields which are the residual of what
6 industry has created, and to Ms. Wasserman's
7 point about pet coke, we have -- I have an
8 alert on my cell phone, a wind alert on my cell
9 phone, that goes off all the time which is
10 associated with the pet coke phenomenon on
11 Chicago's southeast side.

12 And I want to say that any more than the --
13 you remember the Dust Bowl of the '30s. And,
14 of course, they are threatening for the future,
15 as well.

16 There's nowhere to go when that -- when
17 that silt is coming in. It's in your eyes.
18 It's in your cabinets where your dishes are.
19 It's in the bassinet where your baby is. It's
20 everywhere.

21 And -- and I'm not an expert on this
22 aspect, but I must say that some concerns
23 were -- have been raised by the way that the
24 City has not required the mounds of pet coke to

1 be physically contained -- isn't that right --
2 inside, that -- that shelters which could
3 mitigate the -- the danger have not been
4 required.

5 I think there has been some sort of
6 compromise in terms of when it would get built
7 and what it would consist of when it gets
8 built, but it's a problem now.

9 And, again, if you're a cherished people,
10 if you are beloved and you are respected, you
11 get treated one way, and if you're just sort of
12 collateral damage and what the heck not, you
13 get treated a different way.

14 I think not only do people on the North
15 Shore, for example, never have to deal with the
16 grime of life in this way, but should a hazard
17 be recognized, we assert that it would be
18 handled much more expeditiously.

19 CHAIRMAN LINARES: Ms. Buys?

20 MS. BUYS: So Ms. Davis, you and an earlier
21 panelist had referred to historical practices
22 with respect to properties, restrictive
23 covenants and finance practices by banks which
24 drove persons of color to certain

1 neighborhoods.

2 Is that really historical, or do you see
3 those practices continuing today?

4 MS. DAVIS: They are absolutely continuing
5 to this day. We have -- we have received
6 hundreds -- I'm going to amend that statement.
7 We haven't received it.

8 Hundreds of millions of dollars of fines
9 have recently been imposed against Associated
10 Bank. HSFC I think is the acronym of the other
11 bank which was recently fined \$200 million for
12 their racially discriminatory lending
13 practices.

14 We recognize that some of -- some of the --
15 you know, some of the injustice that results is
16 a function of having failed to punish the
17 perpetrators in the first place. So the -- the
18 financing mechanisms that have allowed banks to
19 combine their investment activity with their
20 retail activity and have, therefore, created a
21 passthrough that has just been a golden
22 piggybank for -- for purposes of investing in
23 mortgages and then the aftermarket of those
24 mortgages as derivative instruments, bundled

1 portfolios where hundreds of thousands of
2 mortgages are being sold. This is going on to
3 this day, and not only is it continuing, but it
4 is working in tandem with other aspects of land
5 transfer fraud which includes improperly --
6 improperly documented pin numbers which are
7 clouding titles in ways that are not properly
8 recognized in the foreclosure process and for
9 which there is no adequate remedy at law at the
10 present moment.

11 So -- and you -- and you combine that with
12 the distribution of these hundreds of millions
13 of dollars of settlement in what we consider
14 profoundly inappropriate ways.

15 In -- in the state of Illinois, for
16 example, we have seen settlements of diverted
17 to -- to plug the pension hole. God love a
18 pensioner, you know. However, that -- that's
19 not what making a family whole, for fraud
20 committed and suffered, should be about.

21 We -- we experience large nonprofit
22 organizations, what we call the usual suspects,
23 receiving the contracts to administer programs
24 which are supposed to make people whole,

1 prevent further abuses, and otherwise open the
2 market back up to potential home buyers, and it
3 is not happening in the way that it is
4 expected, intended, or claimed.

5 We -- we consider it to be insult to injury
6 that when those settlements are made that there
7 isn't a more grassroots approach to -- to
8 remedying the wrongs of the neighborhood.

9 Where I live in West Woodlawn, there --
10 it's a square mile from King Drive to Cottage
11 Grove. From 60th Street to South Chicago
12 Avenue, there are hundreds of vacant lots and
13 hundreds of boarded properties in various
14 stages of transfer or alienation.

15 Some of them are zombie properties that the
16 banks feel free to let go to pot.

17 Our enforcement mechanisms for how property
18 should be maintained -- we recently,
19 disgracefully, lost 413 East 60th Street which
20 was an investment property owned by the
21 Hansberry family of Lorraine Hansberry fame.

22 The family which, by the way, took the
23 restrictive covenant case to the U.S. Supreme
24 Court and unplugged that particular aspect of

1 our economic injustice, that family property
2 was owned by an absentee investor, was open --
3 went through the -- it went through the banks,
4 it went, you know, through trustee. It -- it
5 was open to the elements for three years. For
6 three years I phoned anyone who would listen to
7 mitigate, to ameliorate, to secure the
8 property, and just last month -- it's a
9 beautiful limestone building. The entire
10 limestone balcony collapsed onto the steps
11 below, and it is -- it is now, you know,
12 targeted for demolition and -- it's like that
13 precious asset that was ours had no value. It
14 was just another parcel in somebody's
15 portfolio, and that kind of outside investor
16 approach is going to be the death of the black
17 community.

18 We believe and we promote and we are
19 looking for ways to facilitate, through policy,
20 practices, and payments, the neighbor investor.

21 If you can bend over backwards to open the
22 flood gates of money to make these bad
23 mortgages, you can bend back over the other way
24 to remediate and to make sure that neighbors

1 get to own the properties in the communities
2 where they live.

3 CHAIRMAN LINARES: Ms. Rodriguez, did you
4 want to --

5 MS. RODRIGUEZ: This is for Ms. Wasserman.
6 You mentioned that the Harvard School of
7 Public Health -- you presented that to the
8 Daley administration. Over what course of
9 years was that study -- did that track?

10 MS. WASSERMAN: I believe the study was
11 released in 2002. I think in 2002 was the
12 study was released, and we use that study all
13 the way through today.

14 MS. RODRIGUEZ: Have you continued to track
15 any of the residual impacts in terms of the
16 respiratory conditions --

17 MS. WASSERMAN: We have not as an
18 organization.

19 We have been working with the local
20 hospitals. It does take some time.

21 Based on some work that Dr. Bullard did
22 around the Olympics when Atlanta shut down --
23 based on Dr. Bullard's work in Atlanta, where
24 they had the Olympics there, and they shut down

1 the highways, they looked at some of the
2 hospital rates for asthma admission. And that
3 took some time. And so we are kind of modeling
4 our work after that and having conversations
5 with the local hospitals around how are they
6 tracking the asthma rates.

7 And I'm hopeful in the next year or two we
8 will be able to pool together some of that
9 information on what does the environment look
10 like now that we have had this single-source
11 emitter shut down.

12 But like I said, part of the problem now is
13 that we have a huge rise in diesel emissions.
14 So how do we now have that same conversation
15 very targeted towards, you know, the diesel
16 industry.

17 MS. RODRIGUEZ: And to the Chair, can we
18 include that in the record as well as
19 the ordinance?

20 CHAIRMAN LINARES: We can.

21 THE REPORTER: I'm sorry. Can you say that
22 again?

23 MS. RODRIGUEZ: Include in the record the
24 study and the ordinance.

1 MS. WASSERMAN: I can share both of those.

2 CHAIRMAN LINARES: If they are shared with
3 us.

4 MS. WASSERMAN: Yes.

5 CHAIRMAN LINARES: Ms. Wortham, follow-up
6 question.

7 MS. WORTHAM: Naomi, you mentioned the
8 Norfolk Southern Railroad was involved in
9 gradually acquiring property in Englewood; is
10 that right?

11 MS. DAVIS: Yes, ma'am.

12 MS. WORTHAM: Could you tell me if the
13 property that they are attempting to acquire is
14 privately owned property? Do you know whether
15 it is?

16 MS. DAVIS: I absolutely know, and it's a
17 bit of a scandal actually.

18 We like to ask the question of our -- of
19 our elected and appointed officials "What did
20 you know and when did you know it regarding the
21 aims of Norfolk Southern to acquire major
22 parcels -- major allotments, acreages, of land
23 in Englewood and what did you do to champion
24 the rights of homeowners to an ample settlement

1 for the value of their land?"

2 What happens in the African-American
3 community, through systemic and sustained
4 disinvestment over decades, is that the
5 artificially low valuation of property goes
6 even lower. It down-spirals to, you know, what
7 the system would call, you know, minimal value.

8 However, Englewood has a proud, happy,
9 strong, woven history of a community and
10 neighbors, families, and children and schools
11 that is and has been completely discounted in
12 the process.

13 So when Norfolk Southern began buying
14 land -- and I can't quote you the exact year,
15 but, of course, these things -- and railroad
16 companies do enormous amount of research for a
17 decade or more sometimes before they actually
18 begin the acquisition process. And, of course,
19 federal requirements, whether it's the
20 environmental impact studies or whether it's,
21 you know, other contracts associated with
22 easements and rights-of-way and, of course, the
23 railroads have a very special history in
24 America, as the royalty, and I would say slave

1 owners, as well, but don't let my emotional
2 characterization throw you off.

3 What we are recognizing is that the slow
4 assembly of the land over, I'll say, the six
5 years that I know of continues to this day with
6 the holdout of a cluster of homeowners who
7 about three years ago decided we are not going
8 to sell to the railroad.

9 There were two categories of homeowners,
10 those who took the deal that they could get and
11 went quietly and those who were organized.

12 I'll call his name by Professor Steven
13 Rogers of Northwestern University who proposed
14 that they would be unwilling sellers and that
15 they would, therefore, be able to hold out for
16 a more appropriate price.

17 We always believe, those of us who were
18 very active in, you know, advocating for more
19 just settlement, that the idea that you could
20 give someone \$15,000 for a home, not only that
21 place where you're rooted and where you belong,
22 but the fact of how are you going to buy
23 something of equivalent aesthetic or -- you
24 could call it value, value having many

1 different plumes to it -- how are you going to
2 be able to replace, you know, that loss, and
3 how are you going to factor in that -- you
4 know, issues associated with health matters
5 that may have arisen during your time in the
6 neighborhood?

7 So I'll just say that I think there are
8 still a few of those holdouts who are
9 attempting to negotiate a more ample dollar
10 settlement for the sale of their homes.

11 In the case of Professor Rogers, he's a
12 third or fourth generation Englewood man with a
13 family homestead that is on the block, on the
14 chopping block, and so he's not only got a very
15 sophisticated way of being able to think and
16 negotiate things, but he's also got a very
17 personal stake.

18 And I'll say that while, again, their stock
19 is rising, because of their ability to amend
20 the TIF, the Tax Increment Financing, district,
21 where this expansion -- the epicenter of this,
22 and you can go there now. And it's scandalous
23 that they won't even maintain the properties in
24 a way that has any respect for how things look

1 in a black community, that there are contracts
2 that they could easily offer to local
3 unemployed, underemployed and contracts with
4 local vendors to manage upkeep, beautify, and
5 maintain the perimeters of this expanding
6 property that they have.

7 There's no giveback. And, furthermore,
8 I'll say that the 70 jobs that they promised
9 at -- I believe the rate was \$69,000 a year,
10 when they testified before the Chicago City
11 Council in 2013, have never materialized. And
12 they are not going to materialize. And the
13 insult that the black community must
14 continuously suffer with this very glib and
15 very disingenuous promise of jobs, it just
16 comes with the territory that we are going to
17 be promised jobs and no jobs are ever going to
18 materialize and devil take the hindmost.

19 CHAIRMAN LINARES: So we have about five
20 minutes in the panel left. I do want to open
21 it to public comment, if anyone would like to
22 comment from the public.

23 We will continue with our questions as
24 well, but please feel free if you are a member

1 of the public and want to make a comment,
2 please identify yourselves, and we'll open that
3 up for you.

4 And seeing none at the moment, I'm going to
5 take my other liberty to ask a question.

6 The record will reflect that the Chair will
7 ask another question.

8 I'm curious about the continuity with
9 regards to your relationship to government. So
10 it's a two-part question in a sense.

11 The first is you mentioned that you've gone
12 now, particularly in Pilsen/Little Village,
13 from closing a couple coal plants to now
14 looking at the effects of diesel emissions and
15 then looking at the intermodal on the farther
16 south side.

17 Has there been continuity with the
18 government officials that you've worked with
19 from one issue to another?

20 And, secondly, you've both mentioned the
21 state and federal government. You mentioned
22 EPA Region 5. But where does the state fit?
23 This is the Illinois Advisory Committee. So we
24 like to hear if there's anything with the state

1 officials.

2 MS. WASSERMAN: So I know that they are
3 going to be testifying later, so I won't steal
4 their thunder.

5 We have worked really hard for the last 20
6 years to establish a relationship with the
7 state EPA and the regional EPA. It's been a
8 very difficult and long process. I think one
9 of the realities of being environmental justice
10 communities -- and I joke about this, and I
11 apologize for joking about this, now that I
12 think about it, but one of my ways of kind of
13 welcoming folks into the environmental justice
14 advocacy world is, when you get burned or
15 screwed either by a regulatory agency, the EPA,
16 or we call it the big screen, the big-screen
17 organization, I always feel like that's how you
18 know you've made it in our world because
19 somebody is screwing you over.

20 And I hate to say that, but the reality is
21 that the history of partnership between EPA and
22 IEPA and the environmental justice community is
23 a very shaky one.

24 A lot of times we feel that EPA is hand

1 holding the perpetrators of a lot of these
2 crimes.

3 In our case in point, when we were fighting
4 for the park for 20 years, it took them 10
5 years to find the responsible party. 10 years
6 to find the responsible party. We lived
7 across -- people lived across from the
8 Superfund site, and let me clarify. It's not
9 super fun. It's Superfund because it takes a
10 Superfund of money to clean them up.

11 For over 20 years people sat across the
12 street, lived across the street from a
13 Superfund site, and every time it rained, their
14 homes would get flooded, and it would go -- if
15 you are from Chicago, you go into your
16 basement, you roll the pants. You go in the
17 basement. You open up your sewer -- your sewer
18 top and you let the rain water run out.

19 As a -- as a -- as a girl from Little
20 Village, you roll up your pants. You go down
21 barefoot. You open it up. Folks would get
22 rashes on their hands within half an hour of
23 touching that water. Right? Because it was
24 contaminated with something called polyaromatic

1 hydrocarbons. 25 years we had the proof, but
2 it took them -- they hand held the company
3 through this process.

4 And a lot of times we felt like we were
5 actually fighting Region 5 and not the party.

6 When we ended up negotiating for the park
7 and for home cleanups, we ended up negotiating
8 directly with the company because EPA kept
9 selling us out for lower standards, for lower
10 homes that were going to be tested.

11 So we actually ended up negotiating
12 directly with the lawyers from the company and
13 got a better win than had we gotten -- had we
14 gone through Region 5 EPA.

15 I think that kind of tells the tale of
16 where we stand. And, like I said, this is one
17 of countless stories for environmental justice
18 communities that go through that.

19 I think that experience helped us realize
20 that there were some problems with our
21 relationship and we need to work on them. We
22 have. I think we have a good, robust
23 relationship with Region 5, and we find ourself
24 now in that same place with Illinois

1 Environmental Protection Agency.

2 Our state is a hot mess right now. We have
3 no budget. We've had no budget for two years.
4 You know, I think our regulatory agency is
5 really trying to stay under the radar to ensure
6 that they don't get cut. Right? That they can
7 maintain.

8 And I think it's a very scary time. Right?
9 Because we are not just talking about cuts to
10 programing, cuts to our families, cuts to
11 services, but also cuts to the regulatory
12 agencies potentially that monitor these
13 industries.

14 So I think the reality is a lot of these
15 agencies are trying to maintain. They are just
16 trying to maintain and do their jobs as best
17 they can. But a lot of times it's, because
18 there's such a notion of not upsetting the
19 industry and just kind of maintaining, our
20 communities are getting sold out in the
21 process.

22 So I think there's a lot of hurdles that we
23 have to overcome to create a trusting
24 relationship with these agencies, but I think

1 our communities are constantly willing and
2 reaching out because what other option do we
3 have? We don't.

4 So I think that was the first part of your
5 question. I apologize. What was the second
6 part?

7 CHAIRMAN LINARES: I asked about continuity
8 with government and then where Illinois stands.

9 MS. WASSERMAN: Right. So continuity with
10 government, that's a really good question.
11 Again, we had a huge change in leadership. Our
12 department of environment is no longer existing
13 in the city of Chicago. So I think that tells
14 you where we stand as an issue within the city.

15 Again, the City does what the City does to
16 kind of maintain its budget and do its thing,
17 but the wiping out of the department of
18 environment I think is somewhat of a strong
19 signal to a certain extent. Right? Of where
20 we stand with environmental issues.

21 And so, like I said, we are looking forward
22 to an opportunity to engage you with our city,
23 engage you with our department of planning, as
24 we look at our community through a land-use

1 plan of really highlighting what the lack of
2 environmental justice or even a health lens in
3 that plan can potentially do.

4 So on the diesel front, this is a very real
5 conversation.

6 Chicago -- I mean, every product in the
7 United States at some point or another is
8 traveling through Chicago.

9 If it's coming off of a port on the east or
10 west coast, some truck or some train is
11 bringing it through our city.

12 So the realities of intermodal diesel
13 trucks transportation in Chicago has got to be
14 a very real conversation.

15 The ports in Los Angeles, the ports in
16 New York are moving forward with electric
17 vehicles, with air monitoring because they
18 recognize the huge environmental impacts that
19 these ports and intermodal agents -- intermodal
20 facilities are having in communities.

21 Chicago is lagging behind in that
22 conversation.

23 Yet we are the epicenter of goods movements
24 in the United States. So I think it's a

1 telltale sign of where we stand. Right?

2 We have great victories like the coal power
3 plant. Yet we are lacking on serious
4 conversations from pet coke all the way through
5 transportation in our communities.

6 MR. KAZMI: Point of clarification.

7 MS. WASSERMAN: Yes.

8 MR. KAZMI: For the department of
9 environment, it was merged into another City --

10 MS. WASSERMAN: Correct.

11 MR. KAZMI: -- department.

12 And the second question, or quick question,
13 in regards to Chicago lagging in certain
14 matters, we are a city who, especially under
15 this administration, is always competing with
16 other large cities such as LA and New York.

17 So what are you doing at Little Village
18 Environmental Justice to get what you just
19 shared -- that point across, basically how LA
20 and New York ports are using -- what are you
21 doing?

22 MS. WASSERMAN: Absolutely.

23 MR. KAZMI: What can we assist with?

24 MS. WASSERMAN: Some of the -- we're

1 definitely looking at how they have done this.
2 The port of Los Angeles has incentivized new
3 technology. Right? Through their tax base,
4 through their -- through the income that they
5 make at the port, they are incentivizing their
6 companies and their firms around the port to
7 look at electric vehicles. Right?

8 You look at the port of Los Angeles'
9 website, they have a whole, like, technology
10 page.

11 MS. DAVIS: They are very innovative.

12 MS. WASSERMAN: They are very innovative.

13 MS. DAVIS: They are really pushing the
14 envelope in ways that I don't think anyone else
15 is.

16 MS. WASSERMAN: Exactly.

17 So we're looking at that, and we're
18 culminating that conversation here in the city.
19 So when we talk about industrial corridors,
20 when we talk about planned manufacturing areas,
21 it is not an isolated conversation.

22 As I mentioned, these are not in some
23 faraway distant space in the city. They are
24 right next door to our homes.

1 And so, if we continue to have these
2 conversations in isolated styles, we are going
3 to continue these historical tasks starting
4 with Hazel Johnson and continue now 20, 30
5 years later. So we are saying to the city we
6 have to look at planning in a wholistic manner.
7 We have got to include health, environment, a
8 real conversation on jobs in our community
9 along with keeping and bringing -- right now
10 the city is trying not to lose industry to
11 Indiana where you can get cheaper land, cheaper
12 workforce, not so strict regulations.

13 So the city is trying to maintain their
14 industry, and we recognize that. Our community
15 thrives off of industrial jobs.

16 What we are saying is to the point of, if
17 you want to come do business in our
18 neighborhood, let's do it in a healthy,
19 responsible, fiscally manageable manner. And I
20 think coming to the city in that manner, versus
21 just saying environment, environment,
22 environment is very, very different.

23 MR. KAZMI: Correct.

24 CHAIRMAN LINARES: With that, we want to

1 thank you --

2 MS. DAVIS: Can I say one last thing?

3 CHAIRMAN LINARES: Last comment.

4 MS. DAVIS: I didn't want to omit that
5 where we negotiated as a community-based
6 collective of organizations with Norfolk
7 Southern around the pollutants and their
8 expansion, we ended up with -- is the best way
9 I can say it -- a written benefits agreement
10 which has not been managed, disclosed, or
11 honored, I'll have to say.

12 We -- we wonder who our point person is.
13 We -- we wonder about the metrics of what was
14 agreed to. We wonder about the money that was
15 promised. And we wonder if you could help us
16 figure that out.

17 CHAIRMAN LINARES: We'll take that into
18 account as a question to be followed up with.
19 Perhaps not in the recommendations but maybe on
20 an individual basis.

21 So with that, we want to thank you, the
22 panelists, for your time and input.

23 We will adjourn for lunch for one hour. So
24 it's a temporary adjournment. We'll be back

1 here at 2:25 with three more panels and then a
2 public session. Thank you.

3 (Luncheon recess taken.)

4 CHAIRMAN LINARES: We are back in session.

5 We have another community panel that will
6 be presenting with us, and we thank, once
7 again, everyone for being here and for your
8 time and for your input on this important issue
9 of environmental justice in the state of
10 Illinois.

11 I do want to introduce the next panel and,
12 to the same rules that we had before, each
13 panelist will have 15 minutes to speak. From
14 that point, once all the panelists are
15 finished, we will have a period where there
16 will be question and answer from the committee
17 members, and we'll have time then for the next
18 panel and the next panel after that.

19 So without further ado, I'm going to
20 introduce the panelists.

21 This is a community panel coming from the
22 northern parts of the state. And this will
23 start with Dulce Ortiz from Clean Power Lake
24 County Group, Barbara Klipp, co-founder of

1 Incinerator Free Lake County. Then we also
2 have Kristen Nannicelli from the Sierra Club.
3 So thank you all for being here.

4 I'm going to pass the microphone for the
5 first 15 minutes to Ms. Dulce Ortiz.

6 MS. ORTIZ: Thank you. I'm very honored to
7 be here, and I'm going to thank you for the
8 opportunity to speak before you and represent
9 the voice of 48,000 Latinos from the city of
10 Waukegan.

11 My name is Dulce Ortiz, and my most
12 important job is being a mother to my
13 14-year-old son, Ivan Ortiz.

14 My son's life is the energy that inspires
15 me every day to fight for the injustices that
16 are continuously done to my community. The
17 sacrifices I must make, missing his first
18 basketball game, his first speech, his first
19 solo -- I've missed a lot of firsts, and I'd do
20 it all over again if it means I will leave my
21 community and this world a better place, not
22 only for my son, but for all of our children as
23 well.

24 I have been a volunteer for the Clean Power

1 Lake County campaign since its inception in
2 2013. The Clean Power Lake County campaign is
3 a grassroots coalition of community, faith,
4 health, and environmental groups dedicated to
5 building a just future based on clean air,
6 clean water, and a revitalized lakefront in
7 Lake County.

8 Members of the Clean Power Lake County
9 campaign advocate for a long-term retirement
10 plan for the coal-fired power plant in Waukegan
11 including a just transition for the workforce,
12 the tax base, and the lakefront site. We also
13 work to promote clean energy products that can
14 create new local jobs and tax revenue for both
15 Waukegan and Lake County.

16 Waukegan has a beautiful lakefront that
17 sits on the shore of Lake Michigan. Our
18 community has much to offer, from the great
19 cultural diversity of our residents, many small
20 businesses and local restaurants, as well as a
21 vibrant arts community.

22 Our harbor is home to hundreds of
23 sailboats, and our municipal swimming beach
24 attracts hundreds of families throughout the

1 summer.

2 My son and I live downtown Waukegan, and I
3 honestly can't imagine living anywhere else.

4 I am incredibly invested in my community,
5 and I work extremely hard to promote all of the
6 amazing things that our city has to offer.

7 However, Waukegan faces many challenges.
8 My community has a full history of industrial
9 pollution and contamination.

10 Industrial corporations made their profits
11 for many years on our lakefront and then
12 abruptly left our community, along with a long
13 legacy of contamination, which we are currently
14 still spending our tax dollars trying to clean
15 up.

16 Waukegan now has five Superfund sites that
17 have massive amounts of contamination like
18 asbestos, PCB, arsenic and others.

19 The lack of transition planning as these
20 companies exited the community resulted in
21 massive jobs and tax-base loss which
22 economically depressed my community.

23 The extensive contamination has left sites
24 in years of remediation efforts and now with

1 limited options for reuse.

2 The city of Waukegan is now made up of 54
3 percent Hispanics and 18 percent
4 African-Americans with a total population of
5 89,000.

6 Families in our community are
7 low-to-moderate income. We don't always have
8 access to quality health care nor preventative
9 care.

10 Minority and economically disadvantaged
11 communities are disproportionately burdened by
12 pollution, and the Waukegan community is no
13 different.

14 Lake Michigan is impaired for mercury and
15 PCBs. A fish sampling report conducted by the
16 Illinois department of natural resources show
17 that fish in the Waukegan harbor show
18 contamination for both mercury and PCBs.

19 This presents a huge risk, as fishing is an
20 important business in Waukegan and subsistence
21 fishing is also very popular among
22 Waukeganites, particularly the Latino
23 residents.

24 On top of all of the other sources of

1 pollution my community is exposed to, we also
2 have the largest source of air and water
3 pollution in the county in our backyard.

4 The NRG Energy coal plant: After its
5 previous owner, Midwest Generation, went into
6 bankruptcy, NRG Energy purchased Midwest
7 Generation as a subsidiary, along with its
8 Illinois coal plant fleet, which included the
9 Waukegan plant.

10 The plant was built in the 1920s and
11 currently operates boilers that are over 50
12 years old.

13 The coal power plant hurts the health of
14 all communities in Lake County but particularly
15 Waukegan.

16 As a mother, I feel very blessed because
17 Ivan is a healthy child, a child who loves to
18 run around and is involved in sports.

19 Unfortunately, as many as one in three
20 children in Waukegan are not as blessed and are
21 living with asthma or symptoms of asthma,
22 according to a pediatric asthma assessment
23 conducted by the Mobile Care Foundation.

24 My mother and I also suffer from asthma,

1 and although I am grateful for my job that
2 provides health benefits, I constantly worry
3 about my mother because she does not have
4 health insurance or any state or federal
5 assistance for prescription medications.

6 Not only is our public health being
7 impacted by the pollution from the coal plant,
8 but so are our budgets.

9 The rising medical costs are an everyday
10 struggle for our low-to-middle-income families.

11 In 2012 the NAACP released its Coal Blooded
12 report which looked at how low income and
13 minority communities are disproportionately
14 impacted by health-threatening pollution from
15 coal-fired plants.

16 Based on a national analysis, the report
17 ranked the Waukegan power plant as the 12th
18 worst violator of environmental justice in the
19 country.

20 Many of the plants listed in the top ten in
21 the report have since closed, putting Waukegan
22 even higher now on the list.

23 The U.S. EPA recently conducted a proximity
24 analysis with a final clean power plant rule.

1 Within the analysis the agency identified
2 over 62,000 people who live in a three-mile
3 radius of the Waukegan coal plant. Of those
4 people, 72 percent are minorities, 49 percent
5 are low income and 30 percent are with less
6 than a high school degree education.

7 I live just over a mile from the plant.
8 Needless to say, I don't let my son go swimming
9 nor fishing on the lake due to my fear of Ivan
10 getting sick just by doing things that normal
11 kids would do because of the exposure to so
12 many sources of pollution.

13 Waukegan plant has two active coal ash
14 ponds that sit over 300 yards from the shore of
15 Lake Michigan.

16 While the ponds have plastic liners,
17 monitoring reports from these groundwater wells
18 have revealed groundwater contamination from
19 common pollutants of coal ash such as arsenic,
20 boron, manganese, sulfate, pH, chloride, iron,
21 selenium, and molten salts and solids.

22 Additionally we have learned that coal ash
23 has been stored elsewhere on the site in the
24 past and never cleaned up.

1 This coal ash is also contributing to
2 groundwater contamination. This follows the
3 terrible pattern of companies who go into
4 bankruptcy and abruptly leave our community and
5 lakefront behind with a devastating legacy of
6 pollution that our community and taxpayers have
7 to clean up.

8 How does this happen? How are companies
9 allowed to do this in my community time and
10 time again? Not only is it a tremendous amount
11 of toxic pollution that our predominantly
12 low-income Latino residents are exposed to, but
13 it is also devastating for our community's
14 economy.

15 Waukegan has dreamed for years, and still
16 dreams, of revitalizing our lakefront. We have
17 aspirational lakefront plans that have seen
18 little success in coming to fruition in part
19 because of the amount of contamination that
20 remains at many of these sites and the limited
21 reuse options they offer due to the levels of
22 contamination.

23 Will we allow companies to pollute our
24 communities and not force them to clean up?

1 We deter future investments in these sites
2 and in our communities at large.

3 This is devastating for economically
4 disadvantaged communities like Waukegan who
5 desperately need new investments and economic
6 renewal.

7 In addition to groundwater contamination
8 associated with energy coal ash ponds and
9 legacy coal ash landfills, our community has
10 great concerns about the water discharged from
11 the plant going into Lake Michigan, some of
12 which comes in direct contact with the coal ash
13 water.

14 The Waukegan coal plant was allowed to
15 operate for years with an expired water permit,
16 missing three five-year renewal deadlines.
17 According to NRG's latest water permit, the
18 Waukegan plant discharges millions of gallons
19 of water into Lake Michigan every day including
20 over eight million gallons of water from its
21 wastewater treatment system.

22 Included in this water is over a million --
23 it's over a million gallons of water that
24 transport ash to one of the onsite ponds, along

1 with one million gallons of coal pile runoff
2 water.

3 According to the company's permit
4 application, the water flows into a treatment
5 system that only entails the settling of
6 polluting solids.

7 U.S. EPA's own analysis states that these
8 types of settling ponds are largely ineffective
9 in treating pollutants that exist in the water
10 in dissolved formed.

11 Within that report, it is also stated
12 Midwest Generation's own analysis projects that
13 the water discharges to Lake Michigan. Even
14 after significant solution would exceed water
15 quality standards for iron, lead, mercury, oil
16 and grease and fenals.

17 Midwest Generation did not do an analysis
18 for aluminum, arsenic, selenium, thallium,
19 nitrates and astatine.

20 One of the other things that I worry about
21 is some of these ponds could overflow during
22 heavy rainfall and the risk that would pose to
23 Lake Michigan and the municipal swim beach,
24 which is less than a mile down the shore from

1 the plant.

2 Due to these various violations, the Sierra
3 Club, the Environmental Law & Policy Center,
4 Prairie River -- River's Network and Citizens
5 Against Ruining the Environment have sued
6 Midwest Generation for violating the Illinois
7 Environmental Protection Act Groundwater
8 Quality Standards and its Prohibition of Open
9 Dumping.

10 The State of Illinois agrees that there are
11 groundwater contamination problems at Waukegan.
12 As part of a voluntary compliance commitment
13 agreement, Midwest Generation agreed to drill
14 more monitoring wells and install new liners at
15 its ponds; however, it's been revealed that the
16 liners have since been torn and monitoring
17 wells continue to show violations.

18 Ultimately, Illinois EPA did not mandate
19 anything to be done about the other coal ash
20 contaminations that remain at the sites and did
21 not require Midwest Generation or NRG Energy to
22 do any groundwater cleanup at the site.

23 The wells on the lakefront showing these
24 violations are not drinking wells, but we know

1 that water flows from west to east directly
2 towards Lake Michigan, which is the source of
3 drinking water for my community and millions of
4 other people.

5 The contents of the final U.S. EPA Coal Ash
6 Rule were disappointing.

7 Coal ash is hazardous waste and should be
8 regulated as such.

9 Vulnerable communities like Waukegan suffer
10 the most when protections aren't strong enough.
11 The final rule leaves enforcement largely up to
12 citizens.

13 Many of the residents in my community are
14 immigrants, work multiple low-paying jobs, and
15 often lack a college education.

16 Looking through technical documents on
17 NRG's coal ash website, which is difficult to
18 find, is not something most of the people in my
19 community have the time, expertise, or even
20 awareness to do.

21 This is the definition of environmental
22 injustice.

23 While the U.S. EPA has been heavily
24 involved in Waukegan's Superfund cleanup, the

1 agency's engagement with community on coal
2 pollution concerns has been very limited.

3 U.S. EPA encourages the formations of
4 citizen advisory groups in communities where
5 Superfund cleanups are taking place to help
6 disseminate information and provide a space for
7 public feedback.

8 CHAIRMAN LINARES: You have two and a half
9 minutes.

10 MS. ORTIZ: Thank you.

11 We have had one in Waukegan for many years
12 which the U.S. EPA regularly participants in,
13 and while the CAG has done many great things in
14 the community, it is not a space that is
15 particularly inclusive to community S&Ds who do
16 not have the experience with environmental
17 issues.

18 Companies that operate wet leeching coal
19 ash ponds in communities, especially ones
20 considered environmental justice communities,
21 should be required to handle its ash, dry and
22 store the waste and properly manage
23 well-engineered landfills.

24 All companies should be required to clean

1 up its legacy ponds and other coal ash
2 contamination at their sites, which continue to
3 threaten our environment and public health, and
4 must be forced to set aside money to ensure
5 there are funds available for cleanup.

6 The vision that I have for my family and
7 for my community does not include thousands of
8 tons of air, water and coal ash pollution.

9 My vision for my family and community is a
10 lakefront where I can take my son swimming in
11 the water without worrying about toxic water
12 pollution, or we can go fishing without
13 worrying about mercury and PCB contamination of
14 the fish we catch.

15 My vision for my family and community is a
16 lakefront with open space that respects our
17 environment, where corporate profit does not
18 override the health needs of our families,
19 where I can running along the shore of Lake
20 Michigan without worrying about my asthma.

21 I want to see a clean energy future for
22 Waukegan and all communities that have borne
23 the burden of air, water, and coal ash
24 pollution for decades.

1 Thank you again for the opportunity to
2 speak today, and I hope my comments can lead to
3 stronger efforts together to make my vision a
4 reality.

5 CHAIRMAN LINARES: Thank you so much.
6 We'll move on to Ms. Barbara Klipp.

7 MS. KLIPP: Good afternoon, members of the
8 Committee, Mr. Chairman. Thank you for
9 inviting me to speak to you today.

10 My name is Barbara Klipp. I am a
11 spokesperson and co-founder for
12 Incinerator-Free Lake County, a grassroots
13 organization comprised of concerned citizens in
14 the county.

15 In 2008 we organized a successful campaign
16 to remove plans to include incineration in the
17 Lake County 5-Year Solid Waste Plan update.

18 Without any expertise or formal training,
19 we knew instinctively that the proposed
20 incinerator would not likely go in our upper
21 middle-class town but mostly probably in the
22 northeastern tip of the county, including
23 Waukegan, where polluting facilities generally
24 locate.

1 We decided that, even though these
2 facilities should not go in our community, if
3 it's not good enough for us, it shouldn't be
4 good for anyone, and we mobilized around that
5 cause.

6 On one noteworthy occasion, a counsel
7 member from a wealthy community in the area was
8 advocating for the incinerator facility as
9 cutting-edge technology.

10 I asked him in public if he would support
11 locating such a technology in his community,
12 and then he struggled to answer that question.

13 There was laughter in the room as everyone
14 tacitly acknowledged that such a facility would
15 never be located in such a wealthy community.

16 I was born in Waukegan and live in a
17 neighboring community. I acquired adult-onset
18 asthma upon moving back to Lake County in the
19 1990s, and I am the mother of a child with
20 asthma. As a professional flute player,
21 adult-onset asthma has been debilitating to my
22 performing career as a wind player who
23 literally breathes for a living.

24 My testimony is split into two sections:

1 Current problems regarding environmental
2 justice in Waukegan and, as I'm a
3 solutions-oriented person, a list of
4 suggestions on what you could do and what we
5 could do together regarding the environmental
6 justice issues in Illinois.

7 In my opinion there are two main categories
8 of threats environmental health-wise to the
9 community in Waukegan. One is the legacy
10 pollution that my colleagues are going to speak
11 about and have spoken about.

12 And the other is the current emissions of
13 pollution emissions.

14 There's -- this is a Superfund community my
15 colleague spoke about, and the -- there is a
16 CAG, a community advisory group, who is
17 organized both around the Superfund and the
18 International Joint Commission for the Great
19 Lakes Area of Concern.

20 U.S. EPA suggests the following regarding
21 the makeup of the membership of the Superfund
22 CAG. Quote, To the extent possible, membership
23 in the CAG should reflect the composition of
24 the community near the site and the diversity

1 of racial, ethnic, and economic interests of
2 the community. At least half of the CAG
3 members should be members of the local
4 community. CAG members should be drawn from
5 among residents and owners of residential
6 property near the site, end quote.

7 To my knowledge and research this CAG
8 membership falls far short of the U.S. EPA
9 recommendations regarding their membership
10 composition both in terms of diversity that is
11 supposed to reflect the community and regarding
12 the percentage of community residents in the
13 area of impact represented on the CAG.

14 They do not list their members on their
15 website and Heriberto León, the U.S. EPA
16 Superfund Coordinator, who is the liaison of
17 the CAG, is not aware of their official
18 membership either. However, according to their
19 letterhead, they list 36 members, the vast
20 majority of whom are polluting corporations and
21 policy makers.

22 Since no one can tell how many concerned
23 citizens are members, it's difficult to say
24 with certainty, but I have only seen between

1 four and six concerned citizens listed as
2 meeting attendees in their minutes, one of whom
3 is an employee of a company that contracts to
4 accept coal ash from the coal plant.

5 I don't know if they are from the impacted
6 community or not, but the CAG members I know
7 are not from the community. The leader of the
8 CAG is not only a non-resident of the impacted
9 community, but I'm told that she is also not a
10 resident of the county.

11 The CAG accepts grants and funding for
12 remediation work from the largest polluter in
13 the community, the NRG-owned coal plant.

14 Whether or not the work they do with this
15 funding is laudable, and it may well be, this
16 presents a significant conflict of interest.
17 In fact, on many occasions the CAG has been a
18 staunch defender of the polluting facilities in
19 the area, including a letter to the Illinois
20 Pollution Control Board in 2013 in support of a
21 variance request for relief from an agreed-upon
22 timetable for emissions reduction for the
23 Waukegan coal plant.

24 The CAG did not vote or agree in any formal

1 way to sign on to that variance letter.

2 That letter of support seems to show
3 callous disregard to the frontline community
4 where one in three children either has asthma
5 or symptoms of asthma. This is a polluting
6 facility which, according to a National
7 Research Council 2010 study, costs the public
8 \$86 million in associated health and
9 environmental damages.

10 More than 60,000 -- 67,000 people live
11 within three miles of the coal plant and 12
12 million people within 100 miles.

13 According to a 2010 study commissioned by
14 the Clean Air Task Force, the Waukegan
15 generating station is responsible for 34
16 deaths, 54 heart attacks, 570 asthma attacks,
17 25 hospital admissions, 35 asthma-related ER
18 visits, and 21 cases of chronic bronchitis
19 attributable to its emissions of particulate
20 pollution alone.

21 This also begs the question as to why the
22 CAG needs to obtain outside grants for studies
23 and remediation work. Isn't that what the
24 Superfund is supposed to fund?

1 This is just one of many perverse financial
2 relationships, in my opinion, between the
3 polluting facilities in the Waukegan area, on
4 the one hand, and the community organizations
5 and policy makers, on the other.

6 Many polluting facilities are large donors
7 to churches, community organizations, schools,
8 and parks in the area, as well as large
9 contributors to the political campaigns of many
10 elected officials and policy makers in and
11 around the community.

12 Lake County has received an F from the
13 American Lung Association for several years
14 running now for ozone, and we don't even have
15 data for the rest.

16 Additionally, Lake County and Waukegan are
17 on the receiving end of the tailpipe of air
18 pollution traveling up the lakefront from Cook
19 County.

20 Despite this, and the fact we have an old
21 and very dirty coal plant, we only have one air
22 monitor in the county. We don't even have an
23 SO2 monitor or a particulate matter monitor that
24 we know from data is badly needed around a coal

1 plant.

2 Northbrook, on the other hand, a wealthy
3 community in Cook County, has seven air
4 monitors for every criteria pollutant and then
5 some.

6 We have asked the IEPA and several elected
7 officials in the area to help us get more
8 monitors so we can at least collect data to
9 determine how bad the problem really is, all to
10 no avail.

11 Our county health department is so eager to
12 get data that they are soliciting quotes to
13 inquire about purchasing air monitors
14 themselves.

15 This is further exacerbated by the fact
16 that the U.S. EPA threw out three years of data
17 on airborne soot after an audit of the suburban
18 laboratory contracted to handle the material by
19 the IEPA was found to have severe deficiencies
20 and not able to meet regulatory quality
21 standards, rendering our region as
22 unclassifiable with respect to the Clean Air
23 Act.

24 Areas that fail to meet federal air

1 pollution standards are classified by EPA as
2 being in "nonattainment." That designation
3 compels states to submit to EPA and put in
4 place pollution control bans and lets residents
5 know there's a problem. That won't be possible
6 now for the Waukegan area. That means that
7 millions of people, including Waukegan area
8 residents, are left unprotected and don't know
9 whether enough is being done to protect their
10 health.

11 Perhaps the most egregious is the fact that
12 the old and dirty coal plant dating back to the
13 1950s has never had a final operating permit in
14 place.

15 Finally this year, IEPA began to move
16 forward by considering a ten-year-old draft
17 permit that had not been updated to include
18 contemporary emissions standards.

19 When they had their Title V permit hearing,
20 IEPA held the meeting in Zion, Illinois, for a
21 polluting facility located in Waukegan, despite
22 the objections of several community and
23 environmental organizations.

24 Not processing the operating permits on

1 significant sources of pollution denies the
2 community important tools provided to them in
3 the Clean Air Act.

4 Other shortcomings that are inherent in the
5 operations of the national environmental laws
6 and operations of the EPA are that the EPA does
7 not coordinate between the three bureaus of
8 air, water and land even on issues that are
9 directly related, such as mercury air emissions
10 and impacted fish or materials buried in a
11 landfill and the resulting air emissions.

12 Also they do not consider the cumulative
13 impact on the health of residents regarding
14 pollution emissions within a community.

15 We cannot have a discussion on denying
16 equal opportunity to influence public policy
17 without considering the impacts of voter
18 suppression laws and the current state of
19 campaign finance regulations.

20 Impacted communities on the frontline of
21 pollution emissions are often communities of
22 color who are frequently living at or below
23 poverty level. Laws specifically targeting and
24 significantly impacting voter turnout in these

1 communities and campaign finance laws that
2 encourage breathtaking sums of money raised in
3 campaigns largely from wealthy citizens and
4 polluting corporations tremendously
5 disadvantage environmental justice communities.

6 We are -- they also asked me to speak to
7 incineration today.

8 We are fortunate in Illinois not to have
9 any municipal solid waste incinerators;
10 however, we do have a hazardous waste
11 incinerator complex in Sauget, Illinois, down
12 by East St. Louis, and that is one of the worst
13 environmental justice offenders in existence.

14 To borrow a quote from Mr. Trump, "It's a
15 real disaster."

16 MR. KAZMI: Where is that again?

17 MS. KLIPP: It's in Sauget, S-a-u-g-e-t,
18 down by East St. Louis.

19 This community is home to steel mills,
20 chemical factories, two Superfund landfills, a
21 refinery, petroleum tanks, and a number of
22 hazardous waste and toxic waste facilities in
23 the midst of several hundred thousand people,
24 one-third of whom have incomes below the

1 poverty rate.

2 It's important to note that this
3 incinerator also did not have a final operating
4 permit until 2008 after operating since 1995.

5 At the time it was issued, the initial
6 operating permit didn't include hourly limits
7 on the amount of mercury and other heavy metals
8 that are fed into the plant incinerators.

9 Operating permits for incinerators like the
10 Sauget incinerator are usually issued by the
11 state, but in 2005 a lawsuit by the American
12 Bottom Conservancy and the Sierra Club forced
13 U.S. EPA to take over the permitting agency
14 after a long history of explosions and toxic
15 chemical releases, notices of violation, and
16 millions of dollars in fines for other
17 violations.

18 Illinois also does rank in the top four in
19 the nation in small incinerators such as at
20 high schools, and we have a significant problem
21 with cement kiln incinerators.

22 Suggested possible solutions: Two things
23 you can't do. One is you can insist that too
24 many polluting facilities can't locate within

1 one community. You also can give environmental
2 justice communities equal influence in
3 implementing policy making with current
4 campaign finance and regulatory laws.

5 Here's my kind of out-of-the-box list of
6 suggestions of things you can do.

7 They present various levels of challenge,
8 politically, legally, and logistically, but I
9 will throw them out for what they're worth.

10 One is revisit Voting Rights Act and voter
11 suppression laws to make voting as accessible
12 as possible for citizens, especially in
13 environmental justice communities.

14 Two, switch to public financing of
15 elections and remove all private campaign
16 contributions to level the playing field.

17 Three, require a locally based community
18 advisory group within environmental justice
19 communities with requirements that residents
20 must outnumber polluters or at least equal
21 polluters. Give them the authority, perhaps
22 subpoena power, to bring regulators, policy
23 makers and polluters before them to answer
24 questions. Require regulators to attend their

1 meetings. Ban them from taking any money from
2 polluters, their trade organizations, or their
3 parent companies.

4 Number four, polluting companies, their
5 board members, and leadership teams should be
6 required to disclose in a report to the
7 community all contributions they make in both
8 political campaigns and to any other
9 organizations, including local civil groups,
10 faith groups, schools, and parks, in other
11 words, all local contributions.

12 Number five, consider requiring polluting
13 facilities to have to do something similar to
14 landfill post-closure care and financial
15 assurance so that they can be held accountable
16 to clean up legacy pollution and engage with
17 the community once they have ceased operations.
18 Perhaps a community benefit agreement should
19 require including pollution re -- re -- I can't
20 say it -- remediation and job training.

21 In any case, polluters should be required
22 to pay into an untouchable fund to fund
23 remediation in case they go bankrupt.

24 Six, perhaps legislate a "No Dark Windows"

1 law so they can't just throw up a fence around
2 significant pollution rather than remediate
3 when the pollution is determined to not be
4 migrating in a detectable manner.

5 Often it's cheaper to just continue to own
6 the property and throw a fence around it rather
7 than remediate, and this has devastating
8 impacts on the local community.

9 Seven, CAG citizen members should not be
10 allowed to work for the polluting facilities
11 that the CAG is supposed to address. Those
12 polluting facilities are already represented.

13 Eight, environmental justice communities
14 should have sufficient pollution monitoring
15 programs.

16 Nine, the EPA needs to coordinate on one
17 facility between the various bureaus.

18 Ten, EPA needs to determine how to consider
19 cumulative pollution impacts within a
20 community.

21 And, eleven, perhaps make a state
22 requirement to establish a voluntary fund that
23 polluters can pay into (perhaps with tax
24 incentives) and impacted communities could

1 apply for money to fund studies and remediation
2 rather than allowing polluters to fund programs
3 in the community directly. This removes the
4 undue influence of those polluters within the
5 community.

6 Thank you.

7 CHAIRMAN LINARES: Thank you, Ms. Klipp.

8 We're going to turn the microphone over
9 to -- is it Ms. Nannicelli or Nannicelli?

10 MS. NANNICELLI: Nannicelli.

11 Good afternoon, members of the advisory
12 committee, Mr. Chairman, and thank you very
13 much for the opportunity to speak today.

14 My name is Christina Nannicelli. I'm a
15 campaign representative for the Sierra Club
16 Beyond Coal campaign in Illinois.

17 Since coming to the Sierra Club in spring
18 of 2010, I have spent my time organizing in
19 Illinois around coal plant pollution issues in
20 particular in Chicago, Will County, and
21 Waukegan.

22 It has been a distinct privilege to work
23 alongside community residents and coalition
24 partners in these communities to fight for

1 cleaner air, cleaner water, and environmental
2 justice.

3 I was honored to work with Kim Wasserman
4 from LVEJO, Brian Urbaszewski from Respiratory
5 Health, and many other coalition partners in
6 Chicago to successfully retire those two coal
7 plants.

8 And while that campaign certainly captured
9 the public consciousness on coal pollution and
10 environmental justice, I really wanted to focus
11 my testimony here today on the challenges
12 facing the Waukegan community because the
13 problems are as egregious as those in those
14 communities and, in some ways, in my opinion,
15 even more troubling.

16 The environmental health issues affecting
17 the Waukegan community are vast and
18 disproportionately impact economically
19 disadvantaged Latino and African-American
20 families who live there.

21 According to the 2010 U.S. census, 78
22 percent of people in Waukegan are minorities,
23 which is more than twice the minority
24 population of the state of Illinois, which

1 qualifies it as an environmental justice
2 community under both federal and state
3 guidelines.

4 Additionally, Waukegan is an economically
5 disadvantaged community with an average annual
6 per-capita income of \$17,000.

7 Executive Order 12898 mandates that each
8 federal agency makes achieving environmental
9 justice part of its mission.

10 As well, in 2011, the Illinois legislature
11 passed the Environmental Justice Act to make
12 sure that no segment of the population,
13 regardless of race, national origin, age, or
14 income, should bear disproportionately high or
15 adverse effects of environmental pollution;
16 however, the community of Waukegan, in many
17 similar ways to the Pilsen and Little Village
18 southeast side communities in Chicago,
19 continues to be overburdened by pollution and
20 action by state and federal agencies have
21 simply been inadequate to protect local
22 families.

23 Waukegan has a proud but troubling
24 industrial history that has resulted in a

1 devastating legacy of contamination on its
2 lakefront.

3 U.S. EPA's Superfund program is responsible
4 for cleaning up our nation's worst hazardous
5 waste sites in order to protect human health
6 and our environment.

7 There are three Superfund sites in Waukegan
8 that are on the national priorities list with
9 two other contamination sites that are being
10 addressed under U.S. EPA's Superfund
11 alternative site program.

12 This is an incredibly high concentration of
13 hazardous waste that does not only threaten the
14 health of a vulnerable community and our
15 environment but has also had devastating
16 economic consequences for Waukegan and the
17 future hopes that the community has to
18 revitalize its lakefront.

19 The Johns Manville Superfund site is on the
20 northern portion of the Waukegan lakefront and
21 borders Lake Michigan.

22 The Johns Manville Company deposited
23 asbestos-containing waste at this site from
24 1928 until the late 1980s, which is known to

1 cause lung cancer and mesothelioma.

2 The Outboard Marine Superfund Site in
3 Waukegan Harbor is another massive Superfund
4 site that is the former location of an outboard
5 motor manufacturing plant, a former railroad
6 tie [sic], and a coal gas location and coal
7 plant facility.

8 Massive amounts of PCBs were dumped
9 directly onto the soil portions of the site and
10 directly into Waukegan Harbor.

11 PCBs are known to cause cancer and
12 negatively affect the immune, nervous,
13 reproductive and endocrine systems in people.

14 Other contaminants include
15 trichloroethylene, TCEs, in the groundwater, as
16 well as other toxics like arsenic in both the
17 soil and groundwater.

18 TCEs are known to cause cancer as well as
19 developmental and neurological problems in
20 people.

21 The Yeoman Creek Landfill Superfund Site is
22 located off the Waukegan lakefront where the
23 absence of a liner allowed leeching of several
24 cancer-causing toxics and PCBs that contaminate

1 groundwater.

2 The north and south North Shore gas plants
3 under EPA Superfund alternative site program
4 are places where gas production and storage
5 took place.

6 Contaminants in groundwater at this site
7 include various chemicals, heavy metals,
8 organic compounds and coal tar, many of which
9 are human carcinogens and impact nervous,
10 renal, immune, and cardiovascular systems.

11 Each of these sites is in a different stage
12 of cleanup and has varying levels of
13 remediation.

14 As many of the major industrial polluters
15 went into bankruptcy or left the lakefront,
16 middle-class workers left Waukegan, tax bases
17 of these sites were vacated, property values
18 declined, and the community and government
19 agencies were left struggling to devise cleanup
20 plans for these areas of contamination.

21 They have been -- they have presented
22 incredible challenges to efforts to bring new
23 economic development and revitalization to the
24 Waukegan lakefront and community.

1 While African-American families had begun
2 migrating to Waukegan from the south in the
3 1920s and '30s, declining property values, with
4 the exit of major industries, helped to create
5 affordable housing opportunities for new Latino
6 immigrant families in the 1980s and 1990s.

7 When local Latino residents from Waukegan
8 discuss issues of environmental injustice, they
9 are often criticized with comments like, Well,
10 you chose to move there.

11 Many migrant families enter communities,
12 including Waukegan, with low to moderate
13 incomes and simply must choose places that are
14 affordable.

15 Oftentimes those economically disadvantaged
16 communities with low housing costs are directly
17 correlated with pollution sites which has
18 contributed to those economic circumstances in
19 the first place.

20 As some of my former colleagues today have
21 mentioned, the link between economic and
22 environmental justice is undeniable and race
23 and income are still primary indicators to
24 whether or not you live near pollution.

1 Environmental injustice occurs whether it
2 was intentional or not.

3 The NRG coal plant was built in the 1920s
4 and currently operate boilers that are 57 years
5 old. Just over 100 workers work there, and
6 very similar to what we saw in Pilsen and
7 Little Village, Midwest Gen reports that very
8 few of those workers come from the community of
9 Waukegan.

10 Additionally, it's a merchant plant. So it
11 sells its power on the open market. So the
12 same situation again occurs.

13 Power goes to the region to make money and
14 profit; money goes back to New Jersey where the
15 company NRG is based; jobs go outside of the
16 community; and Waukegan is left with the
17 pollution.

18 While the coal plant has finally invested
19 in bare minimum pollution controls that are
20 legally required under state law, the plant
21 remains the largest source of both air and
22 water pollution in Lake County.

23 For air that includes sulfur dioxide,
24 menitional (phonetic) oxide, fine particulates,

1 mercury, and lead.

2 The previous company, Midwest Generation,
3 asked the Illinois Pollution Control Board for
4 multiple delays in installing pollution
5 controls, which the board granted even after
6 hundreds of community members submitted pleas
7 to deny them.

8 Many of these types of pollution contribute
9 to respiratory illnesses like asthma, chronic
10 bronchitis, and they're linked to
11 cardiovascular diseases, strokes and premature
12 death.

13 Mercury is a dangerous nerve toxin that
14 bio-accumulates in the environmental and is
15 linked to developmental children -- problems in
16 children.

17 Exposure to lead pollution has
18 cardiovascular, neurological effects in
19 populations such as high blood pressure, heart
20 disease, lower IQs, behavioral problems, and
21 learning deficits, including the plant is
22 responsible for over 127,000 pounds of air and
23 water toxics which is 55 percent of all toxic
24 releases in Lake County, according to the U.S.

1 EPA's toxic release inventory.

2 Because of the toxic components of these
3 emissions, the World Health Organization
4 designated air pollution, including particulate
5 matter, as a human carcinogen that is linked to
6 cancer.

7 While it's nearly impossible to connect or
8 quantify incidences of cancer to these massive
9 sources of pollution, I wanted to anecdotally
10 add that my partner -- my partner is a medical
11 social worker at Lurie's Children Hospital in
12 downtown Chicago in the oncology department.
13 She was struck by the number -- by the profound
14 number of Latino Waukegan families who have
15 children struggling with cancer.

16 The Clean Air Task Force Organization has
17 been able to quantify some of the health
18 impacts from the Waukegan coal plant's air
19 emissions, and according to their latest report
20 in 2014, the Waukegan plant contributes to 330
21 asthma attacks, 31 heart attacks and 19
22 premature deaths every year.

23 Additionally -- and this was mentioned
24 before -- the pediatric asthma survey revealed

1 that a third of the children surveyed in
2 Waukegan have asthma or are experiencing asthma
3 symptoms. That is an incredibly high rate of
4 asthma for an already vulnerable population
5 that results in expensive medical costs, missed
6 school days, and missed work days for parents.

7 Waukegan does not have any air monitors,
8 which is unthinkable, given the amount of air
9 pollution the community is forced to breathe.
10 And I would ask that the Illinois Advisory
11 Committee support our advocacy efforts with the
12 Illinois EPA and the U.S. EPA to provide
13 monitors in the community.

14 In particular I think PM 2.5 and lead would
15 be particularly needed.

16 While the exposure to mercury, pollution in
17 the air is very dangerous, the most significant
18 way it comes in contact with local community
19 members in Waukegan is through Lake Michigan
20 and fish consumption. Charter boats are very
21 popular and an important business in Waukegan.
22 Local taverns and restaurants often host
23 fish -- fish Fridays with the fish caught
24 directly off of these boats. Subsistence

1 fishing is also popular in Waukegan
2 particularly among Latino families.

3 The shore of Lake Michigan along the
4 Waukegan lakefront does not meet water quality
5 standards for both PCBs and mercury, and the
6 recent study that Dulce mentioned from the
7 Illinois Department of Natural Resources shows
8 that the fish caught in Waukegan Harbor were
9 contaminated for both PCBs and mercury.

10 While the U.S. EPA have worked with local
11 community members to put up a handful of signs
12 on the lakefront, awareness about this issue
13 remains limited. According to the Illinois
14 EPA's water quality reports -- well, let me
15 back up.

16 The State is required to conduct TMDL,
17 total maximum daily load, analysis which is a
18 cleanup plan with pollution reduction goals
19 needed so that the impaired waters are no
20 longer in violation of water quality standards.

21 According to the Illinois EPA TMDL draft
22 from earlier this year, one of the largest
23 contributors to the mercury impairment is
24 atmospheric loading, which is primarily coal

1 plant pollution.

2 Unfortunately, because this effort is led
3 by the Illinois EPA's Bureau of Water, they
4 claim they do not have the jurisdiction over
5 air pollution sources contributing to the
6 impairment, which would obviously be needed to
7 sufficiently address the issue.

8 I would ask that the Advisory Committee ask
9 for the Illinois EPA and the U.S. EPA, and any
10 other relevant agencies that are needed, to
11 move forward with a strong implementation plan
12 with stronger limits for mercury emissions from
13 coal plants like Waukegan so that Lake Michigan
14 can eventually meet water quality standards.

15 Coal ash waste on the Waukegan lakefront is
16 also a significant concern for public health.
17 Coal ash is the toxic byproduct left over after
18 coal is burned.

19 While many of the dangerous pollutants in
20 coal are emitted into the air, many of them
21 remain in the coal ash waste that's left
22 behind, especially if there are air pollution
23 controls on a plant.

24 70 percent of coal ash waste sites in the

1 United States are located in low-income
2 communities according to Earth Justice, and
3 Waukegan is one of them.

4 Dulce already mentioned a number of the
5 issues facing the coal ash pollution.

6 I think what I want to focus on here, and
7 this did come up in previous testimonies.

8 Under Illinois law, if the coal plant
9 operator closes its plant, as long as pollution
10 is not flowing off-site, they are free to close
11 its doors and walk away.

12 The final coal ash rule established by the
13 U.S. EPA under the Resource Conservation and
14 Recovery Act is simply inadequate and fails to
15 live up to the agency's mandate to alleviate
16 the disproportionate harm from coal ash
17 pollution suffered by environmental justice
18 communities like Waukegan.

19 After significant pressure from industry,
20 the U.S. EPA failed to designate coal ash waste
21 as a hazardous -- coal ash waste as a hazardous
22 waste even after knowing full well that coal
23 ash contains toxic contaminants like arsenic,
24 mercury, lead, chromium, and selenium.

1 A hazardous waste designation would have
2 given the communities in Waukegan far more
3 protections that they need and deserve.

4 The final rule leaves enforcement largely
5 up to citizens and instead of the needed
6 enforcement protections from federal agencies.

7 The consequences are dire, particularly for
8 low-income communities of color who have
9 limited access to legal and technical resources
10 necessary to provide oversight in their
11 communities and opportunities for citizen
12 enforcement in the courts.

13 Right now the Illinois Pollution Control
14 Board is currently reviewing whether to lift a
15 stay on proposed state-specific recollections
16 for coal ash in Illinois.

17 While these coal ash rules are still
18 inadequate to protect communities like
19 Waukegan, if the stay is lifted, the Illinois
20 Pollution Control Board has an opportunity to
21 strengthen and mandate that companies like NRG
22 set aside financial assurances to remediate
23 coal ash waste upon the retirement of a
24 coal ash -- of a coal plant.

1 This is essential to make sure coal plant
2 sites are well-positioned for future reuse
3 opportunities that can attract new investment
4 and make sure communities are not left burdened
5 with a decade of legacy pollution.

6 I would ask that the Advisory Committee
7 make an appeal to the Illinois Pollution
8 Control Board and the Illinois EPA and make
9 sure more needed coal ash protections are
10 delivered in Illinois where the U.S. EPA's rule
11 fell short.

12 One of the last and most struggling items I
13 wanted to touch on, the fact that the Waukegan
14 coal plant has never had a finalized up-to-date
15 operating permit as required under the federal
16 Clean Air Act.

17 Under that law all major sources of
18 pollution are required to have an operating
19 permit which was intended to increase facility
20 compliance with air quality standards, allow
21 the members of the public and government
22 regulators to take polluters to court when they
23 are out of compliance.

24 These permits, monitoring, reporting

1 requirements are also intended to help members
2 of the public keep track of pollution levels
3 and be aware if pollution control equipment is
4 not operating properly.

5 The first draft permit for the Waukegan
6 coal plant was issued in 2006 but was appealed
7 by the previous owner, Midwest Generation, who
8 challenged its legal requirements and
9 imposition of certain monitoring requirements.

10 From there the permit fell victim to the
11 administrative review process of the Illinois
12 EPA and was stayed in its entirety.

13 The latest permit that came out last year
14 was the same permit from 2016 except it
15 actually got weaker. That permit has still yet
16 to be finalized, and I would ask that the
17 Advisory Committee make a very firm ask to the
18 Illinois EPA and make sure that they get their
19 permitting process back in good running so that
20 communities like Waukegan are adequately
21 protected.

22 I'm out of time here. So thank you very
23 much for the opportunity to speak.

24 CHAIRMAN LINARES: Thank you,

1 Ms. Nannicelli.

2 Let the record please reflect we've also
3 been joined by Susana Figueroa of Faith in
4 Place Lake County office. Ms. Figueroa, the
5 rules we have -- and thank you for your time
6 here -- is we'll give you 15 minutes maximum,
7 and please don't be offended by my time cards
8 to keep time.

9 And then you go, the panel will have a
10 question and answer session until 3:35.

11 So without further ado...

12 MS. FIGUEROA: First of all, I wanted to
13 thank you --

14 THE REPORTER: I'm sorry. I can't hear.

15 CHAIRMAN LINARES: Is your microphone on?

16 MS. FIGUEROA: Thank you for allowing me to
17 be here today and to have the opportunity to
18 share with you my testimonial on social and
19 environmental issues that are impacting my
20 community of Waukegan.

21 My name is Susana Figueroa. I'm the
22 Outreach Director of Faith in Place Lake County
23 whose mission is to inspire faithful people of
24 all denominations to care for the earth through

1 education, connection and advocacy.

2 Today I'll be addressing my testimony on --
3 as a concerned local citizen of the city of
4 Waukegan and the outreach director of Faith in
5 Place in Lake County.

6 My family has been locally -- has been a
7 local resident of the city of Waukegan for the
8 last 35 years. We have seen how the social,
9 economic, and environmental issues have been
10 deteriorating the well-being and stability of
11 our community.

12 The pollution and the coal plant on our
13 lakefront has a direct effect on my family and
14 many other families in Waukegan and surrounding
15 areas.

16 For many years we've lived fairly close to
17 the Waukegan coal plant, upon a tower, with a
18 beautiful lakefront view.

19 Every day we were watching and receiving
20 tons of smoke and air pollution coming out from
21 the Waukegan coal plant stacks.

22 My mother and my younger brother were both
23 suffering from severe respiratory asthmatic
24 illness, to the point that my mother was

1 constantly in the emergency room of Vista
2 Health Medical Hospital due to asthma attacks.

3 My niece, Evelyn, who's 14 -- who's 15
4 years of age who lives a few blocks west of the
5 coal plant sleeps with an oxygen mask, and my
6 nephew, Daniel, uses an inhaler every day.

7 My family are the example of thousands of
8 families that are being impacted by the coal
9 plant and other -- by the coal and other types
10 of pollution that is being released to our air
11 and water by the industrial polluters that
12 reside in minority low-income communities.

13 I can -- I can tell you with absolute
14 certainty that the amount of pollution we face
15 in Waukegan would simply never happen in
16 wealthier communities like Lake Forest and Lake
17 Bluff.

18 As the outreach director of Faith in Place
19 in Lake County and a member of Clean Power Lake
20 County, I have had the opportunity to meet and
21 talk to hundreds of people with faith
22 communities, and it is concerning and
23 disturbing to see and to hear about their
24 health, social, and economic concerns, as well

1 challenges they face every day.

2 I have heard parents coming up to me to
3 tell me that their children have missed over a
4 month of school during the year due to
5 respiratory and asthmatic illnesses they have.

6 One third of our children in Waukegan are
7 suffering of the same illness, and while
8 pollution levels from the plant have been
9 reduced, our community -- our community
10 continues to suffer from the poor quality of
11 air we have in our community.

12 Ladies and gentlemen of the Advisory
13 Committee, I want to think that communities
14 like Waukegan, who are breathing air and
15 exposed to polluted water in the Lake Michigan,
16 deserve to live instead of living in an
17 environmental justice community.

18 We're suffering from health issues, their
19 environmental, social, and economic impacts of
20 our communities in Waukegan and surrounding
21 areas.

22 Given my previous governmental work as a
23 community liaison administrator for the City of
24 Waukegan and community engagement leader, I

1 have -- I have a complete understanding and
2 awareness of the issues and challenges that the
3 Waukegan community are going through daily and
4 the negative impact that current and previous
5 industrial polluters have left behind in our
6 community, integrating themselves with local
7 elected officials and community organizations
8 through donations and/or sponsorship of their
9 events which has created an environment of fear
10 and silence where leaders in our community do
11 not speak or stand against injustice
12 situations, even though they -- even though
13 they all know it is harming the environment and
14 the safety we're facing in our community.

15 Because of these relationships, many of the
16 leaders in our advocacy campaign are pressured
17 to stay quiet and/or not to speak -- not to be
18 able to speak out due to the fear of
19 retribution from NRG and not to receive future
20 donations.

21 We see all these issues growing, and we are
22 not doing anything to address them because the
23 local leaders of these communities see this
24 type of issue as a conflict of political and

1 economic interest.

2 I am standing in front of you today not by
3 choice but because it is necessary that you
4 hear my voice as an affected citizen.

5 As Pope Francis said in his recent doctrine
6 document Laudato Si, "Leaders, community, and
7 industrial businesses, we have a moral
8 obligation to protect God's creation, our
9 planet earth."

10 We need to protect our environment that we
11 live in and poor communities that are in so
12 much disadvantage around the world, and we all
13 have the obligation to stop polluting our
14 planet, using other alternatives that will lead
15 us to a more sustainable and healthier
16 environment.

17 Thank you for giving me the opportunity to
18 stand in front of you.

19 CHAIRMAN LINARES: Thank you so much.

20 So we'll open it up to questions from the
21 Committee.

22 MR. KAZMI: I have two. Does anyone else
23 have any questions? Okay. Cool.

24 The first question is for -- I guess either

1 one of you guys can answer.

2 But a couple of you mentioned the Illinois
3 EPA and EPA. I know, Ms. Nannicelli, you kind
4 of hit on it.

5 Has there been a decrease in funding over
6 the last few years for the Illinois EPA and
7 that's kind of why it's been a little more
8 difficult for you to be able to get permitting
9 done or even to, I guess, have stronger
10 regulatory reviews of places and maybe in the
11 EPA, or has it been like this for as long as
12 you may know or can remember?

13 MS. KLIPP: It depends on the issue you're
14 talking about. It may not be --

15 MR. KAZMI: Let's go specifically to this
16 Waukegan issue.

17 MS. KLIPP: Well, to the air monitors, for
18 example --

19 MR. KAZMI: Yes.

20 MS. KLIPP: That's money that comes from
21 the federal EPA, which is also the same money,
22 right? And that's been granted to the state so
23 that's a federal reduction.

24 MR. KAZMI: So it's federal funding to the

1 state.

2 MS. KLIPP: It's been granted to the state,
3 yeah.

4 Certainly they will -- you're probably not
5 surprised to learn it's kind of a financial
6 mess right now, and, yes, we are losing funding
7 to the EPA.

8 I think that certainly it's an issue of
9 funding. There's no question that that could
10 help. But I think there's also an issue of
11 mismanagement. When you are not getting to
12 renew or even implement a permit on a hazardous
13 waste incinerator in an old, dirty coal plant,
14 what are you doing, I guess is the question I
15 have.

16 When you are screwing up data and three
17 years of data and throwing a whole region --
18 it's not just Illinois. Missouri, too, is
19 getting thrown into being unclassifiable
20 through real ineptitude. I think there's more
21 than just the money.

22 MR. KAZMI: Thank you. Did you want to
23 follow up?

24 MS. NANNICELLI: I just wanted to add,

1 yeah, the issue with the operator permit goes
2 back to the 1990s. Coming out of the 1990s and
3 specifically the Clean Air Act, that put in
4 place the Title V permitting process, and so we
5 didn't even see the first draft of the
6 operating permit for -- for Waukegan until
7 2006. It was appealed by the company. It was
8 instated in its entirety. Nine years later,
9 last year, they dust it off and actually weaken
10 it, and we still haven't seen it finalized
11 since.

12 MR. KAZMI: So no public notices, as you
13 are stating, has occurred, and in regards to
14 that, like, you guys did not have the
15 opportunity to review the permitting; is that
16 what you are saying?

17 MS. NANNICELLI: We absolutely had the
18 opportunity to review, and I think Barbara
19 mentioned that, in the hearing that was held in
20 Zion, not Waukegan --

21 MR. KAZMI: Yeah.

22 MS. NANNICELLI: But -- but this is an
23 issue of profound mismanagement, and Waukegan
24 is not the only plant that does not have a

1 finalized operating permit. This is systemic
2 and has been going on for many, many, many
3 years.

4 MR. KAZMI: Cool.

5 And then my second question is in regard to
6 Ms. Nannicelli. You mentioned that the
7 Illinois law here is, if a plant is closed
8 down -- I just want to make sure I got this
9 right. If a plant is closed down and toxins or
10 contamination from the plant is not running off
11 but stays solely stable, I guess, right there
12 in that plant area, then they are just able to
13 shut the doors and leave?

14 MS. NANNICELLI: That is my understanding.

15 MR. KAZMI: Does that then mean that if it
16 does have a spillage or runoff, they must, I'm
17 assuming, pay to alleviate that or to stop it
18 from happening?

19 MS. NANNICELLI: That's my understanding.

20 And, again, this gets to --

21 MS. KLIPP: There are other overarching
22 laws like the Clean Water Act, and that would
23 go to leeching off the ground. Also there is a
24 Superfund. So if it's contaminated enough to

1 trigger a Superfund action, then it would be
2 remediated, but most of the time, it doesn't
3 make it to that threshold. So it's not a
4 complete yes and no answer.

5 MR. KAZMI: Gotcha. Thank you.

6 MR. JACKSON GREEN: This question is for
7 anyone on the panel.

8 A couple of you mentioned that,
9 unfortunately, EPA rule enforcement, in many
10 cases, has been left to citizens and some
11 courts.

12 Are there any coal-actuated litigation
13 that's ongoing in Illinois that you know of?
14 And if so, can you share some of the names of
15 those case?

16 MS. NANNICELLI: Absolutely. We -- and
17 Dulce mentioned this in her testimony as well.
18 The Sierra Club and a number of other advocacy
19 organizations have sued Midwest Generation for
20 violating groundwater with the -- the
21 groundwater contamination that Dulce mentioned.
22 So that is currently in litigation and before
23 the Illinois Pollution Control Board.

24 CHAIRMAN LINARES: Ms. Wortham.

1 MS. WORTHAM: I'm increasingly getting the
2 impression of the breakdown of communication
3 among the various segments of our government,
4 federal, state, and local, and you made some
5 observations about the city government.

6 To what extent have citizens been involved
7 in pressuring the city government to act as an
8 accountability agent to EPA?

9 Is there a way that the pressure could come
10 from city government to federal agency and the
11 state and federal agency? This is my point: I
12 wish I had a flow chart of all of the
13 connectors that you mentioned so that I could
14 actually see because I have a sense of this
15 breakdown. You get so far, and we can't go no
16 further. And what's involved here are people,
17 the individuals, who are hired to hold
18 positions that would require them to administer
19 the regulations that their element of
20 government is responsible for. But I just kept
21 going back to, okay, what happens between you
22 guys and your local government? Is there any
23 way that it can become an instrument? Just
24 fill me in a little bit. I may be asking too

1 much.

2 MS. ORTIZ: No, no. I think the problem
3 becomes when we, as residents, feel that the
4 Illinois EPA, first of all -- somebody
5 mentioned this earlier. It's holding the hands
6 of those individual corporations that are
7 polluting our community. That's the first
8 problem.

9 MS. WORTHAM: Do you know that? Do you
10 have evidence of that?

11 MS. ORTIZ: The evidence is --

12 MS. WORTHAM: Of leakages of relationships
13 between the industries -- industrial items --
14 companies that you are speaking of and
15 individuals.

16 Is there a way to really put some light on
17 that relationship that you are referring to?
18 Or is it just assumed?

19 MS. ORTIZ: Well, what I can tell you as a
20 resident of Waukegan, first of all, when they
21 held their hearing in Zion, outside my
22 community, when my community is being impacted
23 by, you know, these polluters, that's the first
24 sign that really they don't want any community

1 engagement or any residents in their meetings.

2 Second of all, my community is 54 percent
3 Latino. When you are doing a hearing, it is
4 incumbent upon you to be sure that the public
5 is aware, and not only that the public is
6 aware, but that you are able to take into
7 consideration that this population is
8 Spanish-speaking and that you're able to
9 advertise through, you know, Latino venues or
10 Spanish newspapers, which they do not do at all
11 whatsoever.

12 Even as a community member where I'm very
13 involved in, you know, many elements there, I
14 only was aware of their meetings prior -- maybe
15 two, three days before because they don't make
16 that information very well known.

17 So how can they make determinations upon,
18 you know, the restrictions that they need to
19 provide to these polluters if they don't take
20 public comment into consideration, if they
21 don't know that, you know, my community or
22 myself suffers from asthma? You know, if you
23 would take it into another community that's
24 miles away from where the problem is, of

1 course, they are not going to get the
2 participation that you would hope you would
3 get.

4 And also if there's a breakdown in
5 communication where you can't communicate with
6 the residents that are Spanish-speaking, then
7 that also becomes a problem.

8 MS. WORTHAM: Then I guess there has to be
9 some measure of pressure on the Illinois EPA to
10 communicate to citizens of your area, as well
11 as other areas, so that you can act with
12 knowledge of -- but I come back to what about
13 your council people, your mayor, and those
14 people. What are they doing?

15 MS. ORTIZ: Well, we ask -- the -- Clean
16 Power Lake County, we actually just delivered
17 2000 petitions to the city council earlier this
18 year.

19 We, the people that elect our officials,
20 shouldn't work that hard to try to get their
21 attention to solve this problem.

22 We shouldn't have to, you know, go out
23 there and --

24 MS. WORTHAM: You have to.

1 MS. ORTIZ: We have to, and we have. So we
2 have brought the 2000 petitions to city
3 council. We have held meetings one on one with
4 our aldermen. But again, as Ms. Susana stated,
5 it is very hard when you have these politicians
6 receive campaign contributions to get to see
7 what the residents are going through when all
8 they are worried about is getting elected and
9 getting the money to fund their campaign.

10 MS. WORTHAM: Right. They have to be
11 elected. Remind them. Don't you think?

12 MS. ORTIZ: We do. Every city council
13 meeting we do.

14 CHAIRMAN LINARES: So we are going to
15 extend time just a few minutes because the
16 other panel is a little shorter.

17 Mr. Howard has a question, and then I will
18 have a question.

19 MR. HOWARD: For Ms. Klipp, you mentioned
20 CAG. I'm sorry. I missed what that is.

21 MS. KLIPP: It's called a community
22 advisory group. It's part of the Superfund
23 requirements, but they kind of have a two-fold
24 directive, if you will.

1 MR. HOWARD: Okay. And you're objecting to
2 citizens being on that committee?

3 MS. KLIPP: No, not enough citizens on that
4 committee.

5 MR. HOWARD: No. I mean citizens who have
6 sympathies for the polluters.

7 MS. KLIPP: I know of at least one.

8 MR. HOWARD: How would you get in the head
9 of people on the committee to make sure that
10 they didn't have sympathies?

11 MS. KLIPP: That's a good question. I
12 think a questionnaire when someone is
13 interviewed.

14 In this case the person works for a company
15 doing business with the company, and that
16 should be a question that they are asked.

17 I agree in terms of if they have sympathy
18 because they have a cousin that works there or
19 something, but if they or their immediate
20 family either works for the polluting
21 facilities or do business with them, I think
22 that's a question that should be asked.

23 MR. HOWARD: That's, in your view, a
24 conflict of interest?

1 MS. KLIPP: Yes, sir.

2 MR. HOWARD: I wanted to ask also -- you
3 mentioned voter suppression laws and, of
4 course, we are very sensitive to that on this
5 committee.

6 What voter suppression laws are you talking
7 about?

8 MS. KLIPP: Maybe that's not -- maybe
9 that's a derogative term -- a derogative term
10 that I used and I shouldn't have.

11 But what I meant was laws that make it more
12 difficult for people to vote. For example, not
13 too long ago, our early voting in -- in the
14 county was not held in an area that was
15 accessible to lower-income voters. It was held
16 in other parts of the county that was more
17 accessible to higher-income voters. Issues
18 like that.

19 We're working hard to improve those. I
20 don't think ours is the only county, the only
21 state with those kind of issues.

22 I think we need to make it as easy as
23 possible for low-income voters and people of
24 color to be able to vote.

1 MR. HOWARD: Thank you.

2 CHAIRMAN LINARES: Thank you.

3 And let the record reflect the chair is
4 asking a question.

5 I'd like to ask -- and let me back up and
6 say that we are happy to have you here as a
7 panel. So we are a statewide commission, and
8 things can get Chicago-centric, and with the
9 different coal plants in the state of Illinois,
10 we had to focus just on a few areas because of
11 the small amount of time we had today. So we
12 are happy to have you representing Lake County
13 today.

14 That said, so we heard also from the
15 panel -- the community panel based in Chicago
16 as well, and I want to know a little bit -- I
17 want to hear more of your personal thoughts on
18 the quality of life issue.

19 So we've heard a lot about asthma and other
20 health effects, other potential effects that
21 are severe consequences when linked to coal
22 plants and other -- other hazards, which I
23 don't doubt that there are.

24 But I want to hear more about the quality

1 of life and your physical impressions of living
2 near a coal plant.

3 We were talking at lunch about other
4 potential hazards that some of us have lived
5 by, the smells, how you live in your home or
6 not.

7 Can you speak a little bit about that?

8 MS. ORTIZ: Yeah. I'm very proud to have
9 come from the city of Mexico, and I know that
10 in my community there are a lot of undocumented
11 individuals that have no access to health care,
12 that are paid -- that are working low-wage
13 jobs. As Ms. Nannicelli mentioned earlier, the
14 average annual income is \$17,000, and I -- and
15 as I stated in my testimony, I'm very blessed
16 to have health insurance, but as we know, these
17 undocumented individuals do not have access to
18 quality health care, do not have access to
19 prescription assistance. So when you are
20 suffering from asthma, you know, of course, you
21 miss -- you miss days at work that will not pay
22 if you are not there and also an inhaler can
23 cost, you know, out of pocket \$300. So that
24 tells you about the quality of life where a

1 family needs to make a decision of whether --
2 are you going to buy groceries or are you going
3 to buy your prescription medication?

4 And it's even worse when you have children
5 which one out of three children suffer from
6 asthma. They are missing school. Our schools
7 are missing the revenue. And that's why we
8 have low-performing schools because we are not
9 getting the revenue that we need, we are not
10 addressing the issue of our school children
11 when it comes to their health, and there is
12 no -- there shouldn't be a decision made of
13 whether -- do you buy groceries to feed your
14 family, or do you pay for hospital bills,
15 doctor bills, prescription bills?

16 I think that's, you know, that's an
17 injustice. And, again, people that suffer from
18 asthma they don't have the quality health care
19 that they need. So when you have polluters
20 caring only about making a profit and not being
21 conscious about their decisions and how they
22 are affecting the community that they are in,
23 it's unconscionable. That's why we are here.
24 That's why we are fighting. And that's why we

1 do everything in our power to lobby our elected
2 officials, so that they can see and not only
3 worry about the tax base.

4 I also wanted to mention Clean Power Lake
5 County is not a campaign that only talks about
6 closure. Right?

7 We are talking about a transition. Okay.
8 So how do we transition from coal into clean
9 energy? How do we make the city of Waukegan a
10 community where renewable energy can become,
11 you know, an economy there?

12 We have five Superfund sites. You tell me
13 what investors would be willing to come to our
14 community and develop anything there with five
15 Superfund sites?

16 So I feel that my community is in shackles,
17 you know. We are not able to get out of, you
18 know, this vicious circle of having
19 corporations just come, leave their toxics
20 behind, leave our community with many health
21 issues, and they just move, and they take their
22 profits, and whatever happens to you, well, God
23 bless.

24 CHAIRMAN LINARES: Thank you.

1 Anyone else?

2 MS. KLIPP: If I can add to that, I live
3 next door to the community, and because of our
4 ozone problem in the county in general, in
5 Waukegan specifically, we have a lot of ozone
6 alert days. And I remember two summers ago, my
7 daughter was out. We had two ozone rough days
8 in a row, and it was summertime, and she was
9 outside playing, like kids do. And, sure
10 enough, we are in the ER on the second night.

11 And so I think that their quality of life
12 is being impacted, but they don't necessarily
13 know why.

14 CHAIRMAN LINARES: Well, with that, we want
15 to thank you for your time and your input.

16 We will go on to the next panel in about
17 ten minutes.

18 And thank you again.

19 (Recess taken.)

20 CHAIRMAN LINARES: Thank you again,
21 everyone, for your participation and presence
22 here today.

23 We are going to break up the schedule just
24 a little bit here.

1 So the other panel ran a little late, and
2 we will make up the time with this panel.

3 Omar Duque was not able to make it today,
4 but Lisa Albrecht was. And I'm going to
5 introduce her. She's a renewable energy
6 specialist with Solar Service, Inc.

7 And I'm also going to introduce someone who
8 is scheduled for the next panel, but we'll
9 bring them together for this one. His name is
10 Stephen Sylvester. He's an Assistant Attorney
11 General of the environmental bureau for the
12 Office of the Illinois Attorney General, with
13 Lisa Madigan.

14 So just a few of the ground rules is you'll
15 each get a maximum of 15 minutes to give a
16 presentation for yourselves.

17 Please don't be offended. I have my
18 five-minute and three-minute and one-minute
19 markers if we go long.

20 After both of you go, then we'll open it to
21 the Committee to ask questions for a good 15
22 minutes. For Stephen, since you're originally
23 on the government panel, we appreciate you
24 stepping up to cover this panel. If you'd like

1 to stay for the government panel as well and
2 take questions on that panel as well, that
3 would be great, and it's appreciated.

4 So without further ado, we are going to
5 start with Ms. Albrecht, and the microphone is
6 yours.

7 MS. ALBRECHT: Wonderful. Thank you so
8 much. Thank you so much for inviting me to
9 attend and for listening.

10 In addition to my work specifically at
11 Solar Service, where I'm a renewable energy
12 specialist, I also serve on the board of
13 directors for the Illinois Solar Energy
14 Association, and I am the vice president, as
15 well as the chairman of the policy committee.
16 So I'm particularly eager to communicate some
17 of the things that our policy team has been
18 working on over the past few years and just the
19 importance of the -- first of all, of the
20 policy and the connection to successes we've
21 seen in individual communities.

22 There's a lot of myths around solar energy
23 specifically, and many people don't think that
24 it's going to work very well in the midwest,

1 and they often will suggest that, you know, we
2 don't have deep penetration for solar here, and
3 although you might come to the conclusion that
4 it is weather-related and it's because we don't
5 have as many resources, in actuality, it's
6 because our policies are not as strong here in
7 the midwest as they are on both coasts.

8 When you look at California, many people
9 assume that that reason solar has been so
10 incredibly popular is because you have a lot of
11 tree huggers, you have a very progressive and,
12 let's suggest, maybe Birkenstock kind of
13 community and that it may be -- that may be one
14 of the driving reasons why many people are
15 going solar.

16 But, in actuality, it is the direct cost of
17 energy, and so they have a very over- -- high
18 demand on the grid, and solar was an excellent
19 solution to help solve some of those problems.

20 California, as you may remember, 10, 15, 20
21 years ago used to frequently experience
22 brownouts, and so solar was a tremendous
23 solution to being able to solve some of the
24 supply issues at the time.

1 And so it happened that it was also -- it
2 also has an incredible economic opportunity as
3 well.

4 Where in California they have a tiered
5 pricing structure for their electricity and you
6 could be paying as much as 40 cents at noon for
7 your electricity, whereas here in Illinois over
8 the last few years, because of deregulation, we
9 have been anywhere from seven cents, and we are
10 currently kind of inching up to the 11-cent
11 marker.

12 And so one of the major reasons why solar
13 has not been vastly popular in the midwest is
14 because of low -- relatively low electricity
15 prices and the lack of policy.

16 Unfortunately, despite the fact that solar
17 has grown tremendously across the entire
18 country, those who are the most benefited by
19 the opportunity for controlling their
20 electricity and having full ownership are
21 usually the least likely to be able to pay for
22 it.

23 Solar pricing has come down tremendously.
24 It's down about 65 percent in the last five

1 years alone, and it is very affordable.

2 We're currently -- Illinois Solar Energy
3 Association is currently doing a demographic
4 study to see, of those with the systems that
5 were installed here in Illinois, what is the
6 demographic makeup where -- you know, is it
7 just high-income households that are able to
8 afford, is it middle income or is it lower
9 income? And really understanding not only that
10 demographic but also where are systems being
11 installed.

12 And so we have -- we don't have a
13 tremendous amount of data points, but we are
14 excited about the opportunity to kind of see
15 where that disparity might exist and how we can
16 possibly merit incentives to make sure that we
17 are serving all communities that could take
18 advantage of it.

19 Although I wasn't able to attend this
20 morning, I am familiar with some of the
21 speakers that were here earlier today and the
22 tremendous work that they are doing on
23 environmental justice, and the tendency that
24 those who are the poorest of our communities

1 are typically living in the most polluted ZIP
2 codes.

3 One of the massive benefits that solar
4 could have would be to actually directly impact
5 that by replacing dirty energy with clean.

6 It's very, very accessible. It can either
7 be attached to a roof or we have many, many
8 brownfields in those communities as well.

9 And so taking land that we have already
10 fallowed and turning it into a resource for
11 that community is a tremendous opportunity, and
12 we feel that we just don't have the policies in
13 place yet that will be able to do that.

14 I believe that Dulce Ortiz was also
15 speaking about some of the brownfields in
16 Waukegan, and that's a huge piece of land that
17 could possibly be developed to make sure the
18 clean energy is available to those low-income
19 communities.

20 And we want to make sure that those
21 communities are not left behind in the growth
22 of solar.

23 Solar has skyrocketed in the last few
24 months. It is contributing more new power to

1 the grid than conventional resources. So
2 that's the second myth, is that solar is not
3 able to reach the scaleability for rural and
4 urban communities, when in actuality it is
5 getting there now primarily because incentives
6 have been strong.

7 During the last few years there has been
8 tremendous effort by the Department of Energy
9 to -- through similar packages to improve
10 manufacturing and bring down the costs of
11 solar, and that has had an immense impact on
12 making sure that solar prices do indeed come
13 down.

14 But I think what's missing at this stage is
15 some kind of specific program that will allow
16 low income communities to be able to also take
17 advantage of those -- those opportunities and
18 those incentives.

19 There is currently in Washington D.C. the
20 Solar Low Income Act, which was introduced by
21 Senator Sanders and was referred to committee
22 but hasn't actually moved forward.

23 Here in Illinois we actually have the Clean
24 Jobs Bill which is a tremendous piece of

1 legislation that specifically calls out
2 programs that would not only allow for the
3 installation of solar either on rooftops, for
4 families who may own their homes, or community
5 solar, for those who may be in apartments, but
6 to also provide job training programs.

7 There is a wonderful organization that's
8 doing great work throughout the country called
9 Grid Alternatives where they actually can do
10 rooftop training where folks are actually
11 learning how to do the installation process and
12 turn individuals who may have skills either in
13 electrical or roofing or other home improvement
14 areas and actually helping to create a whole
15 new job force.

16 One of the remarkable benefits of having
17 solar in any community is those are local jobs.

18 So during the downturn of the economy in
19 2008, when many homebuilders and the trades
20 were out of work, this was a huge chance that
21 we could retool those individuals, and instead
22 of having them inside an electrical room doing
23 electric work, let's put them on the roof and
24 take their passion and their skills and just

1 slightly tweak can so they can be serving their
2 communities and bringing solar at an affordable
3 price locally.

4 One of the major challenges that we have
5 found is that the incentives that are in place
6 today are not -- don't necessarily have the
7 flexibility or the availability to communities
8 that are underserved.

9 In the state of Illinois, we have
10 traditionally had a grant and rebate program
11 that was available to individual homeowners.
12 But the funds for that were incredibly limited,
13 but the Department of Commerce and Economic
14 Opportunity found that last year, when they
15 totalled up all investments over time, they
16 spent about \$60 million and that resulted in
17 about \$360 million in investment.

18 So many people look at incentives as some
19 kind of government assistance or government
20 handout, when in actuality it's a tremendous
21 investment in the local economy and in the
22 local job structure, as well as making sure the
23 homeowners who are putting solar on their
24 rooftops are able to control the source of

1 their energy and the long-term costs of their
2 power.

3 I'd like to make some recommendations, and
4 that is that, you know, moving forward,
5 programs being incentivized -- programs be
6 created that allow for a pathway to perhaps
7 third-party financing.

8 There are many -- when you look at where
9 communities are the strongest and solar
10 penetration is the deepest that is where people
11 are able to have a third party or a leasing
12 system where, instead of owning your panels,
13 the solar company and the solar installer
14 actually owns them and lease back the power to
15 you.

16 Many communities are already in that
17 situation today with public utilities. So
18 extending that beyond, instead of having it
19 come from the grid, instead the source of
20 energy could actually be from the third-party
21 ownership arrangement.

22 That's a fantastic solution, especially for
23 people who don't necessarily have access to
24 available cash to put out for the array.

1 Usually you are looking at somewhere
2 between an 18 to \$25,000 upfront cash
3 investment in a project. So making sure we
4 have flexibility in how individuals can finance
5 and pay for those systems is critically
6 important.

7 An additional tool that should really be
8 embraced, not only across the country but very
9 specifically here in Illinois, is a program
10 PACE, Property Assessed Clean Energy, and what
11 that program allows you to do is take your --
12 take the fixed cost of an asset -- and this can
13 apply not only to clean energy systems and
14 solar energy, but also to any other energy
15 efficiency program that you would like to have
16 for your home.

17 So let's say, for example, you live in a
18 home that's poorly insulated where you're
19 spending more money on your energy because you
20 are now letting a lot of that escape. So by
21 improving your insulation and the cavity of
22 your home to make sure it's as tight and energy
23 efficient as possible and then marrying that
24 with self-generation by having solar on your

1 roof gives you tremendous control.

2 PACE would actually allow you to take the
3 investment cost and put it on your property
4 taxes and amortize that over time.

5 So instead of having that one upfront
6 payment system, you would actually finance it
7 over the next 20 years, which is slightly lower
8 than the anticipated life of a solar array.

9 And so it makes it very affordable and very
10 reachable.

11 And this program is working in other parts
12 of the country.

13 We currently in Illinois have -- we are
14 nearly there. We have one more piece of
15 legislation that we feel needs to pass in order
16 to have commercial PACE available, but we also
17 need to make sure that residential PACE is
18 there too.

19 That would allow people no investment, no
20 upfront cost in order to get their systems
21 installed. So we'd love to see that moving
22 forward.

23 Additionally many people -- only about 25
24 percent of the housing stock have the

1 opportunity of putting solar on the roof.
2 Either there's too many trees in the
3 neighborhood or perhaps their house may be
4 facing the wrong direction or oftentimes I'll
5 see a home, especially when I'm looking at
6 bungalows, for example, and the homeowner has
7 renovated and there's a number of dormers. So
8 I no longer have the square footage on a
9 rooftop.

10 The program called Community Solar will
11 actually allow, instead of having it on an
12 individual roof, several of us would all pool
13 together and build a large array on the ground,
14 and then we are able to what's called "virtual
15 ameliorate" to get credits back from that on
16 our bill.

17 And so that's a tremendous opportunity that
18 we could take advantage of immediately, and
19 that would be a great pairing with brownfield
20 solar, taking land, again, as I mentioned, that
21 has already been destroyed.

22 So I think that would be a tremendous
23 opportunity.

24 And then across the country we are seeing

1 metering under attack, and metering is the
2 process where you are able to backfeed your
3 power and you get credit for credit. So if I
4 backfeed one hour, you get credit for one
5 kilowatt hour, and those -- we have a strong
6 program here in Illinois, but we are nationwide
7 seeing those programs diminished and low-income
8 families in particular would be greatly hurt by
9 continuing that erosion.

10 So I think having a multiprong approach,
11 having a great deal of flexibility, and making
12 sure that accessibility is the key to strong
13 solar policy.

14 CHAIRMAN LINARES: Thank you so much. And
15 we'll segue then to Mr. Sylvester, and, again,
16 thank you for stepping up to join this panel.

17 So we will give you the microphone. So you
18 have 15 minutes. Thank you.

19 MR. SYLVESTER: Good afternoon.

20 On behalf of Attorney General Lisa Madigan,
21 thank you for the opportunity to speak to you
22 all today on this important topic.

23 I would like to express our office's
24 appreciation to the Advisory Committee and to

1 the Commission for convening this meeting and
2 for helping to advance the dialogue about
3 environmental justice.

4 I work as an Assistant Attorney General in
5 our office's Environmental Bureau here in
6 Chicago.

7 Before I get into the substance of my
8 remarks today, I thought I would provide some
9 brief background about the Office of the
10 Attorney General, what we do, and our role
11 within the government.

12 The Attorney General is the state's chief
13 legal officer and is responsible for protecting
14 the public interest of the state and its
15 people. She is the legal representative of
16 state agencies and has the prerogative of
17 conducting legal affairs for the State of
18 Illinois.

19 Our Office is comprised of many different
20 bureaus that are involved in, among other
21 things, both criminal and civil litigation. Of
22 particular relevance here today are the
23 Attorney General's Civil Rights Bureau and the
24 Environmental Bureau.

1 Our civil rights attorneys investigate
2 possible violations based upon a pattern or
3 practice in areas such as Employment, Housing,
4 Public Accommodations, and Financial
5 Institutions.

6 The Bureau also reviews and responds to
7 citizen complaints directed to the Attorney
8 General involving civil rights issues.

9 The Attorney General's website also
10 features a civil rights complaint form that any
11 citizen can fill out and submit to our Office.
12 Of particular note, the Illinois Human Rights
13 Act prohibits retaliation against a person for
14 complaining about discrimination or
15 participating in an investigation.

16 On the environmental side, the Attorney
17 General plays a critical role in the
18 enforcement of our civil environmental laws.
19 Typically, we handle enforcement actions
20 referred to the Office by a number of state
21 agencies, including the Illinois Environmental
22 Protection Agency, Illinois Emergency
23 Management Agency, Illinois Department of
24 Public Health, Illinois Department of Natural

1 Resources and a host of others.

2 We file complaints in front of the Illinois
3 Pollution Control Board, which is an
4 administrative agency, and we also file
5 complaints in both state court and federal
6 court.

7 In addition, we work with non-state
8 governmental entities, for example the City of
9 Chicago, U.S EPA, and the U.S Department of
10 Justice.

11 The Attorney General also has power and
12 authority to protect the public health and
13 environment by pursuing enforcement actions
14 that state agencies have not yet identified.
15 Attorney General Madigan uses that power to its
16 fullest extent by identifying and bringing
17 enforcement actions. We outreach --

18 THE REPORTER: We outreach.

19 MR. SYLVESTER: Thank you.

20 We outreach to community members to learn
21 of potential violations of environmental laws
22 that are endangering the health and well-being
23 of Illinois families and communities, and we
24 also have an environmental complaints hotline

1 that citizens can call and leave information
2 about potential environmental issues and
3 violations.

4 The Attorney General also represents the
5 interests of the People of the State of
6 Illinois in other types of legal venues and
7 settings. This includes participating in
8 rulemakings, legislative efforts, and policy
9 discussions.

10 Attorney General Madigan has focused on air
11 quality, public health, and energy issues
12 throughout her tenure. In making decisions
13 about what matters to get involved in or what
14 actions to take, one of our main considerations
15 is whether we can help communities who are
16 bearing the brunt of impacts from industrial
17 activity or other sources of pollution.

18 Environmental justice is a key lens through
19 which we evaluate what cases to bring or what
20 policies to endorse.

21 To illustrate this, I would like to share
22 some information and some observations based on
23 the work and experiences of our office.

24 A couple of examples of joint federal and

1 state air quality enforcement efforts with our
2 office and the United States Environmental
3 Protection Agency and the Department of Justice
4 are the Midwest Generation Power Plants cases
5 and the case involving lead emissions, the H.
6 Kramer case.

7 First the Midwest Gen case. The Department
8 of Justice and the U.S. EPA have been involved
9 in an ongoing enforcement initiative concerning
10 power plants throughout the country. In 2009
11 DOJ and our office filed a complaint in federal
12 court alleging that Midwest Gen's Crawford,
13 Fisk, Waukegan, Joliet, Will County and
14 Powerton stations had been modified without
15 obtaining a permit and more importantly without
16 installing the best available pollution control
17 technology to control emissions of nitrogen
18 oxides, sulfur dioxide, and particulate matter.
19 All of these plants are located in populated
20 areas, and many of them -- excuse me -- in and
21 around communities of environmental justice.

22 After litigation and an appeal in the
23 Midwest Gen case, the Court, unfortunately,
24 dismissed our counts regarding control issues

1 for those facilities; however, the claims for
2 visible opacity and PM emissions remain
3 ongoing.

4 Also, while the case has been pending,
5 Midwest Gen closed its coal-fired units here in
6 Chicago at Fisk Generation Station and the
7 Crawford facility. In addition, Midwest Gen is
8 in the process of converting its Joliet plants,
9 Units 5, 6 and 7, from coal to natural gas.
10 Those are out for permits as we speak.

11 Also, Midwest Gen has submitted to PJM,
12 which is an entity responsible for operating
13 and ensuring the reliability and security of
14 the electric power transmission system -- they
15 submitted to them notices to deactivate units 3
16 and 4 in Will County and currently, Unit 3 is
17 not operating.

18 In addition to enforcement action we've
19 taken against coal-fired power plants, our
20 office has been involved in the effort to
21 implement state standards designed to reduce
22 harmful air pollution from these sources.

23 In 2007, there were regulations that were
24 promulgated that apply to Midwest Generation's

1 plants here in the north part of the state and
2 also to Dynegy's power plants in the southern
3 part of the state. The regulations for the
4 Midwest Gen plants are called Combined
5 Pollutant Standards, CPS for short, and the
6 standards that apply to Dynegy's power plants
7 are called the Multi-Pollutant Standards. And
8 both have slightly different approaches to
9 ratcheting down the air emissions. However,
10 both of them were designed to provide more time
11 for the companies to meet their mercury
12 controls in exchange for reductions in sulfur
13 dioxide, or SO₂, emissions.

14 While the CPS and the MPS have been
15 successful in reducing these -- these
16 emissions, the companies have had several
17 instances where they have asked for extensions
18 of time and variances, you know, to bring their
19 facilities in compliance with those standards.

20 And our office has -- has worked to oppose
21 those in all instances. Our office also
22 believes that it is critical for us to ensure
23 that all communities across Illinois are able
24 to benefit over reduced air emissions promised

1 by the CPS and MPS and that local impacts of
2 air pollution must be considered, not just
3 locally -- or locally, not just in a statewide
4 forum.

5 In addition, our office has been involved
6 in the ongoing rulemaking before the Pollution
7 Control Board concerning a related matter for
8 the disposal of coal ash from the power plants,
9 and typically that is through surface water
10 impoundments. While the federal coal ash rule
11 was promulgated in December of 2014, the
12 efforts at the state level started in 2013 and
13 remain ongoing, and our office is committed to
14 following through in that process.

15 Now I'd like to turn to the H. Kramer case
16 which involved the lead emissions.

17 This involved a company manufacturing,
18 among other things, the production of
19 lead-containing metal alloys. And this
20 facility is located in the Pilsen neighborhood.
21 And our office got involved through outreach
22 from citizens who had been complaining about
23 lingering dense smoke in the atmosphere around
24 the facility, which was affecting their health

1 and their ability to breathe. Also there were
2 particulate type of emissions that had been
3 getting onto their vehicles and also the
4 windows at their homes.

5 After investigating the matter, our office
6 filed a complaint in August of 2011, and we
7 entered an order with the Court to address
8 interim steps to reduce these air pollution
9 issues.

10 Subsequent to that, our office partnered
11 with the United States Department of Justice
12 and also the United States Environmental
13 Protection Agency to file a consent order and
14 the complaint on the same day in January of
15 2013 to address all the issues at that
16 facility.

17 Also in conjunction with our enforcement
18 efforts at the -- at the facility, we met with
19 citizens environmental groups to discuss both
20 the impact to the citizens and ultimately
21 resolution of the air quality issues affecting
22 them.

23 We've also been active in the litigation
24 concerning petroleum coke, also known as pet

1 coke, which has been an issue in the southeast
2 side of Chicago.

3 In a case involving the Beemsterboer
4 facility, our office filed a complaint along
5 with the City of Chicago, as a co-plaintiff,
6 and while this litigation remains ongoing,
7 shortly after filing the lawsuit, we entered
8 into an order that required the company to
9 remove its pet coke piles that it was storing
10 on the property.

11 Also our office has been involved with
12 another pet coke or two pet coke storage
13 facilities, KCBX North Terminal and South
14 Terminal, also located in the same area.

15 Our office filed an enforcement action
16 against KCBX, and -- in June of 2014. Shortly
17 thereafter, we also filed a consent order that
18 required the facility to remove its outdoor
19 storage piles of pet coke.

20 As to the KCBX facilities, we filed a
21 complaint in that matter in November of 2013.
22 And we are also involved in the permit
23 litigation in that case as well. That case
24 remains ongoing. However, pursuant to the

1 City's ordinances, the outdoor pet coke storage
2 at that facility has to be removed later this
3 year on June 9th.

4 And also as part of our efforts in these
5 matters, we have met and outreached with
6 citizens environmental groups and also
7 participated in the Illinois EPA's
8 environmental justice program for the Illinois
9 EPA.

10 In addition to the enforcement against
11 these facilities, our office has also
12 participated in legislative and rulemaking
13 decisions at the state level, including a draft
14 bill that was introduced in Springfield and
15 assisting with regulatory language that was
16 before the Illinois Pollution Control Board.

17 Both of those efforts did fall short.
18 However, we were able to comment on the City of
19 Chicago ordinances that did ultimately address
20 the storage of those pet coke facilities.

21 While many challenges remain, we are
22 hopeful that the cooperation and coordination
23 between federal agencies, state entities, city
24 government, and community leaders and

1 individuals can be repeated in other scenarios
2 to help us solve other environmental justice
3 issues.

4 Also we have been involved in state and
5 federal regulations seeking to address air
6 quality which includes mercury and other
7 hazardous air emissions, along with soot and
8 smog pollution and most recently the clean
9 power plan.

10 While the road to healthy environment and
11 clean air has not always been as direct as we'd
12 like, the Attorney General's Office is
13 committed to continuing our work to reduce the
14 impacts of dirty energy and other sources of
15 pollution.

16 We continue to work towards these goals
17 with our partners in local governments, other
18 states, federal government, and environmental
19 advocacy groups. At the same time we are also
20 seeking to reduce pollution. We are also
21 working to encourage positive trends in the
22 energy sector which include energy efficiency
23 and generation of energy through wind, solar,
24 and natural gas.

1 These changes have been facilitated in part
2 by technological and market developments which
3 are making these options much more affordable
4 and also by policies at the state and federal
5 levels. Just as the overburdened communities
6 are a priority for our environmental
7 enforcement work, making sure that all Illinois
8 residents share in the benefits of a clean
9 energy economy is equally important to our
10 future.

11 Thank you, and I look forward to any
12 questions you have.

13 CHAIRMAN LINARES: Thank you so much to the
14 both of you, and actually, in retrospect, it
15 was not a bad pairing. You both just said
16 reduction of pollution, and I can see that, a
17 panel, one from the enforcement side, one from
18 the alternative side.

19 That said, I do want to make a comment on
20 the record that NRG was invited, as well, to be
21 before the panel. They submitted several
22 documents which we'll consider statements and
23 put in the record.

24 With that, I'll open it up to the committee

1 for questions.

2 Yes, Ms. Greene.

3 MS. GREENE: I have a question about Solar
4 Service.

5 MS. ALBRECHT: Yes.

6 MS. GREENE: What communities have you
7 worked with so far, and have you been able to
8 see if the outcomes are positive?

9 MS. ALBRECHT: Most of the projects that
10 we've completed to date have solar hot water
11 and not solar electricity. And so particularly
12 in the Woodlawn areas we are on bigger like
13 housing, Rosa Parks Home -- well. I'm drawing
14 a blank.

15 CHAIRMAN LINARES: Rosa Parks Homes.

16 MS. ALBRECHT: Rose Parks Homes, but also a
17 number of their different properties have solar
18 hot water on them. It's very efficient. It's
19 about 70 percent efficient, and we have a
20 number of large commercial projects that are on
21 multifamily housing that is low-income and
22 senior.

23 We have projects over at Catholic Charities
24 at Porta Coeli building. And so we have --

1 most of our work to date has been in that
2 arena. The old Robert Taylor Homes, there was
3 the new buildings that went up there. We did a
4 solar electric system. But without grants,
5 funding, it's difficult to get those projects
6 penciled.

7 CHAIRMAN LINARES: Mr. Kazmi.

8 MR. KAZMI: That's what I was going to ask
9 about the grant funding. Were you guys 100
10 percent funded for those, the grants, or do you
11 take donations?

12 MS. ALBRECHT: The way that grant funding
13 works, in the state of Illinois, there's two
14 sources typically. First the Department of
15 Commerce and Economic Opportunity has a grant
16 rebate program. It's limited funding and
17 rather competitive to get. They will fund up
18 to 40 percent of a project.

19 And then, additionally, the Illinois Clean
20 Energy Community Foundation has historically
21 also offered grants for photovoltaic systems or
22 solar hot water.

23 MR. KAZMI: What is the first --

24 MS. ALBRECHT: The first one is DCO.

1 MR. KAZMI: No, I meant before the hot
2 water.

3 MS. ALBRECHT: Photovoltaic, solar
4 electricity systems.

5 MR. KAZMI: Could you explain that a little
6 bit?

7 MS. ALBRECHT: Those are the ones that
8 actually produce electricity.

9 MR. KAZMI: Gotcha. That's --

10 MS. ALBRECHT: So there's two technologies,
11 and most of the time I really only speak to the
12 electric systems, primarily because that's been
13 the bulk of the Department of Energy
14 sustain- -- programs to help stimulate growth
15 in that area, but solar hot water is also
16 excellent technology.

17 And so the Clean Energy Community
18 Foundation has offered funding up to 60 percent
19 of a project.

20 They actually require that you cannot
21 exceed and go beyond that amount. And so
22 usually that is self-funded within those
23 programs.

24 We did also do a system for BUILD which is

1 over on Harrison Street, which is an
2 after-school at-risk programs for kids.

3 And so we are excited that solar is going
4 to be doing about 35 percent of their electric
5 loads. So those dollars, instead of being
6 spend on utilities will actually go into
7 programming for those at-risk kids.

8 CHAIRMAN LINARES: Thank you. Any
9 questions?

10 MS. SHAH: I have a question for
11 Mr. Sylvester.

12 You mentioned that there's ongoing
13 enforcement actions against Midwest Generation.

14 We've heard testimony in other panels that,
15 you know, when these plants close their doors,
16 they are not required to clean the property
17 that has been polluted as long as that
18 pollution doesn't extend off property.

19 Is there any legal basis to require them to
20 clean the property?

21 Is that part of the enforcement action
22 against Midwest Generation?

23 MR. SYLVESTER: So the enforcement action
24 that we have in federal court right now

1 involves air emissions only. It doesn't deal
2 with the land issues.

3 There are laws on the books about land
4 pollution, for instance. You know, one of the
5 defenses that folks may have occasionally is if
6 they existed prior to -- or the pollution
7 occurred before the adoption the Environmental
8 Protection Act.

9 Also, you know, the -- on site, there are
10 some defenses to pollution that's left on site.
11 There's, you know, always the possibility of
12 future litigation, but at this time the
13 litigation that is on file currently with our
14 office involves air emissions.

15 MS. SHAH: Thank you.

16 CHAIRMAN LINARES: Mr. Howard.

17 MR. HOWARD: Mr. Sylvester, what do you
18 mean by "enforcement"?

19 What do they have to do?

20 Do they pay fines?

21 Do they have to clean up?

22 What is it that you are requiring of them?

23 MR. SYLVESTER: Well, at this point I can't
24 tell you what we are asking for in our

1 complaint or, you know -- because we are also
2 at this point in settlement negotiations, and
3 we have a -- an order in place. So we can't
4 publicly talk about those.

5 But typically, you know, for this type of a
6 case, where you have air emissions at a power
7 plant, you would be looking to have pollution
8 controls.

9 Sometimes it requires retirement of the
10 facilities, switching to cleaner burning fuels,
11 going from, like, coal to natural gas. Those
12 are the typical things.

13 If there's visible emissions, I don't know
14 you understand what that term is, but the stuff
15 coming out of the stack that has -- you know,
16 it involves your ability to see beyond. It's
17 opaque.

18 That -- that type of stuff, they have
19 technical equipment such as electrostatic
20 precipitators that would actually help capture
21 particulate matter, and that reduces those
22 types of emissions.

23 And then, you know, making sure that those
24 requirements are in a court-enforceable order

1 and also permits. Thank you.

2 CHAIRMAN LINARES: Any questions?

3 Mr. Kazmi, follow-up?

4 MR. KAZMI: Yes. The follow-up was because
5 in the previous panel, as Ms. Shah said, one of
6 the panelists basically said that Illinois law
7 generally was, if the power plant or any kind
8 of plant shuts down, as long as there's no
9 spillage or runoff, they are allowed to just
10 close the door and leave.

11 Now, since you are in the AG office and you
12 are the attorney here, is that actually
13 accurate? Because I think that it's quite
14 alarming to just a reasonable person, if that's
15 the case.

16 MR. SYLVESTER: Well, I think that
17 there's -- you know, there's a lot of laws on
18 the books. Some might have been -- you know,
19 it depends who was the sponsor of the law.
20 Sometimes they favor industry; sometimes, the
21 environmental folks.

22 There is -- for land pollution issues? I
23 don't know specifically what you are referring
24 to.

1 MR. KAZMI: Yeah, land pollution is good
2 enough.

3 MR. SYLVESTER: I don't know. Some of the
4 ash facilities are on site and typically with
5 Midwest Gen plants, their policy has been that
6 in their impoundments they will put the ash
7 into the water, which kind of lets the solid
8 material settle to the bottom, and then at a
9 certain point they take that out.

10 Now, because they have done that for a long
11 time, it gets into, you know, potentially the
12 soil below the impoundments.

13 One of the issues that, once again, for
14 land disposal issues is, under the
15 Environmental Protection Act, for facilities to
16 generate waste on their own sites, there is an
17 exception for getting permits and going through
18 that process for facilities to generate on
19 site.

20 Of course, there's regulations for them to
21 take certain actions.

22 MR. KAZMI: Upon closing?

23 MR. SYLVESTER: Yes.

24 MR. KAZMI: I think that's what we are

1 looking for.

2 MR. SYLVESTER: Correct.

3 And, once again, our office is essentially
4 the enforcement arm of the state.

5 MR. KAZMI: Yeah.

6 MR. SYLVESTER: The Illinois EPA is the one
7 that issues the permits and has the oversight
8 for service impoundments. It's also, like I
9 said, part of the current rules that are being
10 presented in front of the Pollution Control
11 Board which will hopefully provide adequate
12 solutions for all the impoundments of coal
13 plants in the state.

14 CHAIRMAN LINARES: Any other questions?
15 Follow-up for Ms. Shah.

16 MS. SHAH: This is actually for
17 Ms. Albrecht.

18 I have a question of what percentage of
19 energy produced from solar currently in
20 Illinois, and how does that compare to
21 California or other regions of the country that
22 perhaps are further along than we are?

23 MS. ALBRECHT: We are still less than one
24 percent here in Illinois. We have a long way

1 to go.

2 Our mandated renewable portfolio standard
3 requires that we be 25 percent by 2025, and we
4 are way off.

5 The funding mechanisms, when we had
6 municipal aggregation and entire communities
7 lost ComEd, it broke the funding mechanism that
8 was supposed to have created more investments
9 and more installations.

10 When we look at other states, for example,
11 Hawaii is a really interesting situation right
12 now where they have about around 40 percent of
13 their grid supply is coming from renewable
14 resources.

15 I believe California is approaching the 8
16 to 10.

17 They have solar -- they have more solar
18 than most countries.

19 So typically there -- it's China, Germany,
20 and California is usually the order of
21 magnitude of how solar has been installed thus
22 far, but solar has been growing in California
23 for the last 15 to 20 years.

24 They have had a long-term policy which has

1 greatly helped.

2 New York is actually working very hard at
3 catching up, and actually most of the growth at
4 the moment is all east coast.

5 CHAIRMAN LINARES: Thank you, and we are
6 almost out of time. I'll take the liberty to
7 ask the last question, if you don't mind.

8 Let the record reflect the chair is asking
9 the question.

10 And it's actually for both of you and
11 regards community knowledge of your services.

12 For the AG's office more so, is it the
13 community that is coming to you with these
14 issues and that's how you are enforcing?

15 Or is it you guys doing the investigation
16 and going forward with the litigation.

17 And for Ms. Albrecht, are you seeing
18 influxes of people coming to you for solar
19 services or are you actually having to go out
20 and educate people on this?

21 MR. SYLVESTER: Sure. Our office I think
22 uses, you know, a wide variety. We have both
23 criminal and civil issues for environmental.
24 Like I said, we -- I am in our environmental

1 civil bureau.

2 We have an attorney of the month who fields
3 questions throughout the state about all types
4 of issues. And we do have outreach.

5 Obviously there's certain topics that are
6 policy-driven, and we had task forces that we
7 work with, other folks as well. We also
8 have -- like I said, once again, our state
9 agencies have inspectors and folks that are out
10 in the regulated community looking at these
11 facilities, and, you know, we get referrals
12 from them as well. So it's a little bit of
13 everything.

14 MS. ALBRECHT: And then for solar service,
15 at the Illinois Solar Energy Association, we
16 find more and more people are intrigued and
17 interested. We get an awful lot of
18 tire-kicking questions. Many people aren't
19 sure if solar costs \$500 or \$5,000 or \$50,000.
20 So there's a great deal of price shopping that
21 we typically find.

22 As with every experience, many consumers
23 are uneducated on what solar is. In particular
24 we worked a lot to educate architects,

1 engineers in particular who have a direct
2 influence over consumer choices to make sure
3 that they know that the reason why solar is not
4 here is not because we don't have sunshine but
5 because we just don't have a well-educated --
6 City of Chicago actually had a program in the
7 summer called Solar Chicago, and they had
8 anticipated -- I believe they thought they
9 might get about 500 inquiries, and they were in
10 the thousands, and so there's definitely a
11 great deal of interest out there.

12 CHAIRMAN LINARES: Very good. Thank you
13 both for your time and input. Thank you,
14 everyone, for asking your questions. And we'll
15 be back in 10 minutes with our final panel.
16 Thank you.

17 (Recess taken.)

18 CHAIRMAN LINARES: So we are back in
19 session. Thank you, everyone, for remaining
20 for our final panel for today. And this is our
21 government panel.

22 So I don't believe anyone was here at the
23 beginning of the day when we announced the
24 rules. Some of you have been here.

1 MR. VILLALOBOS: I have been here.

2 CHAIRMAN LINARES: You know the rules, but
3 what we'll do is everyone gets a maximum of 15
4 minutes to give their personal presentation.

5 I believe a few of you are with state
6 agencies. So I'm not sure if you want to
7 divide it up --

8 MR. WALT: We can both do it in the 15.

9 CHAIRMAN LINARES: Please do not be
10 offended if I show you my five-minute and
11 one-minute end signs, just so we keep track of
12 time here.

13 And then after all the panelists have gone,
14 we will open it to the Committee for questions.
15 Thank you all again. We will introduce you all
16 individually for a moment here. Then we will
17 start off.

18 We have Christopher Wheat, Chief
19 Sustainability Officer for the City of Chicago.
20 Thanks for being here.

21 Alan Walts and Michele Jencius with the
22 U.S. Environmental Protection Agency.

23 We have Ken Page, Environmental Justice
24 Officer with the Illinois Environmental

1 Protection Agency.

2 And David Villalobos with the Waukegan
3 Fourth Ward. He's the alderman.

4 We'll start with Mr. Christopher Wheat.
5 Again, if you could please talk into the
6 microphone for our transcriber, please.

7 MR. WHEAT: Thank you, Chairman and members
8 of the Advisory Committee for the opportunity
9 to speak with you today. My name is Chris
10 Wheat, and I serve as the City of Chicago's
11 Chief Sustainability Officer.

12 Today I'm here to talk about the role the
13 City administration played -- has played in
14 regard to the closure and repurposing of the
15 Fisk and Crawford plants.

16 I will provide some historical context
17 behind the City's involvement with Fisk and
18 Crawford and the work of Mayor Emanuel, in
19 cooperation with community partners, to close
20 the facilities, the mayor's task force for site
21 reuse and the City's broader work to lessen the
22 impact of fossil fuels on underserved
23 communities.

24 For context, when Fisk and Crawford were

1 operating, they were the only coal-fired power
2 plants within the city limits of any major
3 American city, creating unique legal and
4 regulatory challenges for city officials but
5 also unique responsibilities to reduce the
6 impact they had on our communities.

7 The health risk created by the Fisk and
8 Crawford plants had affected the Pilsen and
9 Little Village communities for nearly a
10 century; however, these risks came into the
11 larger limelight in the 1990s due to a
12 coalition of community organizations and
13 environmental groups voicing concerns about the
14 negative effects of the plants under the
15 Chicago Clean Power Coalition.

16 In 2010 a group of aldermen introduced an
17 ordinance, with the support of the Chicago
18 Clean Power Coalition, to limit the amount of
19 pollution that could be created by power plants
20 within city limits and gave the plants two
21 years to come into compliance.

22 This time line accelerated an initial time
23 line established between Midwest Generation,
24 the plant owners, and the Illinois EPA to shut

1 down both facilities by 2018.

2 Soon after taking office in May 2011, Mayor
3 Emanuel met with Midwest Generation to make it
4 very clear that the plants either need to
5 reduce their pollution on an accelerated
6 schedule, either via new infrastructure or
7 conversion of cleaner fuel, or the City would
8 use whatever means available to shut the
9 facilities down.

10 On February 29th, 2012, Mayor Emanuel,
11 Midwest Generation and Chicago Clean Power
12 Coalition announced the accelerated retirement
13 of the plant, with Fisk closing by the end of
14 2012 and Crawford closing by the end of 2014.

15 This agreement not only met the interest of
16 the community but also aligned with the
17 objectives outlined in the above-mentioned
18 ordinance of 2010.

19 Both plants were closed earlier than
20 scheduled in August of the same year.

21 Although the mayor's hard line on the issue
22 made it very clear that the City would no
23 longer tolerate the pollution these plants were
24 emitting, it is important to acknowledge that

1 the agreement to accelerate the closure of Fisk
2 and Crawford would not have been possible if it
3 weren't for the tireless efforts of community
4 members here in Pilsen and Little Village who
5 championed this issue prior to the mayor coming
6 to office.

7 Two months after the announcement of the
8 plants' closure, Mayor Emanuel appointed the
9 Fisk and Crawford Reuse Task Force to develop a
10 mission for the future of the Fisk and Crawford
11 plants.

12 The task force included community members,
13 Midwest Generation, aldermen, labor, ComEd, and
14 the City's Department of Planning and
15 Development.

16 You heard earlier today from Kim Wasserman,
17 one of the task force members, and the Sierra
18 Club who helped to fund the task force's
19 facilitation.

20 A critical element of the task force's work
21 was impact on the community.

22 Two public feedback sessions were conducted
23 with over 125 participants who voiced their
24 thoughts and input as to the future use of the

1 site. One of those sessions was conducted
2 right here in the National Museum of Mexican
3 Art.

4 Community groups conducted their own
5 surveys regarding the facilities' reuse, and
6 the City established a website for individuals
7 to provide their own input.

8 The task force produced several guiding
9 principles as to the remaining work in their
10 September 2020 report which included enhancing
11 the ability of residents that live, work, and
12 play in a healthy environment, prioritizing
13 quality living-wage jobs, identifying and
14 pursuing resources for development, recognizing
15 existing constraints and context for the
16 redevelopment and encouraging collaboration of
17 stakeholders on redevelop, knowing that will
18 likely lead to the best outcome for all.

19 In 2013 Midwest Generation, who had filed
20 for bankruptcy protection, sold the Fisk and
21 Crawford plants to NRG Energy, a
22 New Jersey-based power generation company.

23 NRG has been working with City officials
24 and community leaders to develop alternative

1 uses for the facility.

2 We believe there's an opportunity to
3 develop the space into an area that will create
4 jobs and create space, with significant and
5 real input from the community.

6 Mayor Emanuel and the City of Chicago have
7 recognized the detrimental impact coal has had
8 on our communities and has acted in other ways
9 besides the Fisk and Crawford plants to reduce
10 the City's dependence.

11 In 2013 the Mayor and the Department of
12 Fleet and Facility Management announced the
13 City was removing coal from its energy supply
14 agreement, signing agreements with
15 Constellation New Energy that requires a
16 company to source its City of Chicago
17 electricity, and this is City of Chicago and
18 the government individual buildings, from
19 non-coal-fueled assets. This move reduced
20 carbon emissions in the city supply by 99.5
21 percent and removed the carbon equivalent of
22 221,000 cars off the road at the same time
23 saving city taxpayers \$1.2 million over two
24 years.

1 In addition, the City launched a two-year
2 municipal aggregation program in early 2013
3 that provided non-coal electricity to 750,000
4 residents and small businesses in Chicago.

5 The aggregation program also contained five
6 percent clean energy sources from right here in
7 Illinois.

8 It's important to note that the declining
9 use of coal is not only being driven by
10 communities but also demands that are reducing
11 energy uses and driving the use of cleaner
12 fuels.

13 The Mayor also recognizes that it's not
14 enough to reduce our dependence on coal. We
15 must increase the access and capacities for all
16 communities to participate in energy efficiency
17 and renewables.

18 Currently the City is working with Cook
19 County, ComEd, Elevate Energy, the Environment
20 Law and Policy Center, who you heard from
21 earlier today, and other partners on the Solar
22 Pathways Project.

23 This initiative, funded by the Department
24 of Energy, is designed to identify

1 opportunities to develop community solar
2 projects where community members are able to
3 purchase solar power from local or neighborhood
4 installation.

5 These projects in time could be
6 opportunities for the reuse of areas like Fisk
7 and Crawford.

8 The City's Retrofit Chicago Residential
9 Partnership has worked with utilities, finance
10 companies, and community groups to streamline
11 the process for single-family homeowners and
12 landlords to retrofit their energy usage.

13 In conclusion, the closure of the Fisk and
14 Crawford facilities was a culmination of over a
15 decade of work of community activist
16 organizations.

17 Mayor Emanuel and city officials are proud
18 to have played a role in making these
19 communities healthier; however, the closure of
20 these facilities is not enough.

21 We must empower families and communities
22 with the tools and resources to charter a more
23 sustainable future for all Chicago
24 neighborhoods.

1 The City remains committed to converting
2 the Fisk and Crawford sites, community-driven
3 uses, and reduce the dependence on fossil fuels
4 for all Chicago residents using energy
5 efficiency and renewables.

6 I thank you for your commitment to these
7 issues and am happy to take questions.

8 CHAIRMAN LINARES: Thank you, Mr. Wheat.
9 We'll move on to another panelist, and then we
10 will ask the questions for all the panelists.

11 I'm going to jump just a little bit to
12 stick with the municipality theme. And I want
13 to go to Mr. David Villalobos, if you are
14 ready. And you have 15 minutes. So the mic is
15 yours.

16 MR. VILLALOBOS: Before I start my
17 statement, I just want to say something.

18 Sylvia Hood Washington mentioned that
19 DuPage County has the most Superfunds in the
20 state at five, and it helped me gain new
21 respect with -- regarding Waukegan. Waukegan
22 has five Superfund sites also.

23 So I wasn't aware that that's the high
24 number for the state and Waukegan has that. So

1 I learned something today, and it gives me a
2 different perspective more so.

3 Now, I'll jump into my statements.

4 I would like to start by saying thank you
5 for this opportunity to speak today.

6 As mentioned, my name is David Villalobos,
7 and I am from the City of Waukegan.

8 I am also the Alderman of the 4th Ward of
9 Waukegan. So I represent my community in two
10 capacities, first as a resident and second as
11 an elected official.

12 I will begin by making a couple of
13 recommendations to the advisory committee, one
14 specific and two general, that I hope my
15 narrative will help further explain.

16 For one, create policy that mandates
17 industries to make financial assurance that
18 remediation will occur during operations and
19 post-operation.

20 Two, Better enforce and strengthen existing
21 laws.

22 Three, U.S. EPA and IEPA make stronger
23 efforts to support environmental justice
24 communities in advocacy.

1 I will speak first from the perspective of
2 a resident from my community. I was born and
3 raised in Waukegan, and my family roots go back
4 approximately 70 years in the City of Waukegan
5 when my paternal grandparents moved to
6 Waukegan. I am proud to consider myself a
7 product of my community. I am also proud to
8 have been sitting in this room with my friends
9 and fellow Waukeganites.

10 When I speak with people who grew up in
11 other communities, they perceive Waukegan as a
12 bad community to live in, and when I speak with
13 my fellow Waukeganites, many speak of times
14 when Waukegan was a "better community." There
15 is often talk of crime in Waukegan and poor
16 educational opportunities for the youth. I
17 personally have not experienced violent crime
18 and consider my Waukegan public school
19 education to have properly prepared me for
20 higher education.

21 I have had many conversations with
22 individuals regarding Waukegan, and far too
23 often the conversation gravitates toward the
24 negatives of Waukegan. I remind people that

1 there is much to be proud of and will cite that
2 in 2013 both Waukegan's public library and park
3 district received national honors for the work
4 done for our community.

5 Forgive me. I cannot help but to promote
6 the positives of Waukegan when speaking about
7 my community.

8 As I mentioned, I speak with many residents
9 in my community, and there is a topic that is
10 rarely mentioned when speaking about the flaws
11 of Waukegan, and that is Waukegan's environment
12 and the negative health impacts. I myself knew
13 only to the extent that Waukegan had a polluted
14 creek and lakefront.

15 I was not aware of the severity and
16 duration that Waukegan has been exposed to
17 pollution.

18 I admit, to my chagrin, that I was not even
19 aware, as a lifelong resident, that Waukegan is
20 the host site to a coal-burning power plant
21 currently owned by NRG Energy, that is until I
22 started volunteering with Clean Power Lake
23 County over two and a half years ago. It has
24 been through my volunteering with Clean Power

1 Lake County that I have become more informed
2 about Waukegan's history and present situation
3 regarding pollution.

4 Now I have become a more informed resident
5 and advocate to see Waukegan move forward from
6 a history and present of industrial pollution
7 that includes mercury, arsenic, sulfur dioxide,
8 carbon dioxide, nitrogen oxide, boron, PCBs,
9 and many others.

10 It is a fascinating phenomenon that has
11 happened in Waukegan regarding the exposure of
12 industrial pollution to residents and how few
13 residents are aware of this exposure.

14 I have had conversations with residents,
15 some of which are life-long Waukeganites, and
16 many were unaware, much like I was, that
17 Waukegan has a long history of industrial
18 pollution and presently has a coal-burning
19 power plant on the lakefront that has been in
20 operation for over half a century.

21 In consideration of the highest percentages
22 of demographic makeup of Waukegan, according to
23 the EPA's Community Involvement Plan, of the
24 approximately 89,000 Waukeganites, 55.7 percent

1 are Hispanic/Latino, for children, 16.5 percent
2 are ages 5 to 14, and for adults, 16 percent
3 ages 25 to 34, 31.5 percent have less than high
4 school education, 7 percent are unemployed, 13
5 percent have household incomes between \$20,000
6 to \$30,000 and \$75,000 to \$100,000. Language
7 percentages were not mentioned in the report,
8 but from personal experience there is a sizable
9 percentage of Waukeganites that are bilingual
10 or speak Spanish as a first language.

11 Given these percentages, the likely adult
12 to meet in Waukegan is a Spanish-speaking
13 Hispanic, 25 to 34 years of age, did not
14 complete high school, and makes \$20,000 to
15 \$30,000.

16 Interestingly, I match three and a half out
17 of the five descriptors. I speak some Spanish,
18 and I finished high school.

19 Given the likely adult in Waukegan, it is
20 easy to be uninformed about the community one
21 lives in when the basic necessities of life and
22 the household take priority over the
23 environment in which that person lives in.

24 This is one key aspect to understanding the

1 social injustice that is happening in Waukegan.

2 When I began volunteering with Clean Power
3 Lake County and sought support from community
4 organizations, I came across a rather
5 unexpected barrier. Past and present
6 industries will donate to or financially
7 support organizations or their programs, and
8 the organizations that accept the financial
9 contribution will not support any movement that
10 may adversely affect the industry or even
11 testify at public hearings asking for stronger
12 protections.

13 It seems to me that accepting the money
14 also means accepting the industrial pollution.

15 To me this is a shortsighted view regarding
16 the community but one that many within my
17 community have fallen victim to.

18 I cite this also as another key aspect to
19 understanding the social injustice happening to
20 Waukegan.

21 I believe that Waukegan and its residents
22 are far overdue and deserve to have a
23 pollution-free community.

24 Now, I will shift and speak as an alderman.

1 I must make mention that within the 4th
2 Ward is the municipal beach, some industries,
3 and the Waukegan Port District.

4 The coal-burning power plant owned by NRG
5 is not in the 4th Ward but resides in the 7th
6 Ward, which is approximately 2 miles north
7 along the shoreline from the municipal beach
8 and operates with open-air unsheltered coal
9 mounds along with two open-air unsheltered coal
10 ash ponds.

11 Please keep in mind the proximity of the
12 coal-burning power plant and the municipal
13 beach.

14 I am currently the youngest alderman on the
15 council, at 34 years of age. The next youngest
16 alderman is approximately 16 years my senior.
17 I start by mentioning my age because I think it
18 will help bring perspective to my narrative as
19 an alderman.

20 I believe that my comparative youth affords
21 me the great opportunity to realistically think
22 about Waukegan in terms of 20 years in the
23 future.

24 In 20 years from now, I will have reached

1 the age of my peers on the council, and God
2 willing, I will still be involved in seeing
3 Waukegan prosper, whether as an elected
4 official or a community leader.

5 Presently, as I make decisions for
6 Waukegan's future regarding development, I ask
7 questions with the mentality of "How will this
8 affect Waukegan and myself in 20 years?"

9 It is this mentality that drives my efforts
10 to see a Waukegan free from industrial
11 pollution with great economic potential.

12 I find myself faced with a dilemma. The
13 dilemma lies in that we are devoting money and
14 manpower to see development projects on the
15 lakefront come to fruition, and on the other
16 hand, there is the legacy and present
17 industrial pollution to be faced and overcome.

18 In 2003, Waukegan created a Master Plan for
19 the Lakefront, and for over a decade very
20 little has been accomplished to see that Master
21 Plan come to fruition.

22 There are many reasons for this, but one of
23 the central challenges is the long legacy of
24 contamination left at many of these lakefront

1 sites that offer few opportunities for reuse.

2 Waukegan's mayor, Wayne Motley, and my
3 fellow aldermen have devoted ourselves to see a
4 newly developed Waukegan lakefront. We have
5 commissioned Edgewater Resources, an economic
6 consultant company, to review the Master Plan,
7 conduct community meetings, and lay out a
8 strategy for accomplishing aspects of the
9 Master Plan.

10 We are presently moving forward with the
11 recommendations as presented by Edgewater
12 Resources by devoting funds and manpower to see
13 new development on the lakefront.

14 Interestingly enough, Edgewater Resources
15 stated that the coal plant was "incompatible"
16 with our lakefront's future and recommended
17 that the City of Waukegan support efforts to
18 transition the plant to clean energy.

19 Unfortunately, that recommendation was
20 removed in the final report to the City, thus
21 leaving my fellow aldermen, who were not
22 present during that meeting, in the dark about
23 this recommendation.

24 In the efforts to move forward on the

1 proposed recommendations, Mayor Motley created
2 a Lakefront Coordinator position to oversee
3 project management of the lakefront, and just
4 this past Monday, during our council meeting,
5 we hired Deigan & Associates, L.L.C., on an
6 interim basis to fill this position.

7 Also, this past council meeting, we agreed
8 to sign a contract that will bring a music
9 festival to Waukegan's lakefront during
10 Memorial Day weekend that will hopefully bring
11 approximately 200,000 visitors over the
12 weekend.

13 Also, we have submitted a grant application
14 to the Illinois Department of Natural Resources
15 to assist in funding for signage, a new gate
16 house, new permanent public restrooms, trail
17 guides, a plank walk, a pavilion, and bioswales
18 that will help with the current water drainage
19 problem.

20 I am excited about us moving forward on
21 these projects that will bring more visitors to
22 the lakefront, but I am also concerned about
23 pollution exposure that present and future
24 visitors are faced with unless we can get firm

1 policy in place that can help move Waukegan
2 forward from industrial pollution.

3 This past February I visited Washington,
4 D.C., and spoke with Senator Durbin and a staff
5 member and also staff members from Senator
6 Kirk's office, Representative Gutierrez's
7 office, and Representative Dold's office,
8 regarding the coal-burning power plant owned by
9 NRG Energy in Waukegan.

10 In speaking with Senator Durbin, he posed a
11 question to me that at the time I could not
12 answer. To paraphrase the question, if a
13 private industry is operating under compliance,
14 how can we force them to improve their
15 operations regarding pollution?

16 After consideration, I have a thought to
17 answer that question. Simply put, we need to
18 actually enforce our existing laws while also
19 strengthening policy regarding industrial
20 pollution, particularly in environmental
21 justice communities, specifically enforcement
22 of existing laws such as the federal Clean Air
23 Act.

24 The Waukegan coal plant still does not have

1 a finalized, up-to-date operating permit that
2 is required under this law. This is due to
3 mismanagement of the Illinois EPA Title V
4 Permitting Program, and I ask that the Advisory
5 Committee support our efforts to make sure the
6 agency finally moves forward with a strong
7 permit that adequately protects our community.

8 Additionally, our community is in desperate
9 need of air monitors, and I would ask the
10 Advisory Committee to support our advocacy
11 efforts with Illinois EPA and U.S. EPA to bring
12 those to Waukegan.

13 Under the U.S. Constitution Article 1,
14 Section 8, commonly referred to as the Elastic
15 Clause, Congress has the power to make laws
16 which shall be necessary and proper for
17 carrying into execution...powers vested by
18 [the] Constitution...

19 The U.S. Constitution is the law of the
20 land, therefore, logically it is within
21 legislative power to strengthen policy
22 regarding industrial pollution.

23 One such policy that needs to be
24 implemented is the requirement of industries to

1 take ownership of the pollution created on site
2 by paying for remediation of the site during
3 operations and prior to vacating a site.

4 Currently, the Illinois Pollution Control
5 Board is reviewing whether to move forward with
6 state-specific coal ash regulations, and given
7 that the federal coal ash rule is inadequate to
8 protect communities like Waukegan, I would ask
9 that the Advisory Committee recommend that the
10 Pollution Control Board move forward with
11 strong state protections. Included in those
12 must be a requirement for coal plant operators
13 to set aside financial assurances for eventual
14 coal ash remediation and clean-up upon
15 retirement.

16 This is critical to make sure environmental
17 justice communities like Waukegan are better
18 positioned for future development of these
19 sites and are not plagued with legacy pollution
20 for decades.

21 This brings me back to Waukegan because
22 Waukegan has had to find funding and pay for
23 remediation of lakefront land and shoreline for
24 over 30 years. As noted in the Chicago

1 Tribune's article dated August of 2014, "With
2 the culmination of a 30-year, \$150 million
3 cleanup to rid the shoreline of contamination
4 left by the city's former industrial giants
5 along Lake Michigan, the U.S. Environmental
6 Protection Agency announce that the harbor has
7 met requirements to be removed from the list of
8 43 polluted sites dubbed the "Great Lakes Areas
9 of Concern." The federal agency will continue
10 to monitor the site for an unspecified amount
11 of time, possibly a few years, before it is
12 officially "de-listed."

13 Waukegan has had to deal with just one
14 industrial pollution remediation project for
15 almost as long as I have been on this Earth.
16 There are five Superfund sites in Waukegan
17 which means that for decades Waukegan has had
18 to place millions of dollars toward remediation
19 that could have been used toward infrastructure
20 projects such as roads, walkways, and sewers
21 that could have improved the city aesthetics
22 and enhanced the quality of life for
23 Waukeganites.

24 CHAIRMAN LINARES: You have three minutes.

1 MR. VILLALOBOS: Presently, I have to be
2 concerned when heavy rains occur because
3 multiple residents within the 4th Ward have
4 basement flooding due to inadequate city sewer
5 drainage. Heavy rain events and flooding will
6 only continue to increase due to our warming
7 climate. The resident may lack the economic
8 resources to pay for the water damages -- pay
9 for the water damages and have to live with the
10 potential for mold growth, or pay thousands of
11 dollars in water damage repair which can bring
12 about financial hardship and thus lower the
13 quality of life for the resident and family.
14 Had Waukegan been able to reallocate funds used
15 for past remediation to upgrade the sewer
16 system, basement flooding would not be
17 occurring for 4th Ward residents. I make this
18 one correlation to show that for decades
19 Waukeganite's quality of life has been
20 adversely affected by conditions brought upon
21 by industrial pollution, and this is social
22 injustice.

23 To be sure, there are many more unforeseen
24 correlations that can be made.

1 When Waukegan moves beyond industrial
2 pollution, I fear that history will repeat
3 itself, and Waukegan will have to fund another
4 remediation project along the shoreline, and
5 lakefront development will get stymied.

6 As I mentioned, the City of Waukegan is all
7 in to see a developed lakefront that will offer
8 entertainment and leisure to visitors and
9 potential lakefront residents.

10 We are placing a lot of Waukegan's future
11 on the success of the lakefront development and
12 don't need barriers such as industrial
13 pollution to be a cause for failure which could
14 potentially cripple Waukegan financially if
15 dollars need to be redirected to another
16 remediation project. If such an event were to
17 happen, Waukeganites could become
18 disenfranchised and Waukegan could potentially
19 see a mass exodus of residents, thus spiralling
20 the city into financial ruin as the tax base
21 diminishes.

22 As the Lake County seat and the ninth
23 largest city in the state, Waukegan should not
24 have to endure potentially decades more of

1 industrial pollution.

2 As I envision the future of Waukegan, I see
3 a Waukegan that is a clean power community
4 where some of Waukegan's brownfield sites have
5 been converted to solar fields.

6 These projects will create job
7 opportunities and put Waukegan on the map as a
8 clean energy community thus attracting new
9 residents and boosting city economics. I
10 envision this future coming to existence with
11 the help of NRG.

12 CHAIRMAN LINARES: One minute remaining.

13 MR. VILLALOBOS: There have been efforts
14 made to NRG to discuss the future of their site
15 and other clean energy opportunities, but NRG
16 has been reluctant to begin dialogue. And so,
17 I end my statement on a note of hope. A hope
18 that NRG can come to the table and talk with
19 Waukeganites in the efforts to truly become a
20 champion for Waukegan and aid in the
21 revitalization of the lakefront and the city as
22 a whole.

23 Thank you.

24 CHAIRMAN LINARES: Thank you very much.

1 We'll continue with speakers as listed.

2 So Mr. Walts and Ms. Jencius, whichever one
3 of you, wants to speak.

4 MR. WALTS: Thank you for this opportunity
5 to speak before the committee. I appreciate
6 that.

7 I am appearing as the environmental justice
8 program manager for Region 5. Ms. Jencius
9 is -- I guess you can introduce yourself.

10 MS. JENCIUS: I'm a scientist in the Air
11 and Radiation Division. So I can speak to our
12 air program specifically.

13 MR. WALTS: As you'll hear, our air program
14 has been doing some really significant and
15 valuable work in communities in southeast
16 Chicago in particular.

17 Thank you.

18 So what I can say at the outset is
19 environmental justice is a very high priority
20 for EPA. It's been a very high priority
21 throughout the Obama administration. I'm not
22 going to go into this in detail because of the
23 time allowed, but if you look on our website,
24 you will see the work that was done in the EJ

1 2014 Plan to try to make significant progress
2 by the 20th anniversary of the executive order,
3 make sure we have the tools and approaches in
4 place to address environmental injustice.

5 And really what that comes down to are
6 principles of meaningful involvement and fair
7 treatment.

8 We work with a wide range of government and
9 non-government partners to carry out that work,
10 but most importantly people who live, work, and
11 play in overburdened communities help us to
12 identify what the priorities are and how we can
13 best carry out our programs in ways that are
14 responsive to the needs of the communities and
15 that build upon the strengths of those
16 communities in creating long-term sustainable
17 positive change.

18 Illinois EPA, particularly in southeast
19 Chicago, has been an important partner for us
20 to make sure that we are doing exactly what
21 Mr. Villalobos highlighted, which is to make
22 sure that facilities are in full compliance.

23 We may not be able to change the overall
24 statutes, but we do have significant

1 enforcement powers, and one of the things that
2 we do try to do is make sure we have full
3 compliance. And we work together with the
4 state on that.

5 I provided a copy of a PowerPoint that goes
6 through some of these items I'm going to refer
7 to in more detail, and you have that detailed
8 information in your hands.

9 But, essentially, when you look through it,
10 in general our starting point -- of course, if
11 we want to assure fair treatment, we have to
12 identify where disproportionate impacts are or
13 may be occurring.

14 And so EJSCREEN is our current tool for
15 doing that. It is publicly available. Anyone,
16 government or non-government, can use that
17 tool, and we hope it creates a common
18 conversation about where those disproportionate
19 impacts are so we can build the partnerships
20 and coalitions that we need to create positive
21 change.

22 However, it is just a screening tool. It
23 is not going to give us the answer, and it is
24 very important for us as well to be talking

1 with people in communities so, if somebody says
2 to us, we are experiencing social injustices or
3 disproportionate impacts, we don't stop to look
4 at our tool and see whether our tool agrees
5 with them. We speak to those folks, and we
6 figure out what their issues are and what tools
7 and resources EPA has that can contribute to
8 the positive solution.

9 We also refine our understanding of the
10 environmental justice concerns and
11 disproportion impact by using a wide range of
12 environmental data, and one set of
13 environmental data that I've highlighted for
14 the Committee is the National Air Toxics
15 Assessment.

16 There's a new set of data that I believe is
17 just coming out or is coming out soon. Just
18 come out. Okay. A new set of data from the
19 National Air Toxics Assessment that's just been
20 released. And so that's a tool that helps us,
21 once we've screened an area, to get a more
22 precise understanding of the risk of -- risks
23 associated with air toxics in specific areas.


24 So we have -- again, the fundamental point

1 that I want to make here is we use the full
2 range of data that we have and specifically use
3 this data to find disproportionate impacts so
4 we can target our work to those most
5 significant issues. That's just good
6 government. It's to find the worst problems
7 and solve them first. And that's what we try
8 to do.

9 One of the really important tools that we
10 have -- you know, when we talk about
11 approaches, rather, that we have learned over
12 many years is essential to create that sort of
13 systemic change is collaborative
14 problem-solving that engages the community,
15 engages a wide range of partners, and brings
16 all the different authorities, tools, and
17 resources we can to the table to address the
18 priorities that have been identified by the
19 folks who live in those communities.

20 So in that respect, you'll see a few slides
21 towards the end here that talk about our
22 community initiatives that our air program in
23 particular has been carrying out.

24 We have been active in South Chicago for

1 many years now, working with folks like the
2 Southeast Environmental Task Force, but
3 particularly in fiscal years '14 and '15,
4 continuing into this year, we had a
5 ncerted focus on southeast Chicago. And
6 what you'll see when you look at these
7 info-graphics here is that it will give you a
8 sense of the range of tools that we bring to
9 the table. Okay?

10 So there are voluntary programs. There are
11 educational/informational types of things we
12 can do like helping schools familiarize
13 themselves with air quality indices and give
14 students a chance to empower themselves by
15 checking that information, but a very important
16 part of that, again I want to emphasize, is
17 enforcement.

18 We do inspections. We find violations. We
19 address those violations. And we can get both
20 injunctive relief that changes the way a
21 company is carrying out its work, as well as
22 recovering penalties that deter future
23 violations and make it clear that we expect
24 compliance in every part of every city and that

1 there are no sacrifice zones or other areas
2 where it's okay to not comply with the law.

3 And through those enforcement actions and
4 our other actions, we can get very significant
5 emissions reductions.

6 So I think that's one of the most important
7 tools that we have where we can target our work
8 to where the need is greatest.

9 We also apply this philosophy in the
10 context of permitting.

11 Most permits are issued directly by states.
12 And so, you know, our partner, Ken Page, will
13 talk about the environmental justice programs
14 that Illinois EPA has. We attempt to support
15 the work that Illinois is doing by providing
16 information to them on a potential for
17 environmental justice concerns as we review
18 state permits.

19 And when we are reviewing state permits,
20 given the large number of state permits and the
21 limited capacity that EPA has to duplicate and
22 look at what the state is doing, we focus our
23 attention/energy on the subset of permits that
24 are being proposed for facilities in these

1 areas that we know are overburdened, where
2 there's concerns about disproportionate
3 impacts, as well as, aside from impacts, where
4 we know there's a great deal of community
5 interest, and we want to make sure we're
6 working together to make ourselves available as
7 representatives of the government for members
8 of the public in that community to talk to us
9 to raise their concerns and really make sure
10 that we've got a true public participation
11 process that doesn't just meet the minimum
12 regulatory requirements but actually assures
13 meaningful involvement and makes sure people
14 have a voice in that decision to the full
15 extent they can under our statutory regime.

16 So with that, I'll stop to try to allow
17 ample time for comments when we get to that
18 stage.

19 MS. JENCIUS: I guess I can add a little
20 bit to what Alan was saying with our work in
21 the Air and Radiation Division specifically.

22 So historically we use the tools that Alan
23 talked about, the National Air Toxics
24 information and the environmental justice

1 tools, to guide our work into different things
2 that the air division does. So with
3 enforcement, we would look at these
4 environmental justice areas and we would
5 prioritize those. Same with permits.

6 However, recently we started kind of doing
7 things just a little bit differently where we
8 would actually pick a specific community, and
9 we would bring all of our resources to bear in
10 that community. So we would tell them about
11 things that we could offer, but in addition to
12 that, we would ask them what do they need.

13 So the community itself could be city
14 officials. It could be groups that have
15 concerns. And we would just open ourselves up
16 to hear what they wanted.

17 And we would refer within our group --
18 since we are air, if someone had more interest
19 in blight, we would refer them on to a contact.
20 So we are trying to make ourselves available to
21 very specific communities.

22 That's created a good relationship. It's
23 also created some sort of direct access and
24 allowed us to be responsive and know what's

1 going on.

2 And I think it's been really great that we
3 have been able to. If a company is going
4 through the permit process like Alan talked
5 about, and Illinois is issuing that permit, but
6 the community wants to know how to review that
7 permit, not only are our permit folks saying,
8 hey, Illinois EPA, this might be an area of
9 concern, you know, maybe take a little more
10 interest in public noticing this to the
11 community. If the community group itself says
12 we want to know how to review these permits,
13 we'll do a training and teach them how to
14 review permits and how to go through that
15 process.

16 So we are trying to be nimble and flexible
17 to meet the needs.

18 CHAIRMAN LINARES: Very good. Thank you so
19 much.

20 So we'll now pass microphone on to Mr. Ken
21 Page. The microphone is yours for five
22 minutes.

23 MR. PAGE: Thank you.

24 I would like to thank the Illinois Advisory

1 Committee for inviting the Illinois
2 Environmental Protection Agency here today to
3 explain our environmental justice program.

4 I have been here for a few hours. So I've
5 heard a lot of things. My name came up quite
6 often.

7 But, again, I'm Ken Page. I'm the agency's
8 environmental justice officer. And the agency
9 has worked with environmental justice
10 communities in the northernmost parts of
11 Illinois to the southernmost tip of the state.

12 The agency is very sensitive to the issues
13 that are raised by environmental justice areas.

14 We have established direct communications
15 with the EJ groups throughout the Chicagoland
16 area, as well as the state.

17 The agency has the best, if not one of the
18 best, environmental justice programs in the
19 country, and the agency has dedicated time and
20 resources to make environmental justice
21 programs and this environmental justice program
22 successful.

23 The agency has dedicated a full-time staff
24 person to become the environmental justice

1 officer, that's myself, to this program, and I
2 coordinate all the agency's EJ activities
3 throughout all the bureau. That's the Bureau
4 of Land, the Bureau of Air, as well as the
5 Bureau of Water, and I also act as the
6 spokesperson for the agency on environmental
7 judgment issues.

8 All the agency staff in all the permitted
9 programs and all the bureaus, the Bureau of
10 Air, Bureau of Land, as well as the Bureau of
11 Water, and all the cleanup programs are trained
12 in environmental justice.

13 And the agency has developed a website
14 dedicated to environmental justice, but I was
15 going to bring copies, but we do not have a
16 budget and we have a zero printing budget at
17 the agency so I would recommend that you go to
18 www.epa.illinois.gov, and I will discuss some
19 of those things, those tools, that are found on
20 the agency's website.

21 The agency developed an EJ policy, and that
22 policy ensures that communities are not
23 disproportionately impacted by degradation of
24 the environment or receive less than an

1 equitable share of environmental protection.

2 It strengthens the public involvement in
3 environmental decision-making including
4 permitting, regulating, remediation, and
5 enforcement matters.

6 It ensures that the agency personnel use a
7 common approach to address environmental
8 justice issues and also ensures that the agency
9 continues to refine its environmental justice
10 strategy.

11 And that policy is located on the agency's
12 website as well, and it's in English as well as
13 Spanish.

14 And so in order for us to communicate to
15 the -- to the public what we -- how we want --
16 how the programs have been involved in the
17 different permitting aspects of our agency, the
18 agency developed an EJ public participation
19 policy, and this policy was developed for the
20 community, but it also was great for us
21 internally because it forced us to put things
22 in writing what we were doing because, you
23 know, as a governmental agency, we -- we knew
24 that we -- we knew what we were doing, and we

1 were not able to explain it to individuals. So
2 we had to put it in writing. So with that EJ
3 public participation policy, it explains the
4 agency's approach to involving the public and
5 EJ communities and predominantly addresses
6 public outreach in the context of permitting
7 transactions.

8 But it can be applied to other agency
9 actions. Cleanups as well.

10 And that EJ public participation policy is
11 well used by a lot of the community groups as
12 they installed new permits that the agency
13 issued and the opportunity to explore public
14 involvement.

15 And that policy is in English -- on the
16 agency's website, and it is in English and
17 Spanish as well.

18 And also the agency wanted to give the
19 public an opportunity if they had complaints or
20 grievances, a procedure to file those
21 complaints and grievances with us.

22 So we developed an EJ, environmental
23 justice, grievance procedure, and that
24 procedure is on the agency's website, as well.

1 And basically that procedure gives an
2 individual an opportunity to file a complaint
3 with us. If they are alleging discrimination,
4 we encourage them to file a complaint with us
5 because it will give us, as a state, the
6 opportunity to try to address that before going
7 to the feds to file a Title VI complaint with
8 the U.S. EPA Civil Rights.

9 So we've had a number of complaints, and
10 that grievance procedure has worked well for us
11 as well as the community.

12 And also on the agency's website you will
13 find our notice of nondiscrimination, and all
14 those documents on the agency's EJ website page
15 are in English, as well as Spanish.

16 So in order for the agency to determine
17 whether or not a community or -- was a
18 potential -- was located within a potential EJ
19 area -- or some people have used that -- say EJ
20 community -- the agency developed their own
21 screening tool.

22 Now, we did have access to U.S. EPA's
23 screening tool, but we developed our own
24 internally, and it's called EJ START. And

1 that's how -- and that's -- the agency uses
2 that screening tool to determine -- to
3 screen -- we have screened all of our permits
4 and permitted transactions within the agency.
5 So whenever a permit comes in, that permit is
6 flagged as either EJ or as not.

7 So if it's EJ, that permit -- that
8 permitted transaction is sent to the EJ officer
9 for further review to determine the type of
10 outreach that is necessary.

11 And also the community was requesting
12 access to more information from us, and usually
13 they had to go through the FOIA process, and
14 that can be somewhat labor-intensive for us as
15 an agency, but we wanted to make sure -- we
16 wanted to provide that information to the
17 community so they could have easy access to it.

18 So the agency developed a permit portal.
19 So that permit portal lists all of the permits
20 within the Illinois EPA. So -- and that's on
21 the agency's website as well.

22 So you can go to that permit portal. You
23 can put in -- if you don't know the name of the
24 facility, you can put in the city so it pulls

1 up all those permits within that city, and it
2 would tell you whether or not that permit is
3 located within an environmental justice area.

4 So that's a great tool that has been used
5 greatly by the community groups.

6 And in addition to the permit portal and
7 because of the freedom -- because of FOIA, the
8 Freedom of Information Act, community groups
9 were complaining that the agency was not
10 provided -- was not transparent enough, they
11 did not get all of the information that they
12 needed or they did not know the type of
13 information that they needed, and instead of
14 going through FOIA -- because the permit board
15 just lists the permits and lists just basic
16 information.

17 So the agency developed a document explorer
18 tool, and that's on the agency's website.

19 So in addition to the permit portal, a
20 person can go to the document explorer tool,
21 and you can put in a site name, and it will
22 pull up all the documents under that site,
23 everything entirely under that site.

24 And a big issue that community groups had

1 was they were not able to get the enforcement
2 information. So that information is on -- in
3 that document explorer tool as well.

4 So that document explorer tool will contain
5 all the agency records on air permits,
6 construction as well as operating, the NPS
7 water discharge permits and national pollution
8 discharge elimination system permit, the
9 underground storage tank sites, the voluntary
10 site remediation program sites, as well as
11 state responsive action technical documents.

12 So there are thousands of documents filed
13 on that document explorer. So you can put in
14 any site manual and pull up everything that we
15 have in-house so that you can have it
16 electronically, and that has worked for us
17 greatly because it cuts down on the number of
18 FOIA requests that we have to provide to the
19 public.

20 Now, what was happening is that the
21 community had concerns that they found out
22 about permitting transactions when it was too
23 late for them to have an opportunity to gather
24 the information in order to provide meaningful

1 dialogue if there was a public meeting, a
2 public hearing.

3 So what the agency -- what we have done,
4 we've started this program. It's a couple
5 years now. The environmental justice
6 notification letters.

7 Whenever a permitted transaction is
8 submitted to the agency, as soon as it hits the
9 agency, if the EJ -- if it's located within an
10 EJ area, it's flagged to the EJ officer, we
11 will immediately send an environmental justice
12 notification letter. It will go to all of the
13 elected officials in that area. We have a huge
14 distribution list that will -- that includes a
15 lot of the community groups that have requested
16 to be on that list, and so it will go to the
17 elected officials, it would go to the facility
18 itself and all the community groups, like the
19 NAACP, the Sierra Club, LVEJO. If it's within
20 that area, they will get that EJ notification
21 letter to let them know that we have received a
22 permit and they have requested this and that --
23 and so we give -- there's a contact on that
24 letter so -- for them to contact.

1 And what we found is that we already know
2 as an agency where we are going to get a lot of
3 hits in certain areas, and we do get those
4 hits. Those community groups do, in fact,
5 call, and they enjoy getting those letters.

6 Now, we send hundreds of them out, and
7 maybe probably ten percent we will get hits on,
8 but you never know. The other 90 percent you
9 may get a hit on one area now and then -- but
10 those high-traffic areas, we know we are going
11 to get hits on those and communities do
12 appreciate those letters.

13 And I have five minutes.

14 MR. KAZMI: There's plenty of questions.

15 MR. PAGE: I'm sure there is.

16 But, you know, in addition to that EJ
17 program, the agency -- we established an
18 environmental justice advisory group and -- to
19 advise our director on environmental justice
20 issues.

21 So that consists of U.S. EPA. We have
22 some -- several universities, other state
23 agencies, and community groups. So we meet
24 quarterly and discuss issues that they have, as

1 well as what we have. So that information is
2 provided to the agency.

3 Now, by statute, the legislature passed the
4 Environmental Justice Act that included the
5 Environmental Justice Commission. So we do
6 have -- and in the state of Illinois, we do
7 have the Environmental Justice Commission, that
8 we -- and the chairman is appointed by the
9 governor, and we have several state agencies on
10 that: Illinois EPA, Illinois Department of
11 Public Health, Illinois Department of
12 Transportation, Illinois Department of Natural
13 Resources, Department of Commerce and Economic
14 Opportunities. There's about six or seven
15 state agencies on there, as well as community
16 groups, members that represent industry, and so
17 forth and so on.

18 So that group committee -- commission meets
19 quarterly and provides recommendations and
20 reports to the governor as well as the
21 legislative leaders on environmental issues and
22 things that need to be changed.

23 But I would like to say that, in addition
24 to all of the things that have been said today

1 that included the Illinois Environmental
2 Protection Agency, we have since the beginning
3 of our program and -- and I've been in our
4 program since the beginning, and I worked with
5 Alan Walts with U.S. EPA. So we've sought to
6 make sure that the community was well -- was
7 involved, and we also look for opportunities to
8 include the community in those permit
9 processes, and we provided -- we've given
10 communities, if they requested from you --
11 especially the EJ communities -- additional
12 time, to provide comments. We have done that.
13 If they've requested a public hearing, we have
14 done that. If they have public meetings, we've
15 done that, community meetings, and, you know,
16 we drive -- we drive from Springfield to -- to
17 this area, and so it's about -- a little over
18 three hours for us to come here, and we have
19 evening meetings. All of our meetings are in
20 the evening. We have never had a meeting that
21 wasn't in the evening, and we provide that -- a
22 lot of community groups to choose locations
23 that they would like to have meetings, but we
24 have to make sure that those locations are

1 accessible because we have to do that as a
2 state agency.

3 But I feel that we've made great strides in
4 our EJ program. And, of course, everyone is
5 not going to be very happy with what we do, but
6 we do what we have to do, and we -- and we will
7 continue to evolve. It's not a stagnant
8 program, and our policies and documents are not
9 stagnant. So they are -- they have evolved as
10 we have evolved as an agency.

11 So, again, I do appreciate this opportunity
12 to discuss our -- to give you a quick overview
13 of our environmental justice program.

14 So please look at that website and check
15 out our environmental justice documents.

16 And thank you again.

17 CHAIRMAN LINARES: Thank you all so much.

18 So we are going to open it up to the
19 Committee for questions.

20 Mr. Howard.

21 MR. HOWARD: This is for Mr. Walts and
22 Mr. Page.

23 We had testimony earlier in the day that
24 complained that the EPA was tardy in

1 investigating these issues, pushed for
2 settlements rather than, I guess, punitive
3 enforcement. They also suggested that the only
4 recourse the EPA had was to withhold grants,
5 and Mr. Walts has mentioned that you have
6 injunction power and other penalties that you
7 can use.

8 I guess I just wanted to get a sense of to
9 what degree are you particularly using Civil
10 Rights Act of '64 and that Title -- what was
11 it? VI?

12 MR. KAZMI: Yes.

13 MR. HOWARD: Title VI in your enforcement
14 of environmental justice.

15 MR. WALT: Thank you. I'll start and turn
16 it over to Ken.

17 So the work that I was talking about during
18 my statement is all under the rubric of
19 environmental justice, and that's the work that
20 we in Region 5 own. We do it every day, and we
21 use the full range of tools.

22 When we talk about use of injunctive
23 authority/punitive authority, those are the
24 authorities that we've been given under

1 environmental statutes, Clean Air Act and so
2 forth.

3 So the way that using those authorities
4 advance environmental justice is by us using
5 them in the places where that is needed the
6 most that create positive change and address
7 disproportionate impacts.

8 Title VI of the Civil Rights Act is
9 administered by the Office of Civil Rights in
10 D.C.

11 I can't speak in a great deal of detail to
12 how they are processing Title VI complaints.

13 I can say that they have been aggressively
14 attempting to improve the civil rights program
15 over the past several years and trying to
16 update the regulations and be more effective
17 and more timely in addressing and responding to
18 Title VI complaints.

19 What we try to do through the environmental
20 justice program is to do the work on the ground
21 that will address the disproportionate acts
22 that are driving these complaints, and we also
23 work with the Office of Civil Rights to try to
24 promote expeditious response to those

1 complaints to the extent that we can.

2 With respect to the question of "Are there
3 other tools besides withholding grant money",
4 specifically under Title VI, it's my
5 understanding that's -- that is the ultimate
6 backstop. If we cannot reach an informal
7 resolution that addresses the concerns about
8 discrimination after we've investigated it, and
9 we issue a letter of findings that finds that
10 discrimination occurred and the recipient of
11 federal funding that we are trying to address
12 that with refuses or is unwilling to address
13 those findings in a constructive way that will
14 resolve it, then the ultimate recourse, after
15 several other layers of process, is withdrawing
16 grant funds.

17 I'm not aware of any instance where we have
18 gotten to that point, and in one sense that is
19 really sort of, you know, cutting off -- I
20 would say cutting off your nose to spite your
21 face because what we need is to double-down on
22 the resources that those programs have to solve
23 those critical issues of disproportionate
24 impact. And if we were to withdraw grants

1 funding, that means the EPA has to administer
2 that program, and we don't necessarily have the
3 capacity to do that.

4 So there are good reasons why that final
5 resort of withdrawing grant money, at least to
6 my knowledge, has never been deployed for EPA,
7 but that is, in fact, as I understand it, our
8 ultimate authority and our ultimate
9 responsibility if we cannot resolve a Title VI
10 complaint in a fashion that fully addresses the
11 concerns regarding discrimination that we
12 identify.

13 MR. HOWARD: So the grant money is to clean
14 up?

15 MR. WALTERS: The grant money is the money
16 that we give to state and local agencies to run
17 federal environmental programs as delegated, or
18 authorized programs.

19 So if we withdraw that grant money, we are
20 essentially taking away the money that we are
21 giving the state to run that environmental
22 program which then puts the burden on EPA to
23 then start to run that program.

24 MR. HOWARD: I see.

1 MR. WALTERS: Was that helpful, sir?

2 MR. HOWARD: Yes.

3 CHAIRMAN LINARES: Mr. Page, did you want
4 to respond at all?

5 MR. PAGE: Well, you know, I -- we refer
6 all -- I would like to have the --
7 Mr. Sylvester discuss the enforcement aspect.

8 I think you asked an enforcement question
9 because we refer the cases to the Attorney
10 General's office for enforcement.

11 I think he was saying -- somebody said
12 things were slow or --

13 MR. HOWARD: It was actually -- can I
14 mention his name? It was Mr. Harley.

15 MR. PAGE: Keith Harley.

16 MR. HOWARD: Yeah. He has done, what, five
17 civil rights cases or six.

18 MR. PAGE: Well, the process is slow when
19 it becomes enforcement, and we -- as one state
20 that has had probably one too many -- we've had
21 several Title VI civil rights complaints, that
22 we had to address as a state agency. So it is
23 a process, and we work closely with U.S. EPA's
24 Office of Civil Rights in order to resolve

1 those issues, in addition to working with the
2 complainant as well.

3 So it's not that we -- you know, you come
4 up with that -- those results by yourself. So
5 everybody is involved in it.

6 So there are a lot of factors that go into
7 resolving a complaint. So -- and sometimes it
8 may, in fact, get to be slow because there are
9 a lot of things that go into it. So I can see
10 the process sometimes being slow, but maybe we
11 could say slow and deliberate, but that can, in
12 fact, happen.

13 MR. WALTS: And if I could add, you know,
14 as Ken mentioned before, Illinois EPA does have
15 a very strong environmental justice program
16 when you look across the states in this
17 country, and they also are in full compliance
18 with Title VI, which cannot be said of all
19 states in this country.

20 So the grievance procedure that Mr. Page
21 referred to earlier is the procedure that the
22 state uses to implement Title VI, and there is
23 a fairly recent instance you will find, if you
24 take a look at their website, where Illinois

1 EPA did successfully resolve a Title VI
2 complaint to Mr. Harley's satisfaction through
3 the state Title VI process.

4 So I think that's an example of a success,
5 and in my view, it was handled in a, you know,
6 reasonably timely fashion, that particular
7 matter, at a state level, which is how we'd
8 like to see Title VI function.

9 MR. HOWARD: I'm a little confused.

10 Does the EPA have a civil rights division
11 or it sounds like you were --

12 MR. WALTERS: Right.

13 CHAIRMAN LINARES: -- referring to a
14 completely separate --

15 MR. WALTERS: We have an Office of Civil
16 Rights within the administration in D.C., and
17 then we have Title VI liaisons that work with
18 that office.

19 I myself am the liaison for Region 5.

20 MR. HOWARD: Okay.

21 CHAIRMAN LINARES: And then we have two
22 questions. We'll go to Ms. Rodriguez first and
23 then Mr. Jackson Green.

24 MS. RODRIGUEZ: Along those lines, we heard

1 earlier today that the EPA is hamstrung to
2 process or to find enough evidence to build a
3 case that there is, in fact, a violation of
4 Title VI.

5 So what would you say to an office is
6 quantifiable evidence to suggest that there is
7 a violation of Title VI?

8 MR. WALTERS: Ms. Rodriguez, that's an
9 excellent question that is, frankly, beyond my
10 ability to answer that.

11 It's really something that the Office of
12 Civil Rights would have to speak to, and I am
13 sure they'd be happy to address that question
14 if asked.

15 But, essentially, you know, and most
16 importantly, you know, we have been -- the
17 Office of Civil Rights in EPA has been
18 reviewing how they process these complaints and
19 is trying to develop new processes that are
20 more in line with the state-of-the-art for how
21 to run civil rights programs in other federal
22 agencies.

23 So I say that to say, you know, the way
24 that these cases were handled in the past and


1 sometimes the very lengthy investigation into
2 impacts that, you know, uses our full range of
3 risk assessment capacity is not necessarily the
4 model going forward.

5 We want a more fast-moving model that we
6 are entering into dialogue with recipient
7 agencies as quickly as possible to reach a
8 resolution that addresses the underlying
9 concerns that drive that Title VI complaint and
10 not tie ourselves up in years and years of risk
11 assessment because we -- it's clear that that
12 is not the best way to get at the Title VI
13 civil rights issues that are being raised.

14 What's clear is that it's more important to
15 quickly enter into a dialogue and come up with
16 a constructive solution that improves processes
17 at the state or local agency that's getting EPA
18 money and that addresses the impact concerns of
19 the community.

20 So I think -- again, I can only speak on
21 their behalf only so far. But what I see, from
22 where I sit in Chicago, is that they are
23 working very hard to try and come up with a
24 process that can move more quickly and is more

1 inclusive and involves more dialogue so that we
2 get to a resolution more quickly without
3 spending as much time in analyses before we
4 enter that dialogue.

5  we heard that -- throughout the day that
6 there's a plant in Waukegan that has not had an
7 operating permit or an updated operating
8 permit.

9 Whose responsibility is that? I'm a little
10 bit concerned with the many layers in
11 bureaucracy in terms of the checks and balances
12 when you are talking about efficiency that
13 ensures that everyone is up to compliance.

14 Who -- who does that responsibility fall
15 on?

16 Is it the Illinois -- the board, the
17 pollution board, the Illinois -- your agency,
18 or the EPA -- the U.S. -- on the U.S. side?

19 MR. PAGE: I think people use EPA
20 interchangeably. We are the Illinois EPA, and
21 we say U.S. EPA. So a lot of people will say
22 EPA.

23 But, you know, we do have that permit in
24 process for the facility in Waukegan.

1 MS. RODRIGUEZ: Why is it taking so long?

2 MR. PAGE: Well, I'm not exactly sure, and
3 we can provide that information to you, where
4 that permit is and what has transpired with
5 that permit because I'm not -- at this point
6 I'm not ready to answer site-specific questions
7 because those were not given to me to bring
8 here to answer them appropriately for you. So
9 that's a permitting process, and I'm not
10 exactly sure where it is.

11 MR. VILLALOBOS: I can speak a little bit
12 to it. I have a little knowledge.

13 From my understanding, the permitting is
14 under litigation right now.

15 I think it might have been the Sierra Club
16 filed suit against the permit because it felt
17 that it wasn't substantial enough to where it
18 should be at.

19 From my understanding, the proposal was
20 from the 2006 guidelines, and even then it was
21 weakened from the 2006 guidelines.

22 So my understanding is it's under
23 litigation right now which is holding up the
24 finalization of it.

1 But as an alderman/resident of the
2 community, we are a community that doesn't
3 deserve second best anymore, and we have been
4 stuck with that for so long.

5 So when I found out that litigation, it
6 wasn't finalized yet, I was like, okay. That's
7 fine. Let's strengthen it up and make it
8 better for our community.

9 To me it seemed like it was a backslide
10 permit for our end. So that's my understanding
11 of the situation right now.

12 MS. RODRIGUEZ: I have one more question,
13 if that's okay, for Mr. Wheat.

14 You mentioned that the City is looking for
15 alternative uses of the Crawford and Fisk plant
16 and my understanding, based on other speakers
17 today, is that they are privately owned land
18 that still have a lot of residue from, you
19 know, the hazardous material that they left
20 behind.

21 So whose responsibility is it to clean that
22 for the City to say we're looking for -- to
23 revitalize these spaces for public use? And
24 what is the time line that the City is looking

1 at to move forward with revitalizing those --
2 where those two plants were sitting?

3 MR. WHEAT: So you mentioned two -- two
4 questions, first the question of environmental
5 remediation and then a second question
6 regarding the time line.

7 So environmental remediation typically
8 falls on the owner of the -- of the land.

9 So in this case it would be NRG Energy and
10 so the question is the use of that land going
11 forward.

12 And so depending on the different types of
13 uses will depend -- will determine the amount
14 of environmental remediation that will be
15 necessary.

16 Now, Fisk and Crawford operated for a
17 century. So it's fair to say there will be
18 significant levels of remediation that will
19 have to be necessary for any -- for any use.

20 But I think the first question is: What is
21 the use of the property? And the second
22 question becomes, you know, what does that
23 process look like?

24 NRG and the Chicago Transit Authority have

1 entered into a memorandum of understanding to
2 potentially use some of the space -- I think
3 specifically the Fisk area -- part of the Fisk
4 area for a -- basically a bus depot.

5 The advantages of that is that it would
6 provide a bus depot closer to the downtown
7 corridor. So it actually reduces not only
8 emissions for Chicago Transit Authority because
9 they don't have to go as far to park the buses
10 at the end of a run, but it also save -- it
11 will also save gas for the company -- for CTA
12 as well.

13 So that process began in 2015. That
14 process is ongoing and will take time.

15 There is not only the commitment on the
16 part of NRG in terms of environmental
17 remediation. The other question is the
18 capital. As those that have been involved, in
19 government it can take a while to raise capital
20 for fiscal assets.

21 And so the Chicago Transit Authority is
22 going through the process to potentially raise
23 capital to build that depot.

24 So I don't have a certainty in terms of

1 that time.

2 I know that, as part of the process that
3 Delta Institute ran, I believe they said it
4 typically takes somewhere along the lines of
5 nine years or more to take a brownfield or a
6 power plant area and convert it into reasonable
7 use because of the amount of community
8 involvement and the amount of environmental
9 remediation.

10 So it is a process, and it will take some
11 time I think, and the City is still committed
12 to working with NRG and others to make sure
13 that comes to fruition at some point.

14 CHAIRMAN LINARES: Mr. Jackson Green.

15 MR. JACKSON GREEN: Mr. Page, to what
16 extent would you say that the lack of a budget
17 in Illinois has affected the Illinois EPA's
18 activities?

19 MR. PAGE: The lack of what?

20 MR. JACKSON GREEN: A budget.

21 MR. PAGE: Well, the lack of money does
22 impact greatly on a lot of things. You know,
23 we -- you know, I'm not exactly sure how to
24 answer that.

1 I know that we -- we have been impacted by
2 staff retirements and not replacing staff and
3 things like that for the last couple years.
4 So -- but I'm not -- you know, I'm not sure of
5 the percentage and how -- but I do know that --
6 that we are understaffed in a lot of our
7 programs. That I do know. And so...

8 MR. JACKSON GREEN: Thank you.

9 CHAIRMAN LINARES: Mr. Kazmi.

10 MR. KAZMI: Yes. Thank you guys for
11 coming.

12 So let me start off by saying, based on
13 what you shared about Region 5, it seems like
14 you guys are doing good work.

15 While you guys were speaking -- no
16 disrespect -- I was reading. Actually your
17 PowerPoint slide that -- gave a bit of a
18 highlight on what you guys have been doing the
19 last couple years, which is great, and,
20 Mr. Page, you talking about what all the
21 website has and how accessible is, all you need
22 to access to Internet, and you can find out a
23 lot of information.

24 But to piggyback off of some of these

1 questions today, we received a lot of
2 information pertaining to requests for us to
3 support the endeavor of trying to get the
4 Illinois EPA and also the U.S. EPA to speed up
5 the process on a few different site-specific
6 matters.

7 We don't need to get into those.

8 And so my -- I don't want to say "way out"
9 for you, but I pose the question. Is it
10 because of budgetary constraints?

11 I know that here Illinois EPA with the
12 state budget, you know, is correlated to you,
13 but I also know that, you know, maybe the feds
14 might have some assistance.

15 So the question I say all that to say, what
16 can you to share with us to make us not be, or
17 at least secondguess, or do more research and
18 get more evidence to not provide heat or seek
19 stronger support for speeding up processes for
20 permitting?

21 Because we found out some information
22 today, of course, we are all going to
23 double-check, basically that there are certain
24 laws in place that seem, I guess, unreasonable

1 and even unconscionable and it correlates to
2 some of the rules that existed between your two
3 agencies.

4 So what do you guys think it is that might
5 be, I guess, providing a catalyst for community
6 members to feel that way?

7 I worked in government a lot, and I know
8 that community members always are going to have
9 different perspectives on things.

10 So I want to hear your perspective to
11 provide us information so we can make a good
12 judgment to provide to, you know, our chair for
13 the U.S. Commission on Civil Rights.

14 MR. WALTERS: Thank you. I'll try to speak
15 to that first and then turn it over to
16 Mr. Page.

17 So, unfortunately, I was not able to be
18 here today. I did want to be able to hear
19 everything that folks had to say, but I would
20 be very happy to work with you and other
21 colleagues in Region 5 to help you with the
22 fact-checking, tell you everything we know on
23 the site-specific issues with respect to the
24 different laws so we can address those issues.

1 I do want to say in general, though,
2 there's absolutely no question that there's
3 much more work to be done to achieve
4 environmental justice in this country. We are
5 very clear on that.

6 You know, again, if you look at our
7 website, you will see the plan that's EJ 2020
8 which is really to take where we are now with a
9 fairly robust set of tools and approaches to
10 tackle these issues -- really take it to the
11 next level and figure out exactly that, how do
12 you accelerate progress on these issues? How
13 do accelerate progress on mitigating
14 disproportionate impact? How do we accelerate
15 progress on empowering communities to drive the
16 priorities and drive what agencies are doing
17 what in their communities to solve their most
18 significant issues and, you know, build the
19 strengths that they want to have?

20 And there's much more to be done there.
21 There's no question about that.

22 I personally welcome the attention, the
23 pressure. I welcome the voices of communities.
24 I welcome the voice of this committee to drive

1 us to work harder, to drive us to find a better
2 way of doing business because that's very much
3 what we want to do.

4 Site-specific stuff we can talk about, and
5 it's really -- you know, again, do that
6 fact-checking, but globally speaking, you know,
7 there are tremendous resource concerns that
8 this agency faces. There's no question about
9 that. You can look at our budget over the
10 years. You can see that. That's strained us.

11 The way that we try to meet that challenge
12 is by authentically making environmental
13 justice a part of what every program does.

14 So if we are using environmental justice
15 principles in our sincere intent and desire to
16 reduce disproportionate impacts as part of our
17 guiding principles, then that guides the work
18 of all of our programs and where all of our
19 existing resources are being directed.

20 So if we had the choice to take an
21 enforcement action in a particular sector
22 that's a priority for us and there's one
23 facility that's in an area that we believe to
24 be disproportionately impacted, that's the

1 facility we are going to try to go to first.

2 If there's a permit that's being proposed
3 for a facility in an overburdened area, that's
4 the permit that we'll devote our limited
5 resources to.

6 So the more resources we have, the more net
7 work we can do.

8 Within the resources we do have, we make
9 that a fundamental basis for how we prioritize
10 the resources we do have.

11 But the voices of the community, the voices
12 of this committee to, you know, encourage us to
13 find better ways of doing business, and to call
14 for more resources to get that work done for
15 the American people is welcome.

16 MR. KAZMI: Do you not have -- if I
17 could --

18 MS. JENCIUS: I just wanted to add one
19 thing. I think we are also trying to work a
20 little differently because I don't know if we
21 project that we are going to get a lot more
22 money any time soon. We are trying to think
23 differently about how we do our business.

24 So one way we are doing things differently

1 is we really do try to partner. If there's a
2 concern with asthma, we know we ourselves can't
3 take it on. So maybe we'll work with the
4 American Lung Association.

5 So we are right now kind of reshaping
6 ourselves and trying to say, okay, we know we
7 can't do this ourselves, but who can we partner
8 with and sort of maybe liaison to bring the
9 right people together in the right way to make
10 things happen?

11 An example would be right now there may be
12 an opportunity to get Medicare to pay for
13 in-home asthma visits.

14 So if you have a disproportionately
15 impacted community, asthma rates are a lot
16 higher, the one thing we are doing is we're
17 trying to work with the insurance companies,
18 Medicare, health providers to get it to become
19 a new process that when you're in a home and
20 you need in-home asthma care so that it
21 prevents an ER visit that can happen. So we
22 are just kind of reshaping how we do things
23 where we can because we know what is the
24 likelihood that we are going to get more money.

1 MR. KAZMI: Do you guys not have
2 rule-making authority?

3 We just heard a few specific instances
4 today where -- I mean, this came up in the last
5 panel as well, where there's a particular set
6 of laws, for example, that a previous plant of
7 some sort -- maybe this is better for you,
8 Mr. Page -- may shut down and upon shutting
9 down, as long as there's no spillage or runoff
10 of any contamination from that plant that's
11 been shut down, the company can just shut down
12 and leave without there being any
13 repercussions.

14 And maybe you could better speak to that
15 for us.

16 Mr. Sylvester chimed in a little bit on it
17 from the AG's office, and I'd like to hear from
18 you because that's one of those things that I
19 don't know about my fellow Committee members.
20 I'm just taking a guess that they also think
21 that's ridiculous. So do I.

22 And so could you share -- if you don't have
23 rule-making authority, what about that? Is
24 that true? You might be best to answer that.

1 MR. PAGE: The Illinois EPA does not have
2 rule-making authority.

3 MR. KAZMI: And neither does the U.S. EPA?

4 MR. WALTERS: U.S. EPA does have rule-making
5 authority, yes. Under federal statutes, it
6 defines where we need to make those rules.

7 And, you know, again, I'm not a practicing
8 attorney at this point, so I can't really get
9 into the specifics of it, but I can say in
10 general. So at least in the RCRA context --
11 R-C-R-A.

12 MS. JENCIUS: Resource Conservation
13 Recovery Act.

14 MR. WALTERS: Resource Conservation Recovery
15 Act, RCRA.

16 At least in that context, there is a
17 requirement that an operation that's treating,
18 disposing, or storing hazardous waste has to go
19 through clean closure when they stop business.
20 Right?

21 And then, in the brownfield context, it was
22 mentioned, before that property is redeveloped,
23 it has to be cleaned up to the standard that's
24 necessary to support that use.

1 Those are a couple of things I do know
2 about that regime.

3 MR. PAGE: I think that was a very broad
4 statement that was made, and it's probably --
5 there's probably an element of truth to it
6 somewhere.

7 You know, it's complicated. Not all
8 companies are allowed to walk away. Then you
9 would have thousands and thousands. So nobody
10 would do a cleanup, but they would just leave
11 it and say, it's okay. It's not leaving --
12 it's not going off-site.

13 Now, I think that's what they were trying
14 to say. There are some maybe -- let's say, for
15 instance, a gas station may have -- I'm just
16 using this as an example -- a leaking
17 underground storage tank on their property.

18 And with -- they may -- in fact, they are
19 going to have to do cleanup if the tank is
20 leaking.

21 But the big issue is whether or not
22 contamination is leaving your property --
23 transferring to somebody else's property.

24 So there are a lot of situations where you

1 have a site -- a facility may be -- a site
2 could be 50 years old that has never --
3 contamination has never left it. You only find
4 out about it when somebody is doing a property
5 transfer or something like that.

6 So, you know, there are probably instances
7 where -- but not -- in a broad sense -- like
8 Alan mentioned RCRA, Resource Conservation
9 Recovery Act, site where they have to go
10 through the closure and everything.

11 So that was a broad statement to say that
12 everything -- they just walk away from sites,
13 which is not true.

14 MR. KAZMI: Thank you. Thank you for the
15 clarification. I don't know we are, I guess,
16 going to check that.

17 CHAIRMAN LINARES: And perhaps that's an
18 area of recommendation that this committee
19 comes up with that -- where that nexus is of a
20 potential disparate impact.

21 MR. VILLALOBOS: So it might have been the
22 summer or spring of 2014 where I went to an
23 IEPA hearing in Chicago, and I walked away with
24 that mentality.

1 My understanding was that there was no
2 policy in place that requires remediation of
3 land, and I think one of the aspects of it
4 might be if that industry still owns it, they
5 are not required to remediate.

6 So maybe the recommendation can be that
7 there would be time lines, if you stop
8 operations within X number of years, you have
9 got to remediate the land. That possibly could
10 be something.

11 I know I walked away from that hearing like
12 there's no guideline, there's no remediation
13 for land. And maybe it's been shifted when
14 they walk -- I'm thinking if they own and
15 possess it still, it's not required.

16 Waukegan has faced this with Johns Manville
17 in particular. They have been holding on to
18 the property for a very long time, and they
19 have been remediating very slowly over decades
20 I believe. I think since the mid '90s. That
21 20 years is inexcusable.

22 Waukegan's lakefront has thousands of acres
23 of fenced-off land right now that's in the
24 process of remediation.

1 Presently there's a bunch that are going to
2 be accessible to us again and we are excited
3 about that because that's land I have never
4 physically been on, thousands -- 8, 9,000 acres
5 of revenue. I have never been on that land.

6 MR. KAZMI: Your city and county was quite
7 popular today. And --

8 MR. VILLALOBOS: Yes.

9 CHAIRMAN LINARES: Any questions?

10 I'm going to take the liberty of a
11 question.

12 Let the record reflect that the chair is
13 asking a question.

14 This is for our municipal representatives,
15 Mr. Wheat and Mr. Villalobos.

16 Mr. Villalobos, you intrigued me with one
17 of your comments. It was, I think, if I'm not
18 mistaken, a question I was pulled back to by
19 Representative Gutierrez, which was how do we
20 reduce pollution when the coal-fired plant, or
21 whatever it is that you mentioned, is already
22 in compliance?

23 Are there goals from your end to actually
24 close down the Waukegan plant, just to be

1 clear, or the southeast Chicago plant, or do
2 you want to see stronger -- I know you guys
3 don't have maybe the regulatory power to shut
4 something down -- but maybe stronger
5 legislation to reduce pollution? Is that
6 something that you want to see?

7 MR. VILLALOBOS: So regarding the plant in
8 Waukegan -- correction. It was Senator Durbin.

9 So what I'm working on right now in
10 Waukegan County is a transition plan.

11 So, yes, working with Clean Power Lake
12 County, one of the goals is to set a retirement
13 date for the site so, yes, to see an end date
14 for its operations but also coupled with a
15 transition plan for the site, talking about
16 remediation of the land, talking about
17 transition of the workers.

18 Waukegan has a history of industry walking
19 away, shutting the doors, and having the
20 workers out in the wind.

21 We don't want to see that happen again.

22 Also we want to work with NRG Energy to
23 invest in Waukegan for a clean energy project.

24 NRG made commitments when they bought the

1 site in Waukegan to invest approximately \$300
2 million in solar panels for rooftops of some of
3 our schools.

4 That project has not come to completion
5 yet. It's in a limbo right now. It's
6 approximately two years, two and a half years
7 now, since NRG bought the site in Waukegan. So
8 it's more aspects than just close the door.
9 That's the question. I've talked to residents
10 about what we are trying to do here in Waukegan
11 regarding the coal plant.

12 And so that's why I mentioned, yes, it is
13 set for a retirement date for the site that's
14 old. It's crumbling to a degree. One of the
15 coal stacks just cracked, and it was taken down
16 recently. So even the physical structure of it
17 is starting to -- starting -- it's end date is
18 coming due physically too.

19 MR. WHEAT: You mentioned the southeast
20 side. So I think you were referring to the pet
21 coke plants.

22 So similar to what Waukegan encountered,
23 Fisk and Crawford in the city, we're literally
24 between a rock and a hard place from the

1 regulatory standpoint.

2 So emissions has typically been the purview
3 of the federal government and also the state
4 through Illinois EPA and U.S. EPA.

5 So the mayor and the city have tried to
6 take creative approaches, if you will,
7 around -- around this work.

8 So the City's position is that we are
9 unable and we are not allowed to ban pet coke
10 within the city limits.

11 So what we have done through both our
12 Chicago Department of Public Health and also
13 through the Department of Planning and
14 Development is try to place significant limits
15 on the ability to store pet coke within the
16 city limits.

17 So in 2014 we created requirements that set
18 specific end dates so that all pet coke piles
19 had to be covered and all conveyor belts do not
20 have exposure to the outside -- the outside air
21 with a deadline in place of June of this year.

22 At that point there were three facilities
23 that store pet coke. There is currently one.
24 So one is operated by KCBX, and KCBX to my best

1 knowledge is currently working to convert that
2 facility to a transport facility.

3 MR. KAZMI: Is that southeast as well?

4 MR. WHEAT: Yes.

5 MR. KAZMI: So all three are?

6 MR. WHEAT: All three are in the Calumet
7 area on the southeast side.

8 And, again, the City -- it creates some
9 potential legal challenges for the City in
10 regards to what we can and can't do. This also
11 gets back to one of the earlier questions in
12 regards to the path of litigation.

13 So there was litigation around the Fisk and
14 Crawford -- Fisk and Crawford plants, and that
15 litigation has been going on for several years.

16 The City understands that at times applying
17 public pressure is another avenue that the City
18 has and also the mayor and the City being able
19 to convene parties to discuss -- to talk and
20 discuss these issues also creates a more
21 expedient path than litigation.

22 So if we were to litigate Fisk and
23 Crawford, for instance, there's no guarantee
24 that Fisk and Crawford would be closed today,

1 but they have been closed -- closed for several
2 years.

3 I think the City will continue to act not
4 only through our Law Department but also
5 through the mayor's office and our operating
6 departments to try to find ways of reducing
7 pollution.

8 CHAIRMAN LINARES: Thank you. Any other
9 questions?

10 So we are going to dismiss this panel in
11 just a moment.

12 I do want to mention that we have an open
13 forum which we have to comply with for the open
14 meeting or public meeting, and what I'm
15 suggesting is we give the opportunity for our
16 staff, both the U.S. Commission and the
17 regional staff, to make some comment.

18 With that, I do want to thank you for your
19 time and input. This has been very helpful for
20 us in any recommendation we put toward.

21 With that, we'll dismiss this panel and
22 thank you again.

23 (Applause.)

24 CHAIRMAN LINARES: All right. So thank

1 you, everyone who's still with us today. I
2 think we had a great day and afternoon of panel
3 speakers and questions and a lot of information
4 for potential recommendations to the
5 Commission.

6 At this point we are going to open it up
7 for an open forum. And we'll have others make
8 comments.

9 We had only one person signed up thus far,
10 Sal Cavello (phonetic) from Chicago, Illinois.
11 Are you present? No.

12 So is there anyone else who would like to
13 make a public comment, anyone at all who is in
14 the room? You just have to sign up with us but
15 also come up to the table.

16 It seems not. Let the record reflect that
17 we paused for a moment.

18 So at this point I want to open it up to
19 our Commission staff, the regional staff,
20 either Melissa or David or whomever from the
21 regional commission, or our EP Commission,
22 Chairman Martin Castro or Mr. Mauro Morales, if
23 anyone wants to make comments today or
24 corrections or reflections?

1 CHAIRMAN CASTRO: Are you asking me to
2 speak?

3 CHAIRMAN LINARES: You can if you want to.
4 You don't have to.

5 CHAIRMAN CASTRO: I don't know if I'm
6 allowed to unless you ask me.

7 CHAIRMAN LINARES: Mr. Castro, would you
8 like to speak to the Commission?

9 CHAIRMAN CASTRO: Are you asking me?

10 CHAIRMAN LINARES: I am asking you to.

11 CHAIRMAN CASTRO: As you know, the
12 Commission does not at all interfere with your
13 hearings and your briefing. So I was pleased
14 to be able to give welcoming remarks and
15 observe today.

16 And if you are asking me what -- to give
17 you an opinion of what I saw today, it was,
18 first of all, a tremendous briefing, very
19 well -- well run, Mr. Chairman, and I always
20 appreciate a chairman who can run the meetings,
21 keep everyone's questions engaged and still
22 keep the panels moving.

23 The substance of what we heard today was
24 spectacular. I think you had a broad range of

1 witnesses discussing a broad range of issues
2 including coal ash but other areas, lead,
3 issues related to pet coke.

4 So it was very broad-based, and we
5 appreciate that.

6 Now, much of what we did in Washington
7 relates to the coal ash issue and does not deal
8 with specific states.

9 So I can't tell you what the Illinois EPA
10 said compared to what we heard because we
11 didn't hear it from the Illinois EPA.

12 I can tell you that -- and these are my
13 views because the Commission has yet to make
14 findings and recommendations. So I can tell
15 you what I observed during the hearing in
16 Washington, particularly as it relates to the
17 U.S. EPA.

18 As often happens, I think there is
19 sometimes a disconnect between what's happening
20 on the ground and what may be happening at
21 headquarters or at the national level.

22 I do not at all doubt the sincerity and
23 enthusiasm of the U.S. EPA reps who were here
24 today. It sounds like they are doing a lot of

1 great work in my home neighborhood, but some of
2 the critiques of the U.S. EPA at the national
3 level have been that, while -- there was a
4 reference to incorporating environmental
5 justice into everything the EPA does.

6 Some of the critiques we heard at the
7 national level were that that's not actually
8 happening in practice.

9 That is still very silent and very
10 compartmentalized and so that's an issue that
11 we -- we heard at the national level, and there
12 are budget challenges.

13 Our agency experiences them all the time.
14 So we are very keen on understanding when other
15 federal agencies have that same problem.

16 And I have no doubt that the U.S. EPA does
17 not have the financial resources that it needs
18 to really do everything it's supposed to do.

19 My recollection is that their Office of
20 Environmental Justice only has nine employees.
21 And that's not a lot to handle all the issues
22 that they have to deal with across the country.
23 So no doubt that that does affect their ability
24 at the national level to perform.

1 Having said that, it does seem that the
2 national EPA, based on what I observed and
3 heard at the hearing, are very focused on
4 process and less on the actual adjudication or
5 resolution of some of these claims.

6 It's my recollection that there may have --
7 there may not be any claim that they have
8 actually found valid, any complaints in the --
9 in the complaints that have been filed before
10 them.

11 Could that be an issue that relates to
12 staffing and timing and budget? Sure. But
13 that's a concern.

14 If that is the entity that's supposed to be
15 doing these things and it's only got nine
16 people and it's really focused on the process,
17 like plan 2020, which is great they are moving
18 forward with that, but by the same token, the
19 critique we heard was it's more process-
20 oriented, this is how we are going to do things
21 versus how are the things actually going to
22 be -- when are they going to be done?

23 And so those are some of the disconnects
24 that I see between what's happening on the

1 ground and what may be happening at the
2 national level.

3 It reminds me of other federal agencies
4 that we looked at.

5 I recall that when we had the -- we did our
6 briefing on U.S. military sexual assault, I had
7 these generals and admirals stand in front of
8 me under oath and say, "We got this issue
9 covered, Mr. Chairman, don't worry about it.
10 We are working on it."

11 And the next week in the Washington Post, I
12 see that on the ground, in the troops, in the
13 ranks, there was record numbers of sexual
14 abuse. It was a disconnect between what's
15 going on on the ground and what's going on
16 nationally.

17 Same thing with our recent hearing on the
18 immigration detention centers. I had DHS and
19 Homeland Security sitting in front of us
20 saying, "We got this. We got our regulations.
21 We got our anti-rape regulation. We are doing
22 all this." And then when we visited the
23 detention centers in Texas and on the border,
24 the reality was different.

1 So my advice to you, and the advice that we
2 always take, is there's sometimes a disconnect
3 between what's really going on on the ground,
4 the work they're trying to make happen there
5 and what may be happening at the national
6 level.

7 So sometimes it takes a little extra
8 digging.

9 So what you did today was very helpful to
10 us, from that perspective, to be able to see
11 that maybe there are some things that are going
12 on on the ground that we can look at a little
13 more closely that don't seem to be reflected in
14 what we heard at the national level.

15 CHAIRMAN LINARES: Thank you, Mr. Chairman.

16 I'm not sure if we're -- any Committee
17 members were able to ask any questions.

18 CHAIRMAN CASTRO: I'm happy to answer if
19 you have questions.

20 CHAIRMAN LINARES: Mr. Director, do you
21 have any questions?

22 DIRECTOR MORALES: Yes. I'd be remiss if I
23 didn't take the opportunity to address you.

24 I mean, obviously I echo and support

1 everything the chairman has said. I simply
2 want to thank the staff, our staff, regional
3 staff here, David Mussatt and Melissa and where
4 is -- anyway, just I wanted to thank them for a
5 lot of logistical stuff, putting it together,
6 obviously working with you, communicating with
7 you.

8 And I just wanted to make the point of
9 thanking you for spending your entire day.
10 There's a lot of things you can be doing. You
11 all have jobs. You all have other lives.

12 And thank you for taking the time and, you
13 know, of course the witnesses as well.

14 The work you do, you know, is important, as
15 the chairman said, because you are on the
16 ground. You are the eyes and ears out in the
17 community of how your community is being
18 impacted, how your community is being affected.

19 The information you are giving us is stuff
20 that we are going to use, and things and
21 information we're going to use, as we work on
22 our environmental justice report.

23 And we have one of the other -- the
24 gentleman who was -- Daren Fernandez who's

1 actually doing the writing of the report was
2 here listening to the testimony and hearing
3 your questions.

4 And so, you know, I just wanted to thank
5 you for that, that time and your time. It's
6 precious. You could be with your families,
7 your children, whatever you do in your normal
8 lives. So thank you from the Commissioner and
9 all Commissioners, all eight Commissioners, of
10 course, the Chair.

11 So thank you again, and we really
12 appreciate your work and support.

13 So -- and if you come to Washington -- and
14 I mean this sincerely. If you come to
15 Washington, coffee on me. I'd love to give you
16 a tour of the office. You can see how we run
17 things, introduce you to some of our staff, the
18 Office of Civil Rights, our team over there,
19 like -- they'd like to meet you as well.

20 So if you get an opportunity to come to
21 Washington, I'd like to spend an hour or
22 whatever time you have available, give you a
23 tour of our offices and, again, introduce you
24 to the staff.

1 So with that, I'll end, and I'll thank you
2 very much.

3 CHAIRMAN LINARES: Thank you so much for
4 both being here and addressing us. We really
5 appreciate it. For most of us this is our
6 first set of panel hearings.

7 CHAIRMAN CASTRO: I can tell you guys are a
8 good team together.

9 CHAIRMAN LINARES: I will open it up to
10 Committee members who have final concluding
11 thoughts.

12 MR. KAZMI: Thank you guys for staying the
13 whole time. I was shocked that you guys were
14 here the whole time.

15 CHAIRMAN LINARES: And then my final
16 thoughts are this -- I want to thank also David
17 and Melissa and Carolyn and Christina who are
18 not here anymore, but they did a fantastic job.

19 I was told this was kind of a quickly done,
20 you know, set of panel hearings, and we wanted
21 to get this in time to be able to inform you of
22 what's going on on the ground here.

23 I also wanted to thank the subcommittee.
24 Sweta Shah, Selena Greene, and Joanna Vrdolyak,

1 who's not here today, who we were on the phone
2 quite a bit, you know, calling people up and
3 getting this in.

4 So this was, I think, well done by the
5 entire team.

6 With that thank you, everyone. I think
7 this was great as well and looking forward to
8 our next set of panel hearings, and we are
9 adjourned.

10 (Meeting adjourned at.
11 6:31 p.m.)

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1 Kathleen E. Maloney, License
2 No. 084-003235, being first duly sworn, on oath says
3 that she is a Certified Shorthand Reporter, that she
4 reported in shorthand the proceedings given at the
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U.S. COMMISSION ON CIVIL RIGHTS



Civil Rights and Environmental Justice in Illinois

Hosted By:

The Illinois Advisory Committee to the U.S. Commission on Civil Rights

The Illinois Advisory Committee to the United States Commission on Civil Rights is hosting a public meeting regarding environmental justice concerns in the State. Specifically, the Committee will examine factors contributing to disproportionately poor air quality on the basis of race, color, or national origin.

Date:

Wednesday March 9, 2016

Opening Remarks - 10:30am-10:40am

Time:

10: 30am—7: 00pm

Panel 1: Background & Data- 10:45am-12:00pm

Panel 2: Community I - 12:10pm-1:25pm

Break 1:25pm-2:25pm

Location:

National Museum of Mexican Art

Panel 3: Community II - 2:25pm-3:35pm

Panel 4: Industry - 3:45pm-4:30pm

1852 W. 19th Street
Chicago, IL 60608

Panel 5: Government - 4:45pm - 6:15pm

Open Forum: 6:20pm-6:50pm

Closing Remarks - 6:50pm-7:00pm

U.S. COMMISSION ON CIVIL RIGHTS

Midwestern Regional Office
55 West Monroe
Suite 410
Chicago IL, 60603

Phone: 312-353-8311
Fax: 312-353-8324
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The Committee will hear public testimony during the open forum period as time allows. Please arrive early if you wish to speak. For more information please contact the Midwestern Regional Office of the U.S. Commission on Civil Rights.

State Advisory Committees to the U.S. Commission on Civil Rights are composed of state citizens who serve without compensation. The Committees advise the Commission of civil rights issues in their states, providing recommendations and advice regarding such matters to the Commission.

Agenda

Opening Remarks and Introductions (10:30-10:40am)

Juan Carlos Linares, Chairman, Illinois Advisory Committee to the U.S. Commission on Civil Rights
Marty Castro, Chairman, U.S. Commission on Civil Rights

Academic or Data Focused Panel (10:45am -12:00pm)

Carlton Waterhouse, Professor of Law and Dean's Fellow, Indiana University Robert H. McKinney School of Law (Via Conference Call)
Sylvia Hood Washington, Environmental Health Research Associates, LLC
Susan Mudd, Environmental Law & Policy Center
Brian Urbaszewski, Director, Environmental Health Programs, Respiratory Health Association
Keith Harley, Attorney at Law, Environmental Law Program, Chicago Legal Clinic

Community Panel (12:10pm-1:25pm)

Peggy Salazar, Southeast Environmental Task Force
Christine Nannicelli and Faith Bugel, Sierra Club
Dr. Antonio Lopez, Executive Director, and Kim Wasserman, Little Village Environmental Justice Organizations
Naomi Davis and Jean Paul Thomas, Blacks in Green

Lunch (1:25pm-2:25pm)

Community Panel (2:25-3:35pm)

Dulce Ortiz, Clean Power Lake County
Barbara Klipp, Co-Founder of Incinerator Free Lake County
Celeste Flores, Most Blessed Trinity Catholic Parish
Susana Figueroa, Faith in Place, Lake County Office

Industry Panel (3:45pm-4:30pm)

Barry Matchett, NRG (not confirmed)
Lisa Albrecht, renewable Energy Specialist, Solar Service, Inc.
Omar Duque, President and CEO, Illinois Hispanic Chamber of Commerce

Government Panel (4:45pm-6:15pm)

Stephen Sylvester, Assistant Attorney General of Environmental Bureau, Office of Illinois Attorney General Lisa Madigan
Christopher Wheat, Chief Sustainability Officer, City of Chicago
Alan Walts and Michele Jencius, U.S. Environmental Protection Agency
Ken Page, Environmental Justice Officer, Illinois Environmental Protection Agency
David Villalobos, Waukegan 4th Ward Alderman

Open Forum (6:20-6:50pm)

**ILLINOIS ADVISORY COMMITTEE TO
THE U.S. COMMISSION ON CIVIL RIGHTS
MEETING MINUTES**

March 09, 2016

The Illinois Advisory Committee to the U.S. Commission on Civil Rights (Committee) convened at the National Museum of Mexican Art, 1852 W. 19th Street, Chicago IL to hear testimony regarding civil rights related to environmental justice in the State. Juan Carlos Linares chaired the meeting and performed the initial roll call of committee members present. The meeting was open to the public and took place from 10:30 AM to 6:45 PM CST.

Attendance

State Advisory Committee Members:

Present

1. Juan Carlos Linares (Chair)
2. Cindy Buys
3. Salina Greene
4. Reyahd Kazmi
5. Evelyn Rodriguez
6. Sweta Shah
7. William Howard
8. Richard Garcia
9. Bryant Jackson-Green
10. Anne Wortham
11. Kendric Cobb

Absent

1. James Botana
2. Tabassum Haleem
3. Johnathan Bean
4. Joanna Bohdziewicz-Borowiec
5. Trevor Copeland
6. Malik Nevels

Commission Staff Present

1. Carolyn Allen
2. Martin Castro
3. Darren Fernandez
4. Chloe Gremaud (USCCR Intern)
5. Mauro Morales
6. David Mussatt
7. Christina Rosales (USCCR Intern)
8. Melissa Wojnaroski (DFO)

Members of the Public Present

1. Emily Rosenwasser, The Sierra Club
2. Saul Carreno, Carreno Consultant
3. Alex Carreno, Chicago-Kent College of Law
4. Adam Gasper
5. Valeria Velasquez, Chicago-Kent College of Law
6. Jacqueline Nwia, U.S. EPA, Region V
7. Kelly Nichols, Moms Clean Air Force
8. America Ferrera
9. Brad Schneider, Schneider for Congress
10. Robert Bourret, Schneider for Congress
11. Henson, Schneider for Congress
12. Booker Vance, Faith in Place
13. Brad Frost, Illinois EPA
14. James Gignac, Office of the Attorney General, State of Illinois

Meeting Notes/Decisions Made:

The Committee heard testimony regarding civil rights and environmental justice in Illinois, according to the following agenda:

Opening Remarks and Introductions (10:30-10:40am)

- Juan Carlos Linares, Chairman, Illinois Advisory Committee to the U.S. Commission on Civil Rights
- Marty Castro, Chairman, U.S. Commission on Civil Rights

Academic or Data Focused Panel (10:45am -12:00pm)

- Carlton Waterhouse, Professor of Law and Dean's Fellow, Indiana University Robert H. McKinney School of Law (Via Conference Call)
- Sylvia Hood Washington, Environmental Health Research Associates, LLC
- Susan Mudd, Environmental Law & Policy Center
- Brian Urbaszewski, Director, Environmental Health Programs, Respiratory Health Association
- Keith Harley, Attorney at Law, Environmental Law Program, Chicago Legal Clinic

Community Panel (12:10pm-1:25pm)

- Kim Wasserman, Little Village Environmental Justice Organizations
- Naomi Davis, Blacks in Green
- *Peggy Salazar, Southeast Environmental Task Force (no show)*

Break (1:25pm-2:25pm)

Community Panel (2:25-3:35pm)

- Christine Nannicelli, Sierra Club

- Dulce Ortiz, Clean Power Lake County
- Barbara Klipp, Co-Founder of Incinerator Free Lake County
- Susana Figueroa, Faith in Place, Lake County Office

Industry Panel (3:45pm-4:30pm)

- Lisa Albrecht, renewable Energy Specialist, Solar Service, Inc.
- Stephen Sylvester, Assistant Attorney General of Environmental Bureau, Office of Illinois Attorney General Lisa Madigan
- *Omar Duque, President and CEO, Illinois Hispanic Chamber of Commerce (no show)*
- *Barry Matchett, NRG (no show)*

Government Panel (4:45pm-6:15pm)

- Christopher Wheat, Chief Sustainability Officer, City of Chicago
- Alan Walts and Michele Jencius, U.S. Environmental Protection Agency
- Ken Page, Environmental Justice Officer, Illinois Environmental Protection Agency
- David Villalobos, Waukegan 4th Ward Alderman

Open Forum (6:20-6:50pm)

Closing Remarks (6:50pm-7:00pm)

No decisions were made and no votes taken. The proceedings were recorded by a court reporter; a transcription will be available for inclusion in the public record within 30 days.

Next meeting

TBD

Meeting Adjourned

6:45 PM CST

From: [Lisa Albrecht](#)
To: [David Mussatt](#)
Cc: [Juan Carlos Linares](#); [Chloe Gremaud](#); [Melissa Wojnaroski](#)
Subject: RE: Thank you
Date: Friday, March 11, 2016 5:51:47 PM
Attachments: [ICEJO-25 \(1\).pdf](#)

David,

Thank you for the opportunity. I had mentioned the Illinois Clean Jobs Bill several times during my testimony and I thought perhaps some back up information on this legislation would be helpful.

Additionally, most of my comments were geared toward Photovoltaic (PV) technology but at the end responded to questions regarding my company's experience with low income housing projects. As mentioned, we have installed Solar Thermal or Solar Hot Water systems in many locations in Chicago and I should have focused more on this technology. Economically the value of solar is measured by the value of the energy it displaces. With Natural Gas prices currently extremely low across the country, the payback for solar thermal has increased. However, the environmental value is tremendous and there is a huge advantage to using the heat of the sun to provide energy to heat domestic hot water. The technology is extremely mature, highly efficient and, in fact, is required technology in many parts of the world because of its efficiency. I regret that I did not spend any time discussing its merits further and would encourage the commission to also consider this as they examine technology solutions moving forward. I noted today that President Obama and Prime Minister Trudeau had conversations regarding methane use and solar thermal can be an excellent solution to this widely unknown danger as we shift to more methane based energies. I would be happy to provide any additional questions anyone may have.

Sincerely yours,

Lisa Albrecht
Renewable Energy Specialist
NABCEP Certified PV Technical Sales™
[Solar Service Inc.](#)
7312 N. Milwaukee Ave.
Niles, IL 60714
847.647-9312 - o
[REDACTED] - c

Support Solar in Illinois - Join the [Illinois Solar Energy Association](#) or sign up for our newsletters and stay on top of what is happening.

From: David Mussatt [mailto:dmussatt@usccr.gov]
Sent: Thursday, March 10, 2016 3:39 PM
To: David Mussatt <dmussatt@usccr.gov>
Cc: Juan Carlos Linares [REDACTED] Chloe Gremaud <mwrintern2@usccr.gov>; Melissa Wojnaroski <mwojnaroski@usccr.gov>
Subject: Thank you

Dear Panelists,

On behalf of the Illinois Advisory Committee to the U.S. Commission on Civil Rights, I wanted to thank you for the excellent and insightful presentations yesterday. We realize the time and effort it takes to prepare for these presentations, and we are grateful for your unique and diverse perspectives.

Moving forward, please submit any documents that you prepared or referenced during your presentations. The transcript of the meeting is normally available within two weeks. When we receive it, we will send it out to all panelists for review. I encourage you to ensure that your presentations are transcribed accurately and to also search the transcript to identify if you or your organization was discussed by other panelists. The record of the meeting will be open for 30 days so you will have time to respond to any statements that you believe are not accurate.

Thank you again, and feel free to contact me with any questions.

David Mussatt
Chief, Regional Programs Unit

U.S. Commission on Civil Rights
55 W. Monroe St., Suite 410
Chicago, IL 60603
(312) 353-8311
dmussatt@usccr.gov
www.usccr.gov

ILLINOIS CLEAN JOBS BILL

HB2607 - Chief sponsors: Reps. Elaine Nekritz, Robyn Gabel, Michael Fortner, and Christian Mitchell;
SB1485 - Chief sponsors: Sens. Don Harmon, David Koehler, and Jacqueline Collins.

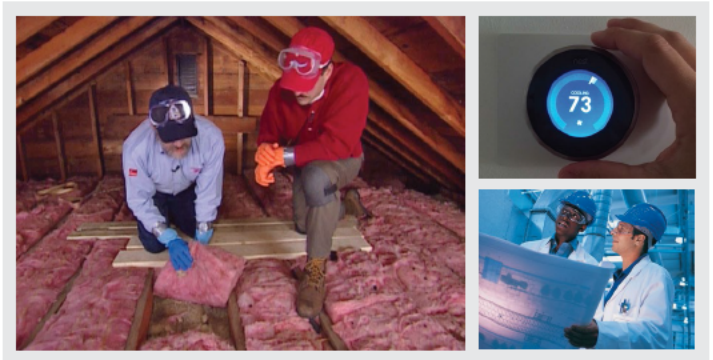
Energy policy has taken center stage in Illinois, presenting an opportunity for lawmakers to not just make do with the old ways of generating electricity but build an innovative, diverse, and clean electricity system that costs less, delivers reliable power and creates thousands of good paying jobs. Lawmakers can put Illinoisans to work in every part of the state, capturing our vast potential for clean energy, by passing the **Illinois Clean Jobs Bill**.

By fully embracing energy efficiency and renewable energy, we can meet and exceed proposed EPA carbon pollution rules, lower electricity costs, and leave Illinois a better place for our children and grandchildren. At the same time, when it ramps up, the Illinois Clean Jobs Bill will create **32,000 new jobs** and sustain that level for the next decade.¹ That's on top of the more than 100,000 clean energy jobs in Illinois today.²

Here's how the Illinois Clean Jobs Bill would help us get there:

1 Prioritize Energy Efficiency to Create Thousands of Jobs

Energy efficiency has been a proven winner for our state. In 2007, the General Assembly passed utility energy efficiency standards that have saved customers more than a billion dollars, while creating an industry in the state that employs tens of thousands of people who design efficiency measures, weatherize and insulate buildings, and upgrade appliances and technology. However, we are still only scratching the surface of the enormous potential to save energy. Now, Illinois should:



Raise the State's Energy Efficiency Target:

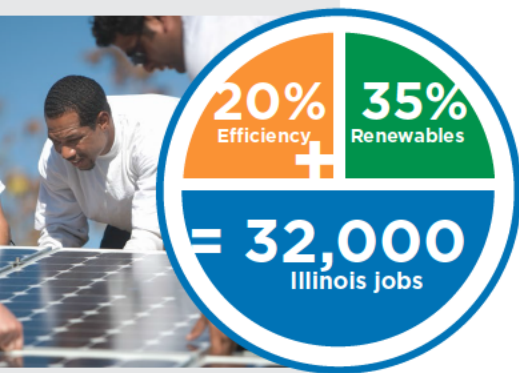
By 2025, Illinois electric utilities should achieve a **20 percent reduction** in demand through energy efficiency. To reach this goal we must -

- A Implement the cumulative standard through regular 4-year planning process with ICC oversight to ensure that the energy efficiency portfolios are cost-effective.
- B Ensure that residents and owners of affordable housing fully participate in cost savings by setting aside a specific portion of the efficiency budgets.
- C Allow non-utility energy efficiency service providers a fair opportunity to compete to deliver savings.
- D Align financial regulation of electric utilities with the goal of capturing all of the cost-effective potential for energy efficiency.
- E Expand successful on-bill financing programs so that private capital can be better leveraged to support energy retrofits.
- F Make time-of-use and real-time pricing more customer-friendly.

2 Ramp Up Illinois' Wind and Solar Industries

While renewable energy development in Illinois has stalled in recent years, other states like Iowa, Minnesota and Colorado are moving ahead, growing their wind and solar industries.

We need to re-establish Illinois as the renewable energy manufacturing, financing, and development hub of the Midwest-- and put thousands of people to work in the process. How?



By increasing renewable energy and energy efficiency standards, we can create **32,000 new jobs in Illinois**-- on top of the 100,000 clean energy jobs in Illinois today.

- A Make the RPS work: We are not meeting our current goals because our vintage standard did not anticipate changes in the marketplace. We need to fix the technical glitches in the statute and simultaneously allow the Illinois Power Agency to use a longer-term planning horizon to make sure our ratepayer dollars are used effectively.
- B Raise the Renewable Portfolio Standard: Elevate the RPS from the current goal of 25% by 2025 to 35% by 2030. A stronger and longer commitment sends a strong signal to investors to come into Illinois for good.
- C Target key areas: To make the most of our money, we need to make targeted investments in solar on blighted brownfields, rooftop solar, new wind, community solar for ratepayers without rooftop access, and a robust solar program for low-income families.
- D Keep it cost effective: The original RPS included a 2% rate cap and we want to keep that in place.

3 Pursue market-based strategies to reduce carbon emissions, create jobs and invest in Illinois.

The bill provides a range of tools to help customers and the environment, including the option of a market mechanism to limit carbon pollution. The bill authorizes the Illinois EPA to develop a market mechanism, but only after a thorough review of the impact on customers and other stakeholders. With a market mechanism to limit carbon pollution, the state could create a new revenue stream to invest in clean energy, workforce development, low-income bill

assistance, research and development of new energy technologies, and other key priorities.

Moreover, if Illinois allies with other states in the region to create a multi-state market for carbon pollution, we can benefit by both gaining access to new buyers for our clean energy resources, and to potentially less expensive clean energy solutions for our electricity customers as well.

To provide the Illinois EPA the toolkit to best limit carbon emissions, this bill would authorize the agency to create a mass-based cap and invest market, should the Illinois EPA deem it to be, after a rigorous stakeholder process, a cost-effective option for reducing carbon emissions. Should the Illinois EPA move forward, an auction system for allocating emissions allowances to carbon emitters would be created and the proceeds of this auction would be directed to areas where it is needed most – direct bill assistance for families, investments in renewable energy and energy efficiency, and clean energy job transition assistance.

The Illinois Clean Jobs Bill is the one bill that saves customers money.

According to modeling from the Citizens Utility Board (CUB), the Illinois Clean Jobs Bill **will save customers a minimum of \$1 billion** in net present value through 2030 through energy efficiency alone. That translates into minimum savings of 10%, or \$8 to \$9 per month in current dollars, by 2030 for the average residential customer.

Prepared Statement for the
The Illinois Advisory Committee
To the
United States Commission on Civil Rights
Public Hearing on Environmental Justice Concerns in the State of Illinois

By
Sylvia Hood Washington, PhD, MPH, MSE

Wednesday, March 09, 2016

I would first like to thank the Commission for allowing me to submit my comments offered today during the meeting. As I stated after our session I was invited to make comments during the session with less than 48 hours' notice.

It is critical that the Commission understands that Environmental Justice (EJ) issues are grounded in history and that this phenomena extends beyond the city of Chicago and is not limited to just Waukegan, IL. As I stated today my work around environmental health impacts from fossil fuels has been over a 36 year career. It began as a corporate environmental chemist and environmental engineer working for the power industry, specifically with the Cleveland Electric Illuminating Company in Ohio in 1980 and then culminating as an engineer working on the public and environmental health impact of power systems for NASA in Region V. I then received my MS in Systems and Control Engineering at Case Western Reserve University, a PhD in the History of Science, Technology, Medicine and the Environment (my PhD dissertation topic was on how engineering and industrial systems lead to environmental injustice in communities of color and immigrant communities in the Great Lakes). In 2006 I received funding from the National Science Foundation to conduct a multiple year study on *Engineering, Infrastructure and Environmental Justice* that was focused on an epidemiological spatial temporal analyses of the Great Lakes (insufficient water infrastructure and water contamination in African American communities). The funding was also supposed to create an EJ center of learning within the academy for community groups. My MPH in Environmental Epidemiology from the UIC School of Public Health in 2008 was as GIS spatial temporal analyses of cancer clusters in West Chicago, IL located in the Superfund sites that were supposedly remediated by Kerr McGee.

I am currently an appointed Environmental Justice Commissioner for the State of Illinois; as well as the Illinois EPA EJ Advisory Elect Co-Chair. I am also the founding Editor-in Chief of the international EJ Journal (Mary Ann Liebert Publishers) and the author of *Packing Them In: An Archaeology of Environmental Racism in Chicago, 1865-1954* (considered to be one of the most definitive environmental histories of Chicago).

To reiterate the key points made during my testimony today:

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1. Environmental Justice Initiatives around air quality cannot and should not be limited to one racial and ethnic group because the impact of fossil fuel combustion extends to a 30 mile geographic radius. The commission should demand that EJ studies of African Americans be conducted for those communities who lived within 30 miles of the Crawford/Fisk Plants. African Americans represent over 30% of the city of Chicago and no study has been conducted to date about their health impacts from these power plants.
2. As an Environmental Justice Commissioner I am deeply concerned that African Americans in Chicago are being ignored by the USEPA and by the Illinois EPA. Too much emphasis on the concerns of one well organized EJ grassroots group creates additional injustices. One EJ and environmental health disparity outcome of fossil fuel power generation is the improper disposal of PCBs. This happened to Altgeld Gardens and had devastating health impacts on African Americans in Chicago but this was not discussed today.
3. Historical practices of discrimination in housing and job access is tied to higher environmental health risks. It is why people of color and immigrants are living in older housing (pre 1946) near power plants, landfills and transportation networks. It is disingenuous to claim that asthma cannot be explained by race. There have been too many public health studies to support this assertion. I provided a copy of the most recent paper that I cited during the testimony. "Inner City Asthma" by, Peter J. Gergen, MD, MPH, Alkis Togias, MD. One of the key statements in the article was that *"Although racial segregation has declined in the United States, African Americans as a group continue to experience the highest level of housing segregation.¹⁹ Worse community functioning as measured by increased crime, incarceration rate, or exposure to violence has been associated with higher asthma prevalence,²⁰ lower adherence to inhaled corticosteroids,²¹ and more asthma symptoms.²²"* With respect to African Americans in Illinois, concern for their wellbeing must extend beyond Chicago's metropolitan borders because their outmigration to areas like Joliet, Aurora and West Chicago are to environmentally marginalized communities that are not receiving attention because they aren't the focus of the Illinois Sierra Club, the Environmental Law and Policy Center and LVEJO.
4. **COAL ASH FACILITIES (Joliet, IL) & Environmental Justice & Race in Illinois**
Of the 24 identified facilities in the state of Illinois, the 4 that are closest to the Chicagoland area are in heavily occupied African American and Hispanic communities (other than Waukegan, IL). <http://earthjustice.org/sites/default/files/library/references/il-coal-ash-factsheet.pdf> Almost 20% of these facilities are in the Joliet/Aurora areas where there is a 40 to 50% Black/Hispanic population. Again, attention and initiatives for EJ must extend beyond the borders of the city of Chicago.

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The Illinois Advisory Committee
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By
Sylvia Hood Washington, PhD, MPH, MSE

Wednesday, March 09, 2016

5. Last but not least is the recurring issue of cancer clusters near the 5 Superfund sites in DuPage County/West Chicago, IL. In this situation Hispanic, working class whites and African American newcomers are not being informed that their home purchases were formerly remediated Superfund sites. This failure to disclose this information by real estate agents coupled with the new cancer clusters creates another form of environmental injustice. The USEPA has lost legal cases in the past around this non-disclosure practice for remediated Superfund sites. This practice should be rejected in the state of Illinois as well.
<http://www.dailyherald.com/article/20140403/news/140409344/>
6. I am very disheartened today that not one university in Illinois came to testify about the environmental health conditions facing minority communities in the state. Dr. Victoria Persky, Professor of Epidemiology has received millions of dollars from NIH and NIEHS for decades to study and document environmental health disparities and she should be invited to provide testimony in future hearings. University of Chicago and Northwestern University also should have been at the hearing and hopefully will be invited in the future to provide testimony. Although I received funding to develop an EJ Institute in Chicago 10 years ago, no university in the area wanted to create one with the funding because it seemed too political and only a sidearm of environmental scholarship. It is inexcusable and sad that there is no dedicated environmental justice institute in the state of Illinois.

Dr. Sylvia Hood Washington
President/Founder Environmental Health Research Associates, LLC
3/9/2016 4:20:41 PM

Addendum to Prepared Statement for the Human Rights Commission on Environmental Justice

Sylvia Hood Washington, PhD, MPH, MSE

Monday, March 14, 2016

A. African Americans and Risks of Lead Contamination in Chicago+

I would again like to reiterate that the Humans Commission should not exclude the struggles for environmental health equalities (e.g. Environmental justice) of African Americans in Chicago and the state of Illinois especially in light of the Flint, MI situation. The impact of aging infrastructure on the environmental health of African Americans has been my focus as an environmental justice scholar since 1995 and dealt with extensively in my monograph, *Packing Them In: An Archaeology of Environmental Racism in Chicago, 1865-1954*. I also conducted a study of race and infrastructure through the National Science Foundation: *Engineering, Infrastructure and Environmental Justice* (2006-2009) that revealed that African American populations were at high environmental health risks because of aging or nonexistent sewage and water infrastructures in the Great Lakes.

The discussion of high levels of lead in schools, homes and in water sources for the Chicagoland areas should be something that is addressed in light of aging infrastructures (housing and water supplies) that the poor, minority and immigrant neighborhoods will be disproportionately subjected to with life changing consequences.

1. <http://www.chicagotribune.com/news/watchdog/ct-lead-poisoning-durbin-quigley-met-20160303-story.html>

“Considered by some elected officials to be a problem from the last century, lead poisoning remains a significant threat in poor, predominantly African-American neighborhoods in Chicago and other cities. Researchers have documented how early exposure to even tiny amounts — typically by ingesting dust from old lead-based paint — harms children in ways that don't become apparent until years later, costing taxpayers in the form of increased spending on health care, special education and law enforcement.”

2. <http://www.chicagotribune.com/news/local/breaking/ct-archdiocese-closes-holy-angels-school-because-of-lead-dust-20160310-story.html>

<http://www.chicagotribune.com/news/local/breaking/ct-closed-catholic-school-st-elizabeth-20150826-story.html>

“The Archdiocese of Chicago has closed Holy Angels Catholic School on the South Side for several days after work in the older section of the elementary school spread dust with high levels of lead.

The archdiocese did not say how high the lead level was or how long children may have been exposed to it before the school was closed this week.

In a letter to parents, Principal Siobhan Cafferty said "above-normal lead levels" were "recently discovered" in an older portion of the school at 750 E. 40th St. that houses the gymnasium.”

3. <http://www.chicagotribune.com/news/opinion/editorials/ct-chicago-lead-water-epa-flint-edit-jm-20160212-story.html>

Addendum to Prepared Statement for the Human Rights Commission on Environmental Justice

Sylvia Hood Washington, PhD, MPH, MSE

Monday, March 14, 2016

“But Chicago is testing tap water for possible lead contamination in only 50 homes every three years — the federal standard. That's a pittance in a city of 2.7 million where any home built before 1986 could have lead pipes.

The city doesn't need federal approval to go beyond federal guidelines and test more homes. It should do that, at least in construction zones where pipes have been replaced or disrupted by construction work.

Those federal rules also require water utilities to check only the first liter of water drawn in the morning. "The EPA study found that although the first liter often is lead-free, high levels of the toxic metal can flow through taps for several minutes afterward, depending in part on the length of the service line between the home and street," Hawthorne wrote.”

B. Asthma Outside of Chicago and in the Suburbs

I am deeply concerned that environmental justice meetings and the focus remains centered on the city of Chicago. As an appointed Environmental Justice Commissioner for the state of Illinois who represents the western suburbs the Illinois EPA has unfairly focused most of its efforts to date on the city of Chicago in this part of the state. The public health data does not support their focus since there are heavily industrialized areas like Aurora and Joliet Illinois with significant and growing minority/immigrant populations who are suffering from environmental health issues that are tied to environmental injustices: poor and older housing (lead exposures) , Superfund sites, higher asthma rates (Kane County) and high cancer rates (from potential radioactive waste materials from the Superfund sites in West Chicago/DuPage County).

Cities and suburbs in these industrialized areas should also have equal access to air monitoring equipment based on their asthma & COPD prevalence rates. Who gets the air monitoring equipment should not be based on internal or external politics and preferences.

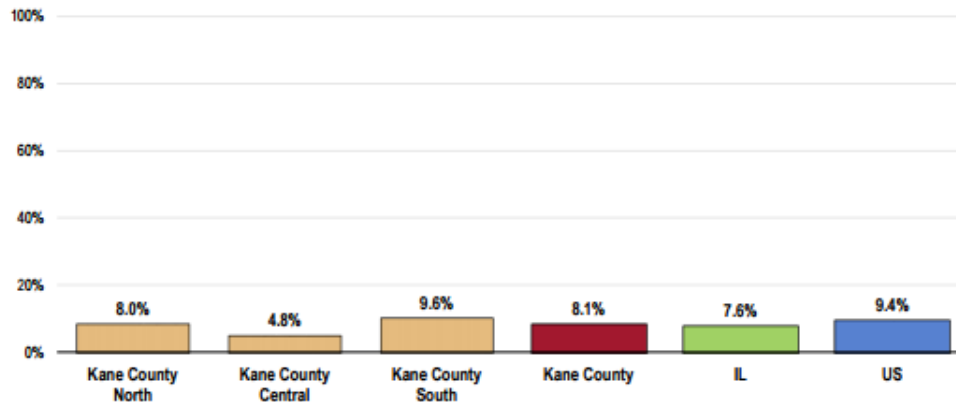
Moving to or living in the western suburbs of Chicago, IL does not ameliorate or eliminate asthma. There is older housing, transportation networks and highways that contribute to the prevalence of asthma in these areas.

Addendum to Prepared Statement for the Human Rights Commission on Environmental Justice

Sylvia Hood Washington, PhD, MPH, MSE

Monday, March 14, 2016

Adult Asthma: Current Prevalence

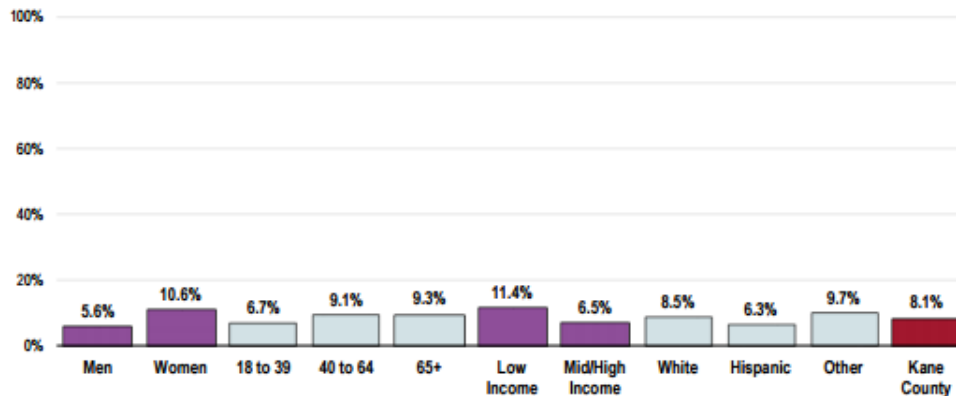


Sources: • 2014 PRC Community Health Survey, Professional Research Consultants, Inc. [Item 170]
 • 2013 PRC National Health Survey, Professional Research Consultants, Inc.
 • Behavioral Risk Factor Surveillance System Survey Data. Atlanta, Georgia. United States Department of Health and Human Services, Centers for Disease Control and Prevention (CDC); 2013 Illinois data.

Notes: • Asked of all respondents.
 • Includes those who have ever been diagnosed with asthma, and who report that they still have asthma.

Viewed by demographics, Kane County women are more likely to suffer from asthma.

Currently Have Asthma (Kane County, 2014)



Sources: • 2014 PRC Community Health Survey, Professional Research Consultants, Inc. [Item 170]

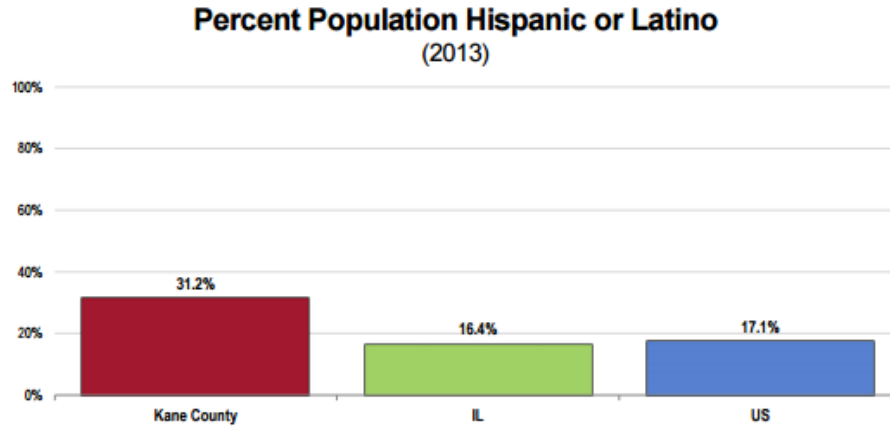
Notes: • Asked of all respondents.
 • Hispanics can be of any race. Other race categories are non-Hispanic categorizations (e.g., "White" reflects non-Hispanic White respondents).
 • Income categories reflect respondent's household income as a ratio to the federal poverty level (FPL) for their household size. "Low Income" includes households with incomes up to 200% of the federal poverty level; "Mid/High Income" includes households with incomes at 200% or more of the federal poverty level.

Addendum to Prepared Statement for the Human Rights Commission on Environmental Justice
 Sylvia Hood Washington, PhD, MPH, MSE
 Monday, March 14, 2016

ETHNICITY

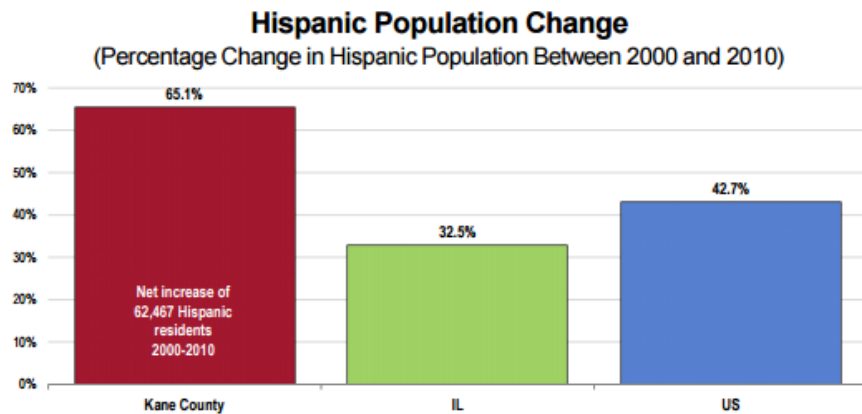
A total of 31.2% of county residents are Hispanic or Latino.

- Nearly twice that found statewide and nationally.



Sources: • US Census Bureau American Community Survey 1-year estimates (2013).
 Notes: • Origin can be viewed as the heritage, nationality group, lineage, or country of birth of the person or the person's parents or ancestors before their arrival in the United States. People who identify their origin as Hispanic, Latino, or Spanish may be of any race.

- Twice the percentage growth as that found statewide.
- Much higher (in terms of percentage growth) than found nationally.



Sources: • US Census Bureau Decennial Census (2000-2010).
 • Retrieved November 2014 from Community Commons at <http://www.chna.org>.

Linguistic Isolation

14.7% of the county population age 5+ live in a home in which no person age 14 or older is proficient in English (speaking only English, or speaking English "very well").

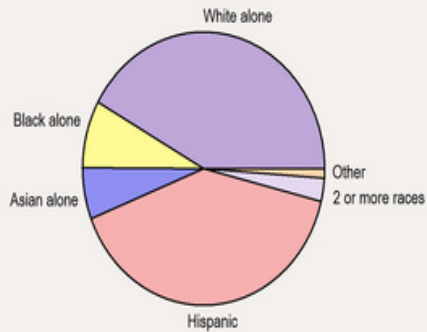
- Higher than the statewide prevalence.
- Higher than the national prevalence.



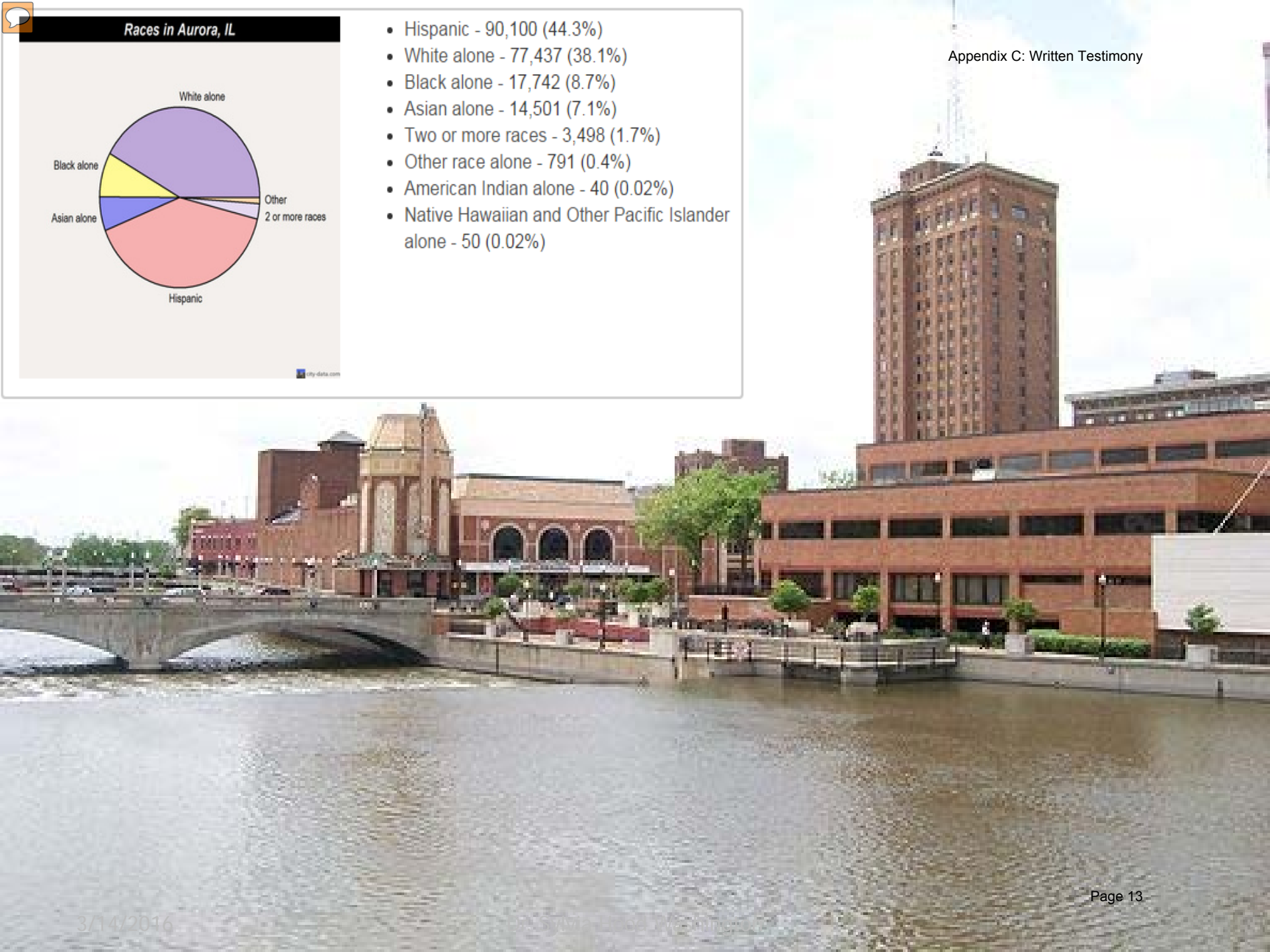
“BEATING BACK THE HEAT” CLIMATE JUSTICE IN AURORA & WESTERN SUBURBS



Races in Aurora, IL



- Hispanic - 90,100 (44.3%)
- White alone - 77,437 (38.1%)
- Black alone - 17,742 (8.7%)
- Asian alone - 14,501 (7.1%)
- Two or more races - 3,498 (1.7%)
- Other race alone - 791 (0.4%)
- American Indian alone - 40 (0.02%)
- Native Hawaiian and Other Pacific Islander alone - 50 (0.02%)



Shade & Permeable Surfaces -- Green Buddha Sustainability Center Aurora, Illinois

Appendix C: Written Testimony

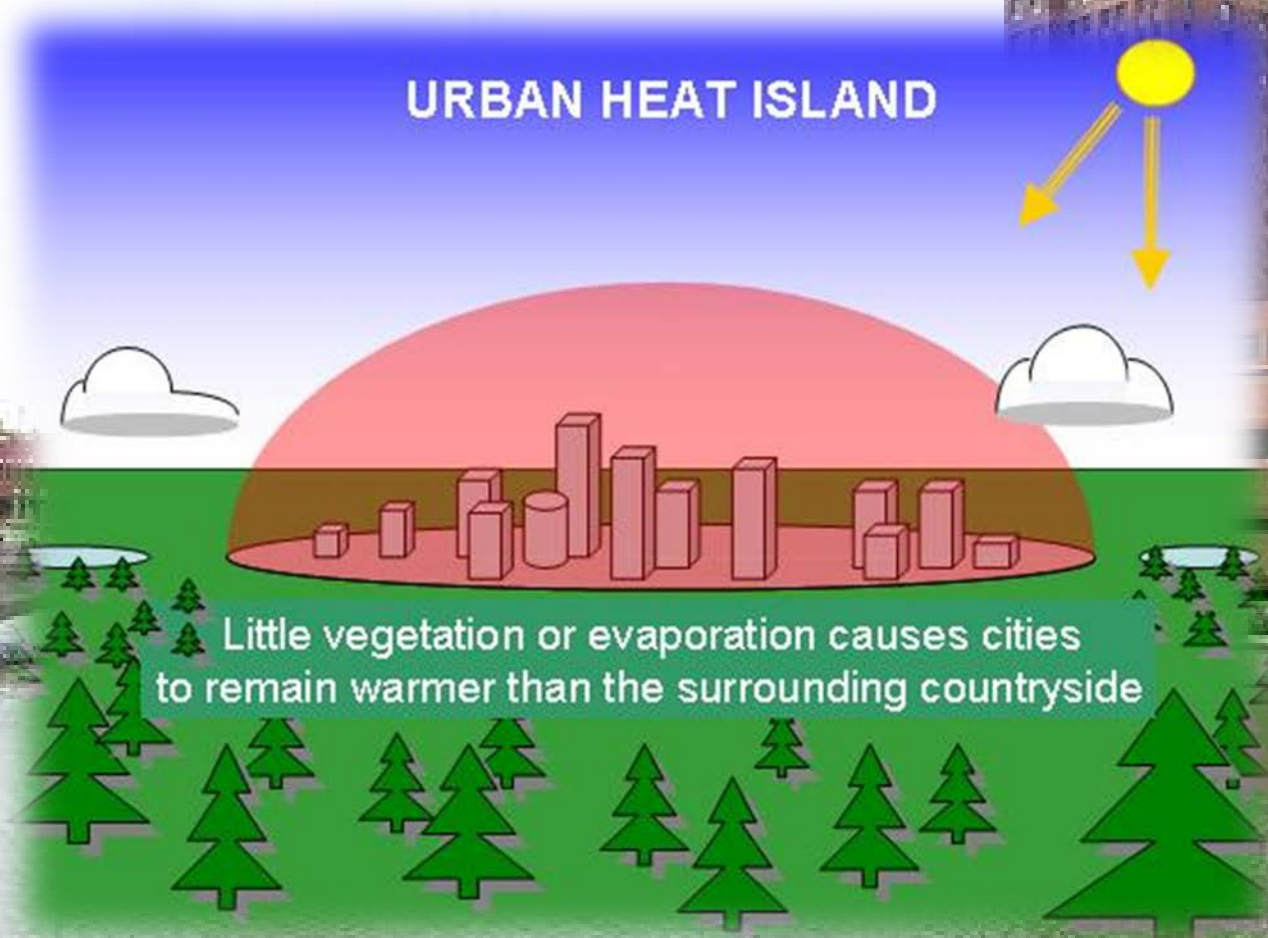


Climate Justice

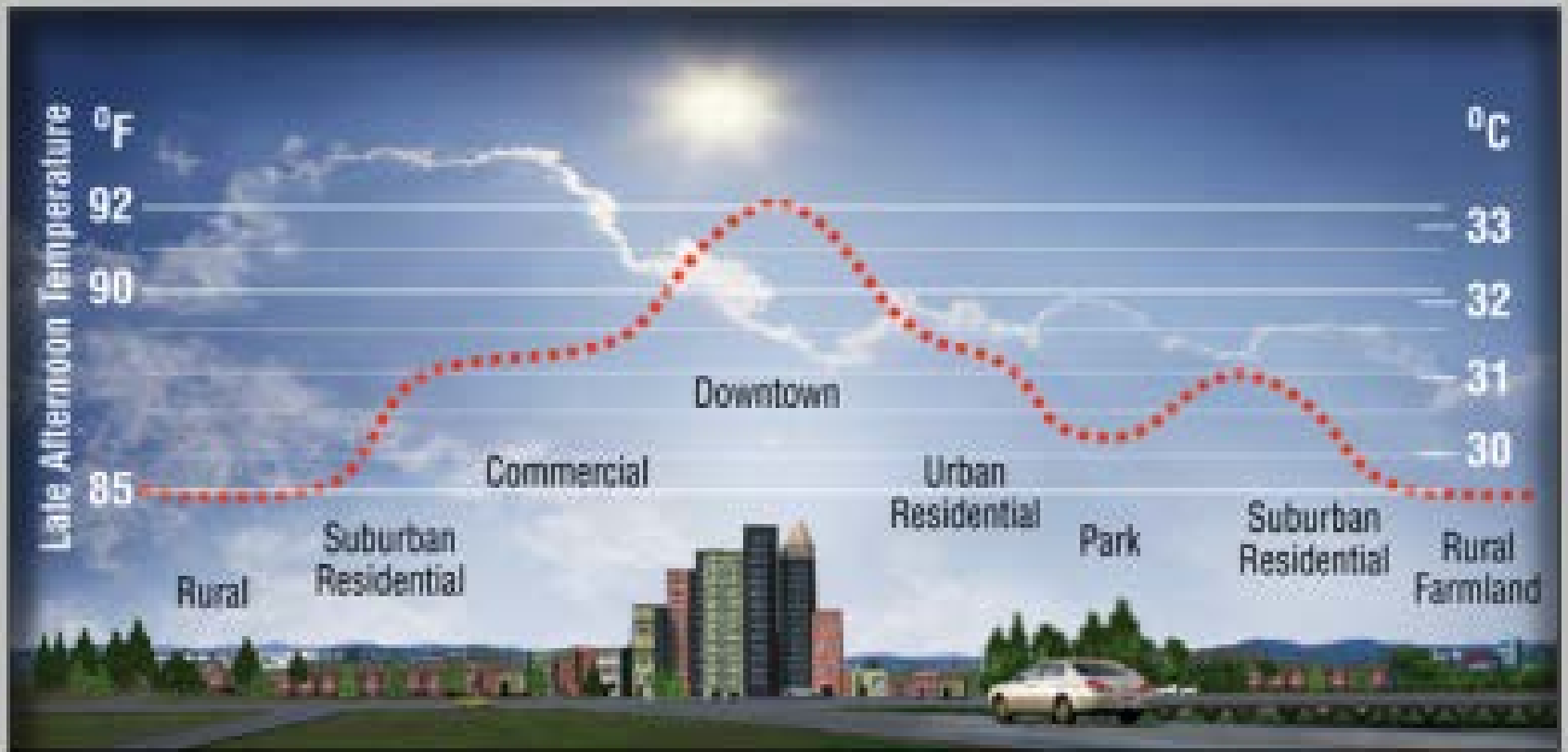
**Preventable Deaths and Illnesses
Due to Heat Island Effects &
Climate Change (floods, tornadoes,
etc.from...**

**Full and equally protective
environmental landscapes**

Heat Island Effect



Heat Island Effect





Heat Island Effect

So Why Should We Care?

☐ Cardiovascular Disease

☐

☐

☐



Heat Exhaustion

nausea, vomiting, fatigue, weakness, headache, muscle cramps, aches, and dizziness.

Heat Stroke

high body temp, absence of sweating, hot red or flushed dry skin, rapid pulse, difficulty breathing, strange behavior, hallucinations, confusion, agitation, disorientation, seizure, and/or coma.

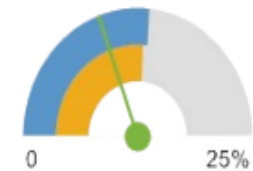
Death

lack of breathing, no heart beat, silence, rigor, and complete reduction in running pace.

anywhere5k.com

Report Area	Survey Population (Adults Age 18)	Total Adults with Asthma	Percent Adults with Asthma
Kane County, IL	389,243	37,825	9.72%
Illinois	9,701,927	1,265,744	13.05%
United States	237,197,465	31,697,608	13.36%

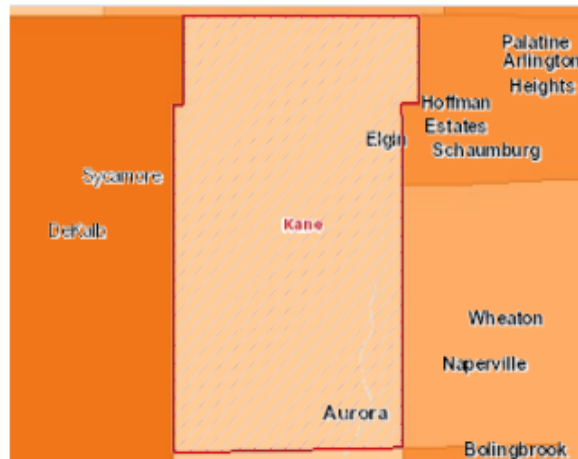
Percent Adults with Asthma



- Kane County, IL (9.72%)
- Illinois (13.05%)
- United States (13.36%)

Note: This indicator is compared with the state average.

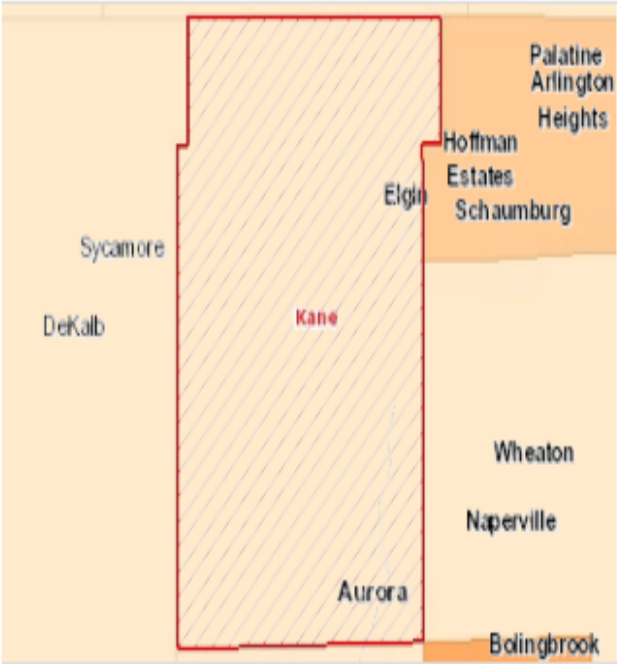
Data Source: Centers for Disease Control and Prevention, [Behavioral Risk Factor Surveillance System](#): 2011-12. Additional data analysis by [CARES](#). Source geography: County








Asthma (Diagnosed), Percent of Adults Age 18 by County, BRFSS 2011-12

- Over 16.0%
- 13.1 - 16.0%
- 10.1 - 13.0%
- Under 10.1%
- No Data or Data Suppressed
- Report Area





Diabetes Prevalence, Percent of Adults Age 20 by County, CDC NCCDPHP 2010

-  Over 11.0%
-  9.6 - 11.0%
-  8.1 - 9.5%
-  Under 8.1%
-  Report Area



Beneficiaries with High Blood Pressure, Percent by County, CMS 2012

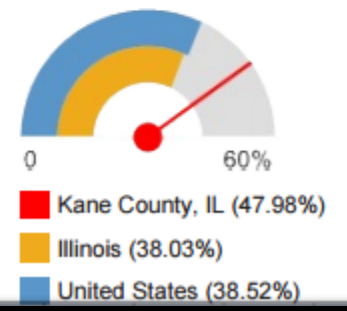
- Over 60.0%
- 52.1 - 60.0%
- 44.1 - 52.0%
- Under 44.1%
- No Data or Data Suppressed
- Report Area

High Cholesterol (Adult)

This indicator reports the percentage of adults aged 18 and older who self-report that they have ever been told by a doctor, nurse, or other health professional that they had high blood cholesterol.

Report Area	Survey Population (Adults Age 18)	Total Adults with High Cholesterol	Percent Adults with High Cholesterol
Kane County, IL	260,676	125,080	47.98%
Illinois	7,348,647	2,794,348	38.03%
United States	180,861,326	69,662,357	38.52%

Percent Adults with High Cholesterol



Note: This indicator is compared with the state average.

Data Source: Centers for Disease Control and Prevention, Behavioral Risk Factor Surveillance System: 2011-12. Additional data analysis by CARES. Source geography: County

Obesity

26.5% of adults aged 20 and older self-report that they have a Body Mass Index (BMI) greater than 30.0 (obese) in the report area. Excess weight may indicate an unhealthy lifestyle and puts individuals at risk for further health issues.

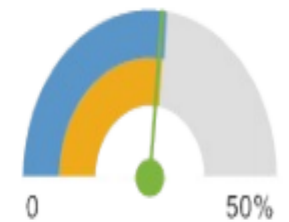
Report Area	Total Population Age 20	Adults with BMI > 30.0 (Obese)	Percent Adults with BMI > 30.0 (Obese)
Kane County, IL	353,628	95,126	26.5%
Illinois	9,354,655	2,590,658	27.37%
United States	226,126,076	62,144,711	27.29%

Note: This indicator is compared with the state average.

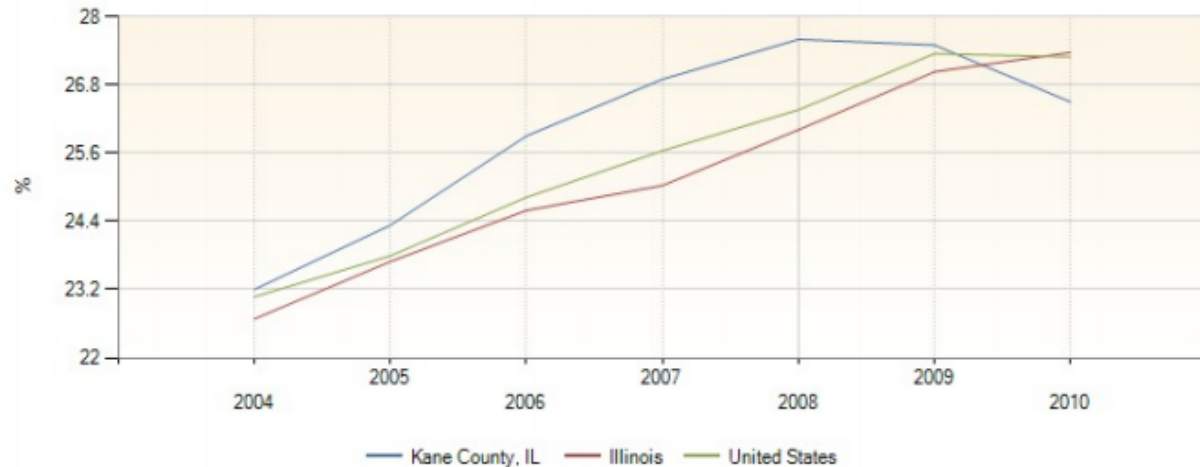
Data Source: Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, [Diabetes](#)

Atlas: 2010. Source geography: County

Percent Adults with BMI > 30.0 (Obese)



- Kane County, IL (26.5%)
- Illinois (27.37%)
- United States (27.29%)



Overweight

35.38% of adults aged 18 and older self-report that they have a Body Mass Index (BMI) between 25.0 and 30.0 (overweight) in the report area. Excess weight may indicate an unhealthy lifestyle and puts individuals at risk for further health issues.

Report Area	Survey Population (Adults Age 18)	Total Adults Overweight	Percent Adults Overweight
Kane County, IL	374,924	132,645	35.38%
Illinois	9,476,490	3,448,247	36.39%
United States	224,991,207	80,499,532	35.78%

Percent Adults Overweight



Why Do I Care?



“
I didn't know it then, but
my life has been impacted
by climate change beginning
the summer that my Mom,
Sadie,
died prematurely
at the age of 56.

She went into the hospital
for heat exhaustion
and never came out.

It was a death that
no one saw coming. ”

- Dr. Sylvia
Hood Washington

PEOPLE'S
CLIMATE
MARCH



Paths to Sustainable Redevelopment & Climate Justice

May 24, 2015 **ENCYCLICAL LETTER**
LAUDATO SI' ON CARE FOR OUR COMMON HOME





Dealing with our History of Unsustainable Community Developments



PACKING

AN ARCHAEOLOGY OF ENVIRONMENTAL RACISM IN CHICAGO, 1865-1954

THEM IN

SYLVIA HOOD WASHINGTON
Dr. Sylvia Hood Washington



L.E.E.D. Ideal Sustainable Neighborhoods

- Compact, walk able & vibrant
- Mix of uses and housing types
- Proximity to transit
- Presence of green buildings & green infrastructure





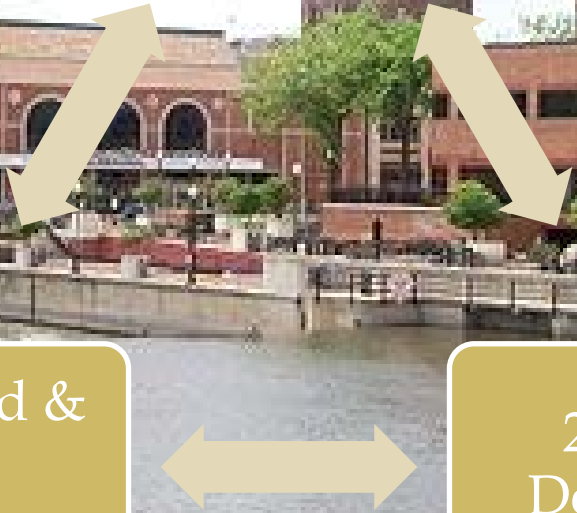
Neighborhood Pattern & Design NPD

Appendix C: Written Testimony

1. Walkable
Streets

3. Connected &
Open
Community

2. Compact
Development





Green Infrastructure & Buildings

GIB



Green Buddha Life Sustainability Center & Heat Islands in Aurora, IL

Appendix C: Written Testimony





Vegetated Roofs





Open Grid Pavement



Aurora's Impervious Surfaces - Green Buddha





Vertical Gardening



Green Buddha Vertical Gardens



3/14/2016

Dr. Sylvia Hood Washington

Provide Shade from Tree Canopies



Shade from Open Structures (SRI>29)

- Spied Walkway
- ...





KCBX TERMINALS COMPANY

December 19, 2013

Dear Neighbors,

The storage and handling of petroleum coke has received a lot of attention in our community recently, which is why we are writing to you. KCBX has handled bulk materials, including petroleum coke, on Chicago's southeast side for more than 20 years and we are committed to managing our operations in a manner that is consistent with protecting the health and safety of our employees and our neighbors.

KCBX currently operates two facilities along the Calumet River. We've owned our KCBX North facility on the west side of the Calumet River at 100th Street since 1990. A year ago this month, we acquired a second facility, now KCBX South, from DTE Energy Services. This South facility, located on the east side of the river at 106th Street, has been the source of recent interest after a windstorm last August caused dust in the area.

After we acquired the South facility from DTE last year, we immediately began work to upgrade the facility. We did this based on our own high standards for operation. So far we have invested nearly \$30 million in the South facility, including \$10 million in dust suppression technology alone. Forty-two water cannons rotating on 60-foot-high poles now cover the site, significantly more than the six that were in place when we purchased it. We've also installed an advanced weather system that automatically adjusts to wind direction and speed, and increases the amount of water on demand in anticipation of bad weather or high wind conditions.

It took several months to design, permit and install the new dust suppression system, which was not in place during the August wind event. However, it is there now and operating. In fact, during the recent November storms, the system worked very well. We did not observe any dust despite very strong winds.

In addition, KCBX is now working with the U.S. Environmental Protection Agency to install air monitors that will be used to confirm whether the new system is providing the appropriate level of controls.

We also would like to take this opportunity to correct some popular misconceptions about petroleum coke. It is not a waste material as some have said, but a valued product intentionally produced as part of the process of refining crude oil to make transportation fuels and other products. Petroleum coke has many uses, including energy generation. It is used in the United States and internationally, and staged and shipped from ports all around the world. Similar to other industrial and agricultural bulk materials not affected by the elements, such as rain and excessive heat or cold, petroleum coke is typically stored in the open.

It is also important to know that petroleum coke is not considered hazardous. The U.S. Environmental Protection Agency has stated that "petroleum coke has an extremely low environmental hazard potential." It also notes that "petroleum coke has a low health hazard potential." The City of Chicago reiterated this in a recent fact sheet, confirming "there are no known illnesses or health effects associated with petcoke dust."

We want to assure you that KCBX takes the concerns of our neighbors very seriously. As a company and as your neighbor, we are committed to doing the right thing. We encourage you to visit www.aboutpetcoke.com to learn more about KCBX and for updates on what we are doing to ensure our continued safe and compliant operation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Estadt'.

Mike Estadt, Terminal Manager
KCBX Chicago
Koch Minerals



KCBX TERMINALS COMPANY

February 18, 2014

Dear Neighbors,

I am writing to you today as part of our continuing efforts to keep our neighbors informed about KCBX's operations and the progress we've made to address concerns regarding the handling of petroleum coke and other bulk materials at our facility.

In my letter to you in December, I detailed some of the steps we've taken since acquiring our South facility from DTE Energy in late 2012, including the installation of advanced weather monitoring and dust suppression systems, as well as our work with the U.S. Environmental Protection Agency (EPA) to monitor air quality near our facilities.

Our new dust suppression system at the KCBX South facility is now operational, and we observed no dust during the powerful wind storm that hit the area this past November. In addition, we expect to have our air monitors installed and operational in the coming weeks. These air monitors will provide comprehensive, 24-hour data that will be reviewed by professional air quality scientists at an independent laboratory and shared with the U.S. EPA. The results will also be available to the public and posted on our website.

We also recently worked with an independent environmental expert to conduct testing of surfaces and soil in the neighborhoods near our facilities. Sixty-nine samples were collected from public areas surrounding our site in November and early December, and analysis of the samples suggest that our new controls are working. No unusual levels of dust particles associated with petcoke or coal were present in the test area. The full analysis of these test results is available at www.aboutpetcoke.com.

KCBX has the utmost respect for our neighbors and we are committed to doing the right thing. We have 40 employees in Southeast Chicago whose families depend on the jobs we provide, so we are going to make every effort to work with the city and state to ensure that our operations remain compliant, and that we can continue to serve as a valued member of the local economy. This includes our willingness to consider building a structure to cover the coal and petroleum coke at our facility. However, there are a number of practical issues that must first be resolved with the city and state before we consider making such a significant investment, including the approval of an interim operating plan and the establishment of clear and achievable compliance standards.

As a company and as your neighbor, we are committed to keeping you informed, and we value your opinions. I encourage you to visit our website at www.aboutpetcoke.com, where you will find detailed information about our operations in Chicago and be able to share your concerns or questions with our team.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Estadt'.

Mike Estadt, Terminal Manager
KCBX Chicago



KCBX TERMINALS COMPANY

May 30, 2014

Dear Neighbors,

You may remember that in my letter to you in February, we announced that KCBX would be working with the US EPA to install air monitors at our two terminal facilities on the southeast side of Chicago. The air monitors are intended to evaluate the effectiveness of our on-site dust suppression equipment and to allow us to better understand any potential off site sources of dust. I am pleased to report that the preliminary data returned from these monitors over the course of approximately ten weeks (February 18 – May 3) show that operations at KCBX's North and South Terminals are consistent with levels that would meet standards designed to protect public health.

These particular air monitors are "source monitors," meaning they are located inside of KCBX's North and South operations and adjacent to the coal and petcoke materials that are being handled. A total of nine stationary air monitors and two weather stations were installed, where they continue to collect data. In addition to the data being reviewed by air quality scientists, the same information is reported to the US EPA and Illinois EPA. The data is available on the KCBX website at www.aboutpetcoke.com.

We have also contracted an independent environmental expert to conduct further testing of surfaces and soil in the neighborhoods near our Chicago facilities. The newest samples were tested from 39 neighborhood locations this April after an extended period of windy and dry conditions. Just as with samples from the 69 public area locations tested surrounding our site in November and early December of 2013, the analysis of the April samples shows no evidence of petcoke or coal on surfaces or in the soil of the East Side and South Deering neighborhoods.

We have also begun the process of complying with the city of Chicago's new rules for petcoke and coal handling facilities. We are taking steps to determine the feasibility of building an enclosure and will be submitting our initial plans to the city for the potential project in the coming weeks. It will be several months before we make a final determination on proceeding with the enclosure project, which requires a significant investment, but we remain optimistic that we will be able to comply with the city's new rules and remain in business. If approved, once design and permitting are complete, we expect the project will take approximately two years to construct and will require more than 300,000 hours of skilled labor translating to hundreds of construction jobs.

In the meantime, KCBX will continue to focus on conducting our operations in compliance with all rules and regulations with respect for the environment and our neighbors. When we acquired our South property from DTE Energy, our company made significant improvements to the operation including a new and more substantial dust suppression system which our environmental testing shows is working effectively. I look forward to sharing further developments with you in the coming months. In the meantime, please visit our website at www.aboutpetcoke.com where you will find detailed information about our operations and continued investments in our Chicago terminals.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Estadt'.

Mike Estadt, Terminal Manager
KCBX Chicago



KCBX TERMINALS COMPANY

August 15, 2014

Dear Neighbor,

We would like to update you on our significant announcement from several weeks ago. KCBX Terminals has indeed submitted a plan with the City of Chicago to enclose our product piles and consolidate operations at a single location at the company's existing terminal located at 10730 South Burley Avenue.

We are working toward establishing a single terminal site with state-of-the-art environmental controls in an effort to address the concerns of our neighbors and comply with the city's new rules for handling bulk materials.

KCBX also filed petitions for a limited number of variances that are allowed under the new rules that will enable us to meet our customer obligations while we work to enclose our petcoke and coal handling operations. Once design and permitting are complete, the multi-million dollar enclosure project is expected to take approximately two years to construct and will require more than 300,000 hours of skilled labor resulting in hundreds of construction jobs. To put this as simply as we can, our variance request for four years of construction includes up to 24 months for the important public review and permitting processes before the two year building period can begin.

You have probably also heard that we are requesting 45 foot pile heights in our variance request. This is accurate, but realize that our new \$10 million dust suppression system we installed at the terminal on Burley Avenue has proven extremely effective at managing the potential for dust in and around our terminal from our current 45 foot piles. We cannot meet our customers' needs on a consistent basis with piles limited to 30 feet.

KCBX has also worked with the US EPA to install a combined nine stationary air monitors and two weather stations on-site at our two terminals as a way to validate the effectiveness of our on-site dust suppression equipment, and to better understand potential off-site sources of dust. We believe data returned from these monitors shows that operations at our North and South Terminals is consistent with off-site levels that meet standards designed to protect public health. These particular air monitors are "source monitors," meaning they are located inside of our operations and adjacent to the coal and petcoke that are being handled. Data continues to be collected and is being reviewed by air quality scientists, and the same information is being reported to the US EPA and Illinois EPA. The data is available on our website at www.aboutpetcoke.com.

We have also contracted an independent environmental expert to conduct testing of surfaces and soil in the neighborhoods near the two Chicago terminals. Samples were collected from more than 100 areas, and analysis of these samples shows no evidence of petcoke or coal on surfaces or in soil of the East Side or South Deering neighborhoods.

Several other local companies have filed similar variance requests as ours. Covered storage presents many new challenges and there are few one-size-fits-all solutions. We believe we have requested reasonable accommodations and remain committed to working with the City and our neighbors to find solutions that benefit all involved.

For over 20 years, KCBX Terminals has handled bulk materials in Southeast Chicago. Throughout this time, we have remained committed to transparency and operating in a manner that protects the health and safety of both our employees and our neighbors. We will absolutely continue in this tradition.

Yours truly,

A handwritten signature in black ink, appearing to read 'Mike Estadt'.

Mike Estadt
KCBX Terminal Manager



KCBX TERMINALS COMPANY

October 2, 2014

Dear Neighbor,

We are writing to update you on a number of important developments involving our efforts to comply with the city of Chicago's new rules for storing and handling coal and petroleum coke products and other bulk materials.

As you may recall from our previous letter, we are moving forward with plans to enclose our product piles and we continue to monitor the environmental conditions around our operations to make sure we're being a good neighbor.

We now have more than 200 days of air monitoring results from the U.S. Environmental Protection Agency (EPA) site monitors showing that air quality near our facility is within clean air standards. Independent laboratories have also conducted tests on more than 100 surface samples from the neighborhood that show no evidence of coal or petcoke dust. Most recently the EPA determined that blackened home air furnace filters, which environmental activists have alleged contain dust from our operations, do not contain petcoke.

You may be aware that there have been two instances since last February when the EPA has said dust readings were unacceptably high. However, in both cases the upwind air monitors detected significant levels of dust coming onto KCBX's property from other locations, meaning almost all of the dust cited by the EPA was not coming from our facility. The EPA's own ambient air monitor located a couple blocks from our facility at Washington High School has never exceeded national air standards for particulate matter or dust that could be associated with coal or petcoke.

While we believe these results show that our dust mitigation system is working well, we understand that some of our neighbors continue to have concerns about the potential for dust. This is why we are making every effort to move forward with the process of enclosing our product piles as quickly as possible.

Over the past few months we have been working with our customers and engineering firms to determine the size and scope of the enclosure. We expect it will take approximately 24 months to complete the multi-million dollar project from the time we break ground. However, this is the first project of its kind under the city's new rules so we anticipate it could take several additional months to finalize the building design and receive the necessary permits that would allow construction to begin.

Because the timeline for when construction can begin is uncertain we are requesting additional time to comply with the city's rules that call for all bulk material products to be covered within two years. We are also seeking a small number of variances that are allowed under the city's rules, which are needed for us to maintain our business until the enclosure project could be completed. This includes permission to maintain product piles at 45 feet – down from their original 60 feet – instead of 30 feet as called for in the rules. The environmental data from the air monitoring and surface sample tests show that a 45-foot height limit is well within the capability of our dust mitigation system. We are confident it will provide appropriate interim protections until the enclosure project can be completed.

Most importantly, we remain fully committed to always conducting our operations with respect for the environment and our neighbors. For more than 20 years, KCBX Terminals has worked to handle bulk materials responsibly on Chicago's southeast side, even earning the "Good Neighbor Award" from the Southeast Environmental Task Force in 2001 and 2005 for environmental work, including our dust mitigation system. This was the same commitment we brought to our South terminal when we purchased it less than two years ago. It's also the same commitment you can expect from us going forward as we start work on the enclosure project.

For more information about the project and our ongoing environmental monitoring, please visit www.aboutpetcoke.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Estadt', with a long horizontal flourish extending to the right.

Mike Estadt
Operations Manager
KCBX Terminals

KCBX TERMINALS COMPANY

May 6, 2015

Dear Neighbor,

After 25 years on 100th Street, KCBX Terminals will cease operations at our North terminal this June. In light of new city regulations, we have decided to stop handling bulk material at this site; there are no immediate plans for the property.

We want to provide you with some additional detail on what you should expect to occur at the North terminal in the coming months. We already are working on reducing our piles so that by June we will have removed all the product piles from the North terminal. We've also already started to remove the staging pad base material, which is currently under the piles of petroleum coke and coal. As a result of this work, you may see some temporary piles of this base material on site (significantly smaller in size than the current piles) until the decommissioning work is complete. Throughout this process we will continue to manage all operations in accordance with the city's rules and regulations.

In addition, by early June of next year, we plan to eliminate the piles of coal and petroleum coke at our South terminal, located at 10730 Burley Avenue. This means by next summer there will be no petroleum coke or coal piles at either of our terminals, as the city's rules require.

Going forward our South terminal will operate without product piles. Rather than transferring some of the product from railcars to the ground, then to barges and vessels, all of the product will be transferred directly from rail to vessels and barges via the existing covered conveyor system, which is already compliant with the city's rules. We no longer plan to use trucks for inbound or outbound shipments as a regular part of our business after the piles are removed.

We also will continue to follow loading practices that are consistent with the city's rules. These practices include using covered conveyors and keeping the product damp.

Removing the product piles limits the services we are able to provide our customers, but we hope operating this way will allow us to stay in business and continue contributing to the local economy and our community.

I encourage you to visit our web site at www.kcbxchicago.com for more information about our business, including more details about the recently announced changes to our operations.

Sincerely,



Mike Estadt
KCBX Terminal Manager

From: David Villalobos
Sent: Thursday, April 7, 2016 1:28 PM
To: Juan Carlos Linares
Subject: Greetings and Follow-Up to Teleconference

Hello Juan Carlos, it is David Villalobos. I listened in on the teleconference last Friday, and found the conversation to be enlightening. I want to touch base on the conversation regarding land remediation requirements, or rather the lack there of. So, to further elaborate on the necessity to require industries to remediate land during/ceasing operations and upon existing a site. The City of Waukegan is currently going through our annual budget process and here is the amount of money we have had to pay and are going to pay for land remediation. These numbers are only from the past five fiscal years.

FY13: \$5,454,618
FY14: \$493,032
FY15: \$535,370
FY16: \$1,083,850
FY17: \$695,000 (to be paid this coming fiscal year)
Total: \$8,261,870

This is only in a five year period, and Waukegan has been working on remediation, that I am aware of, since the late 1990's. We will have to continue to pay land remediation costs if we are to develop our polluted lakefront. This money could have gone to infrastructure projects, but instead we have had to bond funds to pay for the road repairs which puts the city in an even deeper financial hole.

We are purchasing another parcel of lakefront property, and again we have to be concerned about contamination and remediation costs, because as the new land owners we have to clean up what another industry has left behind. We are in a bit of a "damned if you do or damned if you don't" situation. If we don't take ownership of the lakefront then we can not capitalize on lakefront development and nothing improves. If, we do take lakefront ownership we have built in extra expenses which stimies lakefront development.

I felt that it would be good for me to add to this conversation with a bit more perspective. Please feel free to contact me.

Thank you and have a wonderful day,
David Villalobos

Panel 1 (Transcript pp. 12-83)

1. **Carlton Waterhouse** is a professor at the Indiana University Robert H. McKinney School of Law. He is nationally recognized for his work on environmental justice. His articles have appeared in prestigious law journals including the Pennsylvania Journal of International Law, the Fordham Environmental Law Review, and the Rutgers Law Review. He is a graduate of Howard University School of Law, where he was admitted as one of its distinctive Merit Fellows. While in law school, he was selected for an internship with the Lawyers' Committee for Civil Rights Under Law where he participated in the preliminary formation and development of the Civil Rights Act of 1992. Professor Waterhouse currently serves as a member of the Indiana Advisory Committee to the United States Civil Rights Commission. After law school, he began his career as an attorney with the United States Environmental Protection Agency. At the EPA, he served as the chief counsel for the agency and as a national and regional expert on environmental justice. His responsibilities included enforcement actions under numerous environmental statutes, the development of regional and national policy on Environmental Justice and the application of the Title VI of the Civil Rights Act of 1964 to the EPA permitting actions. Following a successful nine-year career with the EPA, Professor Waterhouse enrolled in a Ph.D. program in the Emory University Graduate School of Arts and Sciences as one of the select George W. Woodruff Fellows. In 2006, he graduated with a Ph.D. in Social Ethics.
2. **Sylvia Washington** is Chief Environmental Research Scientist at Environmental Health Research Associates, LLC. She is an environmental epidemiologist, environmental engineer and environmental historian, working on the impact of industrial pollution on human health and ecosystems using qualitative and quantitative analyses. Dr. Washington successfully implemented Research Conservation and Recovery Act (RCRA), Clean Water Act, Clean Air Act, Superfund and National Environmental Policy Act (NEPA) regulations for effluents and solid waste derived from power generation sources (space and terrestrial systems) for both industry and the National Aeronautics and Space Administration (NASA). She was recently trained as a Climate Reality Leader with an interest in communicating climate change to environmental justice communities in the Great Lakes region. Dr. Washington is the creator and editor-in-chief of the first international environmental health disparities journal, Environmental Justice. She formed her own environmental health research-consulting firm, Environmental Health Research Associates (E3HRA), LLC. She consults regularly with environmental law firms, as well as grassroots community groups to help them understand the history of industrial operations, transportation systems and the impact of municipal planning on human health and environmental health disparities. In 2010, she was elected Co-Chair of the Illinois EPA's Environmental Justice Advisory Board. In 2012, she was appointed by Governor Patrick Quinn to sit on the first Environmental Justice Commission for the state of Illinois. Finally, Dr. Washington has just arranged for the historic Climate Justice Conference for Black Catholics in Chicago with the Climate Reality Group and the Archdiocese of Chicago.
3. **Susan Mudd** is an Attorney and Senior Policy Advocate who leads ELPC's Diesel Pollution Reduction Initiative to help better protect children's and community health, and works with ELPC's Science Advisory Council. She previously served as Citizens for a Better Environment's Wisconsin Director for 15 years. Susan has consulted for the Gaylord and Dorothy Donnelley Foundation and the Brico Fund. She co-authored a Midwest global warming action plan for the State Environmental

Leadership Program and was part of the committee that developed LEED for Neighborhood Development. Susan completed her J.D., M.A. in Public Administration and Public Policy, and B.A. in Botany, at the University of Wisconsin-Madison.

4. **Brian Urbaszewski** has worked to implement local, state and national air quality policy and legislation covering coal power plant emissions, diesel and gasoline vehicle emission standards, national air quality health standards, and air pollution education and awareness campaigns. He has been instrumental in capturing millions of dollars in funding for diesel engine retrofits in the Chicago region and in enacting local clean diesel construction requirements for Cook County and Chicago government projects. He was instrumental in establishing strong state coal-fired power plant emission reduction rules that were implemented in 2007-08, and was also instrumental in helping establish the Chicago Clean Power Coalition, which achieved its goals of closing two coal power plants. Mr. Urbaszewski joined Respiratory Health Association in 1998 and holds degrees from the University of Chicago and the University of Illinois, and previously worked for the Illinois Environmental Protection Agency. He is a regular resource for local media on environmental health issues, specifically the effects of air pollution on people with asthma and COPD.
5. **Keith Harley** is the Director of the Chicago Environmental and Energy Law Clinic, a collaboration between IIT Chicago-Kent College of Law and the Chicago Legal Clinic, Inc. The Chicago Environmental and Energy Law Clinic provides legal advocacy, education and volunteer services to people confronting urban environmental problems in the Chicago area. Keith is a 1982 graduate of Moravian College and received a Master of Divinity degree from Princeton Theological Seminary in 1985. He graduated from IIT Chicago-Kent in 1988 with a Certificate in Environmental and Energy Law and initiated a public interest environmental law practice on Chicago's Southeast Side shortly thereafter. For the past twenty-two years, Keith served as an Adjunct Professor of Law in Chicago-Kent's Environmental and Energy Law Program, for which he also serves as Co-Director. He also serves as Adjunct Professor of Law at Northwestern University and at IIT's Stuart Business School. Keith has been appointed to many federal, state and local environmental policymaking initiatives, including a present appointment to the Illinois Environmental Justice Commission. Keith served as the Chair of the Chicago Bar Association's Environmental Law Committee from 2006-2009.

PANEL 2 (Transcript pp.83-150)

1. **Kimberly Wasserman** is the Director of Organizing and Strategy of the Little Village Environmental Justice Organization (LVEJO), where she has worked since 1998. As Director she oversees the community projects, leadership development and outreach. Kimberly looks to the day La Villita will be a strong sustained community and until that day she continues to work on the frontline. In 2013, Mrs. Wasserman was the recipient of the Goldman Prize for North America.
2. **Naomi Davis** is the founder/CEO of BIG™ – a national sustainability network based in West Woodlawn which advances “green-village-building.” She’s an urban theorist, attorney, activist, and proud granddaughter of Mississippi sharecroppers. She conveys the risks of global warming; the health/wealth opportunities of the new green economy; the power of neighbors to lead in their city’s enviro-economic policy and practice; and the primacy of land ownership. She promotes the

self-help conservation lifestyle as a foundation for sustainable community, and the local living economy as greenhouse gas reduction strategy. She trains activists and everyday neighbors to lead where they live in establishing “walkable-villages” within a “City of Villages.” She is a Green For All Fellow, LEED GA, and a certified teacher of the environmental literacy curriculum, Roots of Success, NCCER/Maritime, and Marine and Spatial & Marine Coastal Planning. Naomi served on Mayor Emanuel’s Transition Team for Energy, Environment, and Public Space, and as a sustainability thought leader at Groupon’s First Annual Chicago Ideas Week. Their BIG Urban Homestead Styles represent a higher way forward in the redevelopment of the black community – green innovations in mixed-use housing for the 6 family types prevalent in our communities. “Calling My Children Home” is their campaign to resettle middle class black families, millennials, and returning citizens into urban center legacy communities established at supreme cost to our ancestors, and reverse the nationwide trend of city gentrification.

Panel 3 (Transcript pp. 151 – p. 219)

1. ***Dulce Ortiz*** is currently involved with the Clean Power Lake County Campaign, a coalition effort to build a healthy and clean energy future for Waukegan. She joined the Clean Power Lake County Campaign (CPLC) in 2013, after learning about the pollution from the Waukegan coal plant and how it contributed to poor air quality in Waukegan. Having a mother suffering from asthma, she understood the dangers of coal pollution and what it could do to someone’s quality of life. Dulce became even more determined to educate her community about the impacts of local coal pollution, which led her to actively participate in several CPLC events and forums, such as the Health and Environmental Justice Forum, Clean Energy Forum, Hands Across the Sand, and several petition and photo drives, just to name a few.
2. ***Barbara Klipp*** is a leader in the Sierra Club and a co-founder and spokesperson for Incinerator-Free Lake County (IFLC) and our newly formed non-profit, Midwest Sustainability Group. In 2008, Barbara and members of IFLC and the Sierra Club worked together in a successful, grassroots campaign to remove incineration from the Lake County Solid Waste Plan and, instead, encouraged the county to redouble their waste diversion efforts. They agreed and we now lead the State of Illinois in waste diversion rates. Ms. Klipp serves as the Political Chair, presiding over endorsements in Northeastern IL, for the Sierra Club, Chair of the Sierra Club National Zero Waste Communities Team, Federal Lobby Chair for the Illinois Sierra Club, Chair of the Illinois Chapter Zero Waste and Food Committee, member of the Clean Power Lake County coalition to help Waukegan and Lake County transition to a clean, renewable energy future and co-lead of a grassroots organization called Livable Lake County which focuses on sustainable transit, economic development and sustainable communities in Lake County, Illinois.
3. ***Christine Nannicelli*** has engaged in advocacy and community organizing for 10 years. Currently, Christine is the Illinois Campaign Representative for the Sierra Club, the largest, grassroots environmental organization in the country. She has organized for electoral candidates, healthcare and economic policy and since coming to the Sierra Club advocacy campaigns for coal plant retirements, Federal and Illinois environmental rulemakings, and clean energy legislation. Since

2014 Christine has served on the Board of Directors for the Little Village Environmental Justice Organization and currently serves as the organization's Board President. Christine holds a BA from Northwestern University where she studied Religion and Political Science.

4. **Susan Figueroa** holds a Bachelor's Degree in Business Administration from Lake Forest College. She has 30 years of experience working with the Latino Community in Waukegan. In 2013, she was hired by Faith in Place as Outreach Director in Lake County to organize, inspire and educate people of all religious denominations to care for the Earth. She has been an active member of Clean Power Lake County advocating for environmental justice in Waukegan, addressing the NRG Coal Plant issue and advocating for a responsible transition plan. In 1995- 2013, she was hired by the Mayor's Office in the City of Waukegan to work as the City's Community Liaison Administrator. As Community Liaison, Susana served as the spokesperson between local government and City residents and clarified issues in recognition of the law and regulations of the city. In this capacity, Susana performed a broad range of tasks to better serve the needs of the entire community of Waukegan. She also facilitated public meetings, bilingual public service workshops, hearings and provided informative literature about city issues and public services.

Panel 4 (Transcript pp. 221- 259)

1. **Lisa Albrecht** is a volunteer board member for the ISEA, serving from 2007 - 2010 and then from 2012 to present. She is the co-chair for the Policy Committee working to advance state and local legislation regarding incentives programs, permitting, net metering and interconnection. She has worked at Solar Service, a premier design/installation company in the Chicago area, as a Renewable Energy Specialist since 2007 where she assists home owners and businesses analyze their opportunities to implement solar hot water and photovoltaic technology
2. **Stephen Sylvester** is an Assistant Attorney General with the Environmental Bureau of the Illinois Attorney General's Office. For the past 12 years, he has handled a variety of matters for the office, including environmental litigation in both federal and state courts and before the Illinois Pollution Control Board. As part of his duties, Mr. Sylvester has provided legislative and rulemaking support, pre-litigation counseling and negotiations, investigation, and citizen outreach.

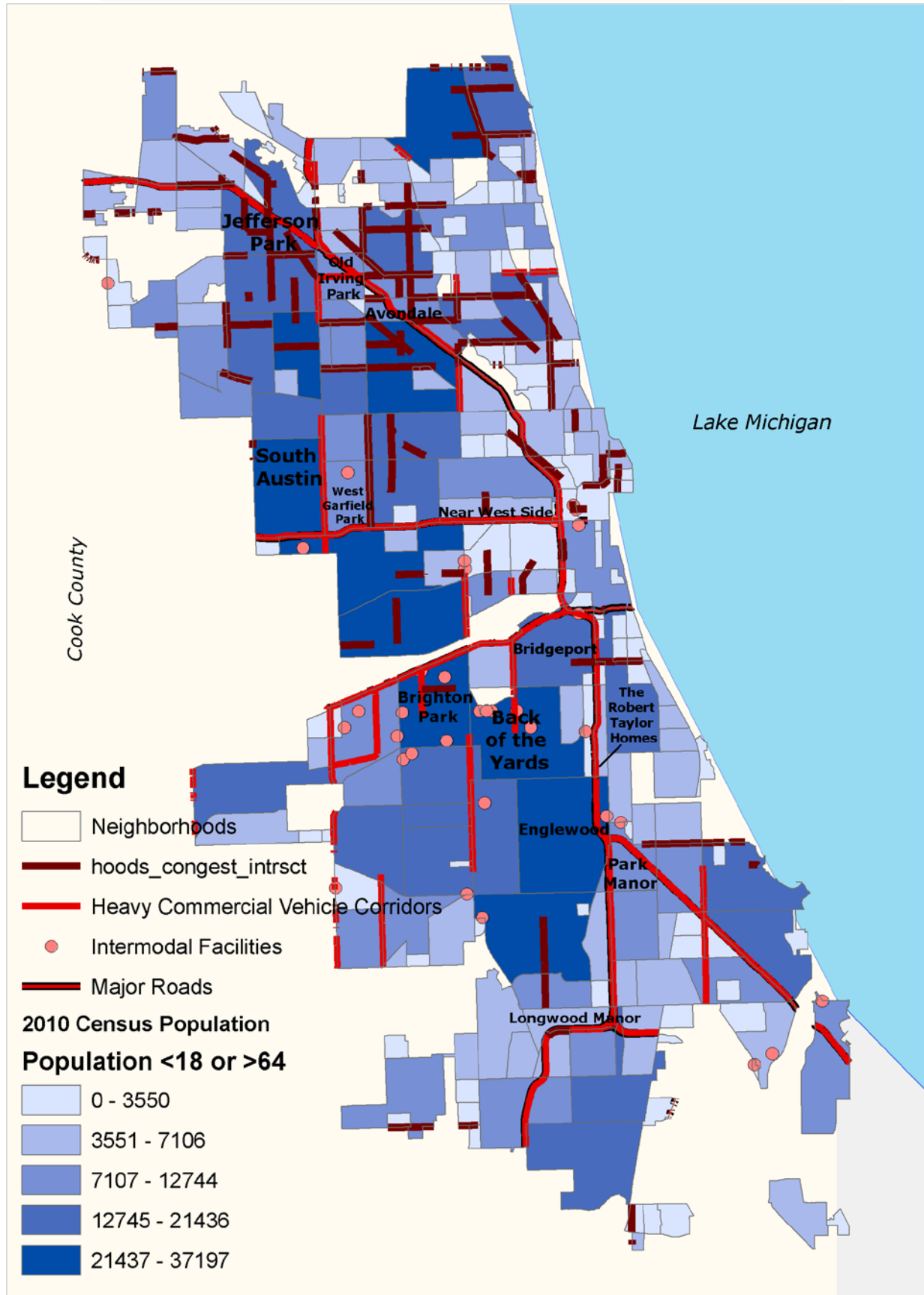
Panel 5 (Transcript pp. 259 – 342)

1. **Chris Wheat** serves as Chief Sustainability Officer and Senior Policy Advisor in the Office of Chicago Mayor Rahm Emanuel. Chris coordinates policies, projects, and operations across City Departments and Agencies to advance the Mayor's sustainability agenda. Prior to this role Chris served as Director of the Mayor's Innovation Team, an internal consulting and implementation team. Chris helped launch the Retrofit Chicago Residential Partnership, led the work to make Chicago the first city in the nation to include energy use data on home listings, and provided testimony to the Illinois Commerce Commission and Illinois General Assembly. Previously he was a Senior Consultant with Roland Berger Strategy Consultants, as well as an Analyst and Broker with Stephens Inc. Chris earned his

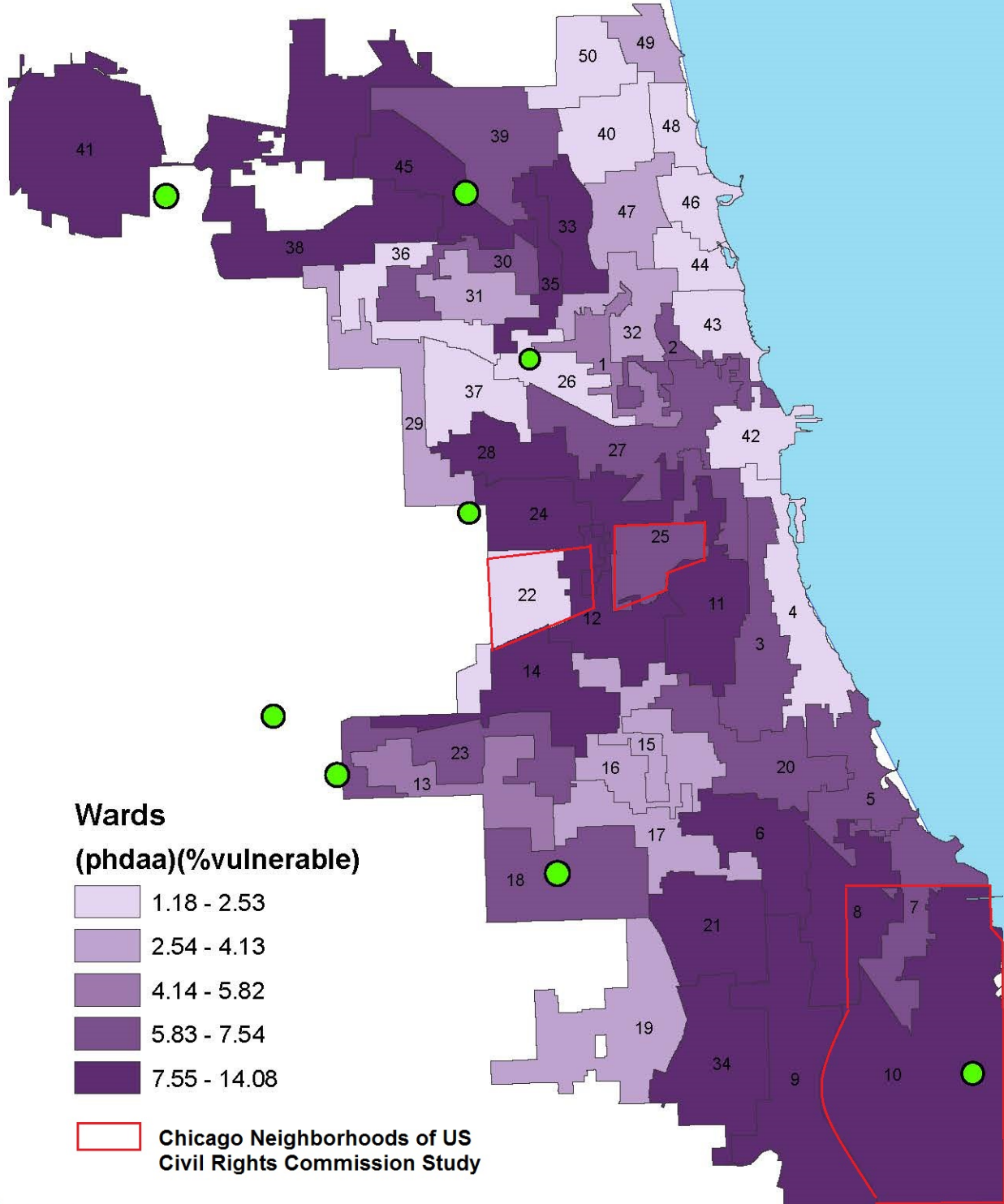
MBA from the University of Chicago Booth School of Business and BA from Washington University in St. Louis.

2. **David Villalobos** is born and raised in Waukegan and currently serves as the Alderman for the 4th Ward in Waukegan City Council, which includes the Southern portion of the lakefront and downtown business district. David has volunteered in the community for almost a decade. Past volunteer experience included Former Inmates Striving Together (F.I.S.T.), Waukegan 2 College, and Latino Coalition of Lake County. Currently, David is volunteering with Greentown (Waukegan) Urban Farming, Waukegan Main Street, and Clean Power Lake County. David has spent the past two and a half years volunteering with Clean Power Lake County which focuses on the coal burning power plant in Waukegan and advocates for a proactive transition plan for the plant and lakefront site. David's work experience has been community focused by working at College of Lake County as a math and writing tutor, Volunteer and Outreach Coordinator at Waukegan Public Library, substitute teacher for Waukegan School District 60, and 4th Ward Alderman for the City of Waukegan. David's volunteer work and experience as an elected official has offered a unique insight into the crossover of environmental, social, and economic barriers that Waukegan is presently encountering.
3. **Alan Walts** is the Director of the Office of Enforcement and Compliance Assurance in U.S. EPA Region 5. This Office coordinates enforcement, and manages the Region's Environmental Justice and National Environmental Policy Act programs. From 1996-2007, Alan was a staff attorney in Region 5's Office of Regional Counsel. Among other duties during this time, he provided legal counsel and assistance to the Region's Environmental Justice program. He received his J.D. from University of Michigan Law School in 1995.
4. **Mickey Regan Jencius** is a Chief in the US Environmental Protection Agency, Air and Radiation Division (ARD) in Region 5, Chicago, Illinois. Her section works to deliver to communities all of ARD's resources. Prior to working at EPA, Ms. Jencius worked as an environmental consultant. Before that, she wrote air quality permits at an environmental state agency. Ms. Jencius obtained her Bachelor of Science from Seattle University.
5. **Ken Page** (no bio submitted)

Vulnerable Populations by Age (<18 and >65)



Chicagoland IEPA PM2.5 Monitors, Diesel Pollution Sources & Vulnerable Populations



Additional Resources

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