

CONDENSED DRAFT
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Stakeholder meeting on Cumulative Impact

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Please note: The following is not a complete transcript, but a summary of the discussion.

Irene welcomed the group, announced the next meetings and asked for comments on the white papers.

IRENE: After we gather some of the major opinions as part of the outlines, then we'll go back and do a very rough draft and get it out to the group. We want to start getting them out in June.

Irene also discussed comparing our program to other states, specifically Illinois, Massachusetts, Pennsylvania, Texas and Florida. The deadline is to deliver the white papers this summer so that they can be reviewed and the legislative staff can begin drafting new legislation. Legislation will probably be introduced in the fall with implementation in 2008. Senator Smith called for the white papers. Everyone on the mailing list will get a copy of the final papers. Irene voiced a concern that this be done without responding to all comments, as that will prevent us from making the Senator's deadline.

The possible topics for the white papers were discussed and included 1) Institutional controls/engineering controls (ICEC) and environmental insurance, 2) Public participation, 3) Municipal issues, 4) priority setting for cases 5) cumulative risks.

Cumulative Impact

Maria Franco-Spera is the DEP Coordinator for Environmental Justice. She spoke on the issue of cumulative impact, cumulative risk, and additive impacts; all of which are efforts to go beyond the current single-chemical paradigm of risk assessment so other potential impacts and exposures in communities are included.

MARIA: The Commissioner has committed to looking at cumulative impacts from environmental issues in New Jersey. The NJDEP action plan and priorities, includes developing a comprehensive white paper based on science that's very well researched and addresses cumulative impacts. We'll do research on what other states are doing. There is also going to be legal research to look at the current DEP regulations framework as well as gaps in authorities and the goal would be to present options for the Commissioner to consider. The options will range but the goal is to incorporate cumulative impacts into decision-making at DEP. Integrating these concepts -- and they are very important issues for communities and their health -- will tremendously impact day-to-day operations.

Maria explained the role of the Environmental Justice Advisory Council in developing recommendations.

MARIA: We are working with the Policy, Planning and Science group, headed by Jeanne Herb to put this paper together as it has to be grounded in science also. It will consider urban communities and the risks residents there are exposed to everyday— children poisoned by lead; in some children their blood shows very high levels of lead. Asking where does this come in; in the drinking water, in combination with substandard old housing or from fish needs to be explored. The effects of that lead exposure added to substandard schools, exposure to diesel particulates and living in areas surrounded by unremediated brownfields; no one can comprehend or assess the cumulative impact on that child through time as he grows from acute and general environmental impacts.

We're talking about cumulative risk in our paper. Seeing the cumulative risk assessment portion as a subset of the larger comprehensive cumulative impacts on communities and people are also included — however, you can not leave out the social aspects, living conditions, minority neighborhoods, or quality of life.

IRENE: When would that white paper be available?

MARIA: Sometime in the last quarter of the year.

IRENE: So will the council's recommendation be part of the white paper or an addendum?

MARIA: Working separately but sharing lots of information. I can't imagine you're going to have recommendations different than ours. The topics for this year's work of the committee of course in addition to site remediation reform. So Ana and Valorie are here.

IRENE: Two different products that come—

MARIA: The DEP product Science and Research is working on how can we do risk assessments, cumulative in nature. We understand now, that is not there yet. To be able to have a product that truly is representative of all the impacts that people can be exposed to, looking into the issue so our paper will go into that.

Also, we will research our regulations and our current authority to see where we are and what we can implement within current authorities' recommendations, would also have legislative action. Like I said, it's a wide choice. I don't know whether the Department will go with that.

TONY: What's the second product? You said one product, the DEP paper.

ANA: We formed subcommittees under the Environmental Advisory Council, group of stakeholders, Environmental Justice communities; I represent the Ironbound Community in Newark. We have an interest and commitment. In the beginning of the year, we were challenged by the Commissioner to make two or three priorities for the year and give us something to really work on; on those specific areas that you focus on is in the area we selected, site remediation. And because it was an issue, very current things were happening. We wanted to weigh in on that issue. And second was cumulative impact, so folks had some reservations; it's a big topic.

We felt strongly about going with cumulative impacts as a priority issue because it has been around for a very long time. It's really at the heart of many of environmental justice cases throughout the country and New Jersey. We know the regulatory community grapples with communities; feel like they hit a brick wall when you have permits that are issued, regulatory authority set up in a way that does not consider the full impact of environmental pollution. Low income communities in particular, very frustrating, both for the State and the communities that are faced with those impacts.

And so we really want the Committee to be looking at this problem. We know there's no surefire conclusion, no one has implemented a full-blown program on this. We want the Committee to be looking at it; we may go to some concrete recommendations for the next steps, real steps that we can take. And one

of the reasons being environmental issue, multiple impacts, media and chemicals on communities.

When you talk about communities of color, this is particularly offensive. These communities are of a more vulnerable social demographic, conditions in which they live, deals with lots of different—no access to health care, higher rates of asthma, diabetes, respiratory illnesses, morbidity, together with the environmental impacts create a situation that we think is very unfair and unjust. Requires some response from the regulatory agency. So our research itself in tandem with recent research; It's unfortunate that we don't have staff or funding. Not going out to do a full-blown analysis of what the risk model is. We're trying to reach out to communities, regulators, and people in the field throughout the country on the cutting edge of this issue. What do you see in the future, what should we be looking at as exclusions. We don't have 20 years to wait for science. Communities are suffering today. What are things we can do now? Our research is really doing that type of—some of the outreach out there, some policy and some of the same recommendations we may not agree with. We may have a slightly different set of recommendations than DEP or might not, we will be working together, foresee being two separate projects. If folks have any questions in terms of the site remediation, talk about hot spots, prioritization of Brownfields, sensitive populations. All things that when you look, not just that particular site context in—that site, sits in remedy selection. How protected do you have to be, not just what's in that site. Everything around that site. Future use of that site. I think there are lots of places where this issue will become relevant.

MICHAEL G: I don't want to give you any kind of palpitations, if a draft could come out where we could fold it in, if you're going to be revisiting institutional controls and standards and moving to formulate a policy change to cumulative risk, we want to try and consider it and fold it in here. I think it could have a substantial impact on what the final product looks like. Not that far apart. If it was going to be three years, I'd say you can't do it, try and bring this all together.

IRENE: Dovetail recommendations on both areas: the site remediation as well as the risk. Dovetail the property so that we're making legislative recommendations that are beneficial and comprehensively include of what we're all doing.

JORGE: I'm trying to understand the difference between cumulative and relative risk and whether or not cumulative parallels our relative risk, such as environmental risk. There is a series of substances, one risk or many risks? How holistic are you going to be in approaching those risks such as crime, malnourishment, and poverty, environmental? Could we start parsing out the relative risk associated with that whole—part or not of the discussions?

MARIA: How do you measure and put into equations for cumulative risk? It can't be done at this time. How do you measure the poverty level?

MICHAEL G.: We do it with populations at risk, elderly, for children more susceptible; legislation recognizes that there are problems in a particular community, social and economic problems inherent with the identification of that community. You have a higher standard that you have to meet, but all levels of government have recognized you don't need to go to the community with those risks. It's been done through legislation or policy, determines that you need to protect to a greater extent.

VALORIE: True. A lot of work is already done, working definitions that are out there that define the pollutions that we're most particularly interested in for various reasons. And the other thing too, Ana will share the cumulative health impacts, a lot of the work has been looking at definitions and what we can come up with that works for our purposes. One of the things we've been discussing in the wider New Jersey Environmental Justice Alliance has been use of terminology that deals with vulnerable populations and burdens of pollution. Our purpose is to look at the burden of those who have a lot of environmental stressors from polluting sources. Our ability to combine the social, environmental, elderly, children, poverty levels, lack of health care; in the larger context of cumulative impacts from environmental sources. Then, you know, you really get a better picture of what's going on.

STEW: When you do a remedy, you don't take into account the truck traffic and diesel emissions. You

don't take into account the emissions, only focus on removing the soil. When you're doing that kind of remedy in an inner city, we have census blocks in New Jersey whereas in levels in the top ten of all census blocks in the United States, if you're doing something like that in a kind of census block, understand completely the impact of your activity. And I think that's a really concrete example of what we need to do in this committee and the interaction between the Environmental Justice activities and our activity. How do we ultimately get that into some framework that we can deal with?

STEW: I'm on the remediation subcommittee of Environmental Justice and that's the question: What is the cumulative risk of our remedy and how does that drive remedy selection?

MICHAEL G: If you use an institutional control and it fails (permitting the facility) you're not creating a true picture of the environmental risk in the community. They want it trucked out for short term. They don't want it covered up if it's going to fail. It's a collective picture. What's the increased risk of trucking it out?

JORGE: Failure has a definable risk associated with it too, and they are based on the contaminant and the exposure.

MARIA: This is why Irene is addressing the reform issue with failure of caps. The issue for a community like Newark Ironbound Community, many homes were built on sites that never went through the remediation process; the municipal components and responsibility comes in. Even those that were remediated were done without notifying DEP; changes have occurred and through time the properties become residential. The sites were supposed to be commercial or industrial, but it became residential without even DEP knowing what the treatment product was, through many years of the deed changing hands.

IRENE: There are developers building on sites with known or suspected contamination. They do not go through DEP because they are not seeking an NFA for a lender's purpose or for any purpose and I think Senator Smith and Lisa testified that they thought that was against the law, and, in fact, it's a loophole; it's a gap in legislation that we need to be making.

ANA: Cooper Chemical Company, 40 or 50 years ago, built homes where it was zoned industrial; the planning and zoning boards approved four residential homes on the site. It might not be contaminated, nobody knows. Now they are going to be there for 30 years. DEP says our hands are tied. They contact the city, the city says what can we do, the houses are built.

Irene acknowledged recent efforts to make changes in daycare and schools in legislation.

ANA: At least a review.

MICHAEL G: We need to look at the Municipal Land Use Law in conjunction with our changes. The town meeting, the plans, DEP, -- they don't look at the historical uses of the site. I know industry doesn't want to have a site sold and then put into use this way because it makes everybody point fingers. It might be helpful if we can standardize some kind of disclosure -- this is what it was over the years.

IRENE: New York State.

MICHAEL G: Yes, Environmental Quality Review Act.

ANA: Almost all states, few states have a mini-NEPA.

OLGA: We're talking about a range of issues here. One of the problems in the legislation is language that specifically says the DEP is not supposed to consider cumulative risk; agree as a starter that's an area that needs legislative reform.

IRENE: One thing we agree upon is it's highly likely we will not agree upon everything; the white paper will state positions, so it's out there for the world to know.

OLGA: I think that needs to be a central issue. Much of that language -- and I'll take back what I said, we won't all agree. Some would agree and others will have conflicting points of view. That would be where I would start in terms of looking at what legislative changes are needed.

Jorge Berkowitz provided an historic perspective on how we arrived at a 10^{-6} standard in New Jersey when the federal standard approved a range from 10^{-4} to 10^{-6} .

OLGA: I think there is a serious problem with that standard. We know there are a lot more pollutants that haven't been identified, haven't been tested. We don't know the health harm for the people in the communities where all this stuff is concentrated. Under our current system it doesn't matter, like a daycare in Camden surrounded by four contaminated sites on a site major industry next door. That standard only applies to cancer risk, as I understand it; A host of environmental health areas other than cancers. One in a million doesn't talk.

JORGE: The Hazard Index—less than one—

OLGA: That's cancer [risk endpoint].

JORGE: No, the ten to negative six is [the cancer risk endpoint]—

IRENE: For non-carcinogens, it's the hazard index.

OLGA: The DEP can't effectively address the issue that Ana was speaking about while that language is in the statute.

IRENE: I think the discussion is a good point. Certainly something we should be talking about and go towards. We also have to look at the 10^{-4} factor.

JORGE: The full boat of them, all of them.

IRENE: Good reasons to go that route, 10^{-4} as the risk factor.

MARIA: The discussion is not necessarily 10^{-6} or 10^{-4} . That was fifteen years ago, changes in paradigm and the way we do business. It's more about beginning to understand when somebody's making a decision, who looked in isolation, now considering what is impacting in this community. It's got to go hand in hand.

VALORIE: We're not hung up on risk; it's a bottomless pit. Looking at impact in general, particular effect of everything, incinerator, oil refinery, general plant, sewage treatment plant located in my backyard. What's that doing to me?

JORGE: That's right. Different issues. These abstract numbers come alive, 10^{-6} . Seven years, life, 300 people over a 70-year period would manifest some kind of cancer. That's it. 300 million people.

OLGA: You have a stake in the faith in the science.

JORGE: That level of risk specifically, a very fine line of what is acceptable.

ANA: The 10^{-6} concrete number we're trying to make real with the cumulative impact discussion; make that number real. Cumulative impact, we know we have stressors, 10^{-6} isn't good enough. More protections. We don't believe 10^{-6} is truly reflective of the impact in the community. We are going to have that discussion, maybe that battle, not here though.

IRENE: That's okay. I don't think you're saying change all the soil standard numbers to 10^{-7} , you're saying promulgate 10^{-6} . When you look at the site, look at all the factors associated with the cleanup, what is being emitted from the tract next door, what is in the drinking water at the school, may actually be public, could be lead in pipes. You're saying look cumulatively at what would happen at that site.

ANA: Looking at the regulatory standard set at those sites; air permit, is it protective to 10^{-4} and 10^{-6} , multiple stressors and impacts. So I think what you said is right, all of those factors, it's also going to be

looking at the standards, are they protective enough?

JORGE: In effect, you address only that problem by definition.

ANA: No. Our recommendations in the subcommittee, a lot of our work is in air permitting, for example, air, soil and water. All of those things can't be the soil remediation standard.

OLGA: We have a specific problem in the site remediation problem, statutory language that we don't have in the air permitting and ten of the other areas, we're trying to deal with these. Bring in cumulative impact issues into site remediation, look at that language.

JORGE: The National Contingency Plan (NCP) [related to Superfund legislation].

IRENE: Yes. Are they at the Federal level? No, 10^{-6} and 10^{-4} .

BARRY: Under the Superfund program, A site is evaluated as a cumulative risk, relative soil, groundwater type impacts. The way the NCP constructed cumulative risk value that is what you generate. If it falls between carcinogens, 10^{-6} to 10^{-4} range, considered to be an acceptable measure, 100-fold allowed there whereas in the Brownfield Act sets the standard for carcinogens at that 10^{-6} level. What's up for debate is whether one agrees or disagrees, there's an appropriate risk value. You have to merge a qualitative evaluation of the area against the quantitative because at some point a decision has to be made. Does it pose an acceptable risk or does it pose an unacceptable risk? Without a number per se, it's going to be difficult to make that call.

One way it would be done is not necessarily an easy way, but it could be site specific depending upon what's in the vicinity with more potential environmental impact. The resultant level is going to drop down because you have more sources of contamination as opposed to somewhere else with a single input. Therefore, the number may be higher in terms of the concentration.

MARIA: We're not there yet. I don't think the numbers—we're able to go through the science to come up with an answer. So when you're talking 10^{-6} for lead standard, for chromium, for arsenic, we don't have a standard that takes into consideration all those five chemicals at that site. Standard for lead. We don't know how the lead interacted with the arsenic. This issue cannot be ignored anymore.

ANDY: It came up when we had the municipal discussions. Not everyone was here for that meeting. We talked about what is the presumptively clean site in New Jersey, where is that site. You can say I know it's not a chemical plant. May or may not be contaminated. It would be helpful for the discussion we're going to have for June 1. The Cooper Chemical Site was the first we've spoken of a specific site. It's a lot easier to have specifics as opposed to generalizations. We know there are other sites out there, to look at how that happened, a lot more substance on some of the discussion. Make the question; we have the mailing list.

IRENE: Where development occurred, residential, without DEP oversight.

ANDY: For one purpose and different purposes came later.

MARIA: Impossible to know. Safeguards need to be in place for what sites would have been, might have been.

ANA: Lots of examples, Cooper Chemical, on most streets in the Ironbound and find lots of examples, specific developers.

IRENE: If there are places, institutional engineering controls, the use has been modified. We have had examples, our cap cop went out and discovered construction at a site, ripping up a parking lot, no notification to the DEP. People have altered particularly parking lots for expansion of a building, which is the engineering control.

MICHAEL G: Street artists, daycare centers, the school construction project happens in ways you can't

conceive. We have to try and basically put together something that gets information, as much information out there before we face all kinds of discussions we would have. You don't think it's going to happen in that particular way. I do know, you do learn from the actual amounts—we have seen it now across the board in every kind of development, every type of facility. We got to put all decision makers together, not just DEP, so that a neighborhood can get their questions answered and DEP can continue to be a resource.

STEVEN: A lot of what we're talking about is risk assessment; site-specific factors and risk assessment. One of the things that we know is the use of site-specific risk assessment as a means to remediate has not been well accepted by the agency. If we're talking about all the risk issues, we ought to get that common table too. We have statutory authority for it, not done it very well or very often. And it probably belongs as part of this discussion.

TONY: Good point.

IRENE: Part of the June 22 discussion.

SHERYL: A few thoughts, we've talked about in terms of engineers and institutional controls, many agree that work needs to be done to strengthen those programs. I personally don't believe you could have a program in New Jersey that doesn't have the use of engineering and institutional controls. They are needed at a lot of sites. Quite frankly, because of technology limitations, or off-site implications, negative implications to the community and others. But they do need to be fixed.

I think the other thing that we talked about that I think is worth working on is development of acute or principal threat, some separate criteria. Even after you beef up that program for engineering and institutional controls, if there is a breach that that isn't going to be an acute impact, that's something that can be worked on. I think something that we need to be aware of that, discussion about the soil standards. Talking about a lot of things, direct contact risk, 60 or 65 percent of the cleanup standards actually driven by impact to groundwater. That's because those numbers are far more stringent, human health risk, water, dials into what we're talking about, risk and exposure.

Cleanups are driven by multiple pathways, impact of groundwater, surface water impact to human health. Often times those other criteria are far more stringent than human health. Beyond 10^{-6} —the impact to groundwater number. Protective of groundwater as a direct source, as a drinking source. So it kind of is a human health, an incorrect human health. I think unless I was misunderstanding when I was 10^{-6} , perhaps I was mistaken, concerns about direct contact with soils.

IRENE: You're saying the groundwater impact numbers are often lower than direct contact. That drives the number down, though the direct contact number might be 100, you cleaned up the soil to ten or one.

OLGA: My understanding, in the really heavily impacted areas like Camden or a Newark, all these classification area exceptions, no one has to work, groundwater is not going to be used for drinking water. All the cleanups I've seen get these classification exceptions. I see people shaking their heads.

BARRY: There is a difference. One should not view the establishment of a classification exception area as a remedy. It's an institutional control that's in place as the remedy is occurring. Even in Newark, even in Camden where you do have normal monitored attenuation, the final end point at the point where the CEA is lifted, occurs when you reach the groundwater quality standard.

OLGA: Sheryl was saying the groundwater issue makes for a more thorough cleanup. No, it doesn't. Because if you have the classification, you don't have to meet the—

JORGE: Not true. Misunderstanding.

MICHAEL G: If you have natural attenuation on top of the CEA, you're not doing a cleanup. Waiting for it to clean itself.

IRENE: Correct me if I'm wrong, you were making the point that the groundwater impact cleanup standards in soils are not necessarily the driving force in Camden or Newark. No one is drinking the water; what Barry is saying, that's not the case. We still apply the same groundwater impact soil standards. All the water in the State at this point in time is considered to be potable. There might be an impracticability as to why soils; might be historic fill issues. If there's a huge chunk of contaminated soils with TCE that leaked into the groundwater in Newark or Camden, it's required to be removed.

ED: Because of the historic fill issues where the engineer control cap and CEA related to the metals sometimes.

MARIA: We brought the conversation back to risk assessment. The cumulative impact is much broader, just a subset that we are looking at. Looking at more quality of life improvements in communities; hopefully we are. People are free to continue to discuss, 10^{-6} or 10^{-4} , 100, keep thinking about the synergistic cumulative soil, water, air, traffic, development that are more responsible to the community's quality of life.

OLGA: It worries me a little from cumulative into institutional control, other issues. I'm not sure we're really reaching any kind of points or positions or conclusions on this cumulative impact, even points on which we disagree, we kind of keep shifting.

OLGA: Make clear for the record too, if there are people suggesting as afraid of removing the language of cumulative risk to be—to go on the lower 10^{-4} standard that was totally unacceptable. Many of us would think we're looking for more protection for the communities that we're here around the table representing, not weakening the standards.

JORGE: Really important to understand the rule of relative risk and how important it is in terms of making decisions. There is one thing we can agree upon, simply that New Jersey needs to define urban areas, make them safe and healthy, good things. We're growing in Warren County, Sussex County, and Morris County. No infrastructure issues. But if we're going to be honest, take a look at really what the real impacts are in terms of risk. What media is causing the exposure? If you have a pack of lions, we take all the teeth and claws off of one lion, we still have a pack of lions. We have to really be honest with one another when we do this evaluation and making these areas safe, where are our problems, what is our priority in addressing these problems? Where do we sink the resources?

DONNA: Some of the responsibility needs to go to land use boards. Often the land use boards, planning and zoning boards, don't understand contaminants. They just look at land use. When you talk about changes in land use, everything stops at the zoning boards and the planning boards. They need to be more conversant on this project. That will cover the pieces that don't get to the DEP. And even if they just understand it enough to say wait a minute, did you talk to the DEP, we're not going to approve until we get an okay. That could stop some of it, especially when you're talking about the neighborhood. They know where the smokestacks are, what their neighborhoods are like. They know what impact there is more than anybody at this table would understand. I think they need to share some of the responsibility for understanding it. They need to learn and be educated and understand it.

IRENE: There's a flip side. I don't need to raise this over the concerns that have been addressed here. They need to be taken together. The practicality; how things get done. Talk about—Jorge said it, the risks, and we have to talk about the priorities, about the practicalities of the solutions if you're talking municipal planning and zoning boards getting involved in environmental reviews.

DONNA: I'm asking for a better understanding. Before we approve this, you need to go to the DEP.

ANDY: When we had the municipal discussion, tell me what the presumptively clean piece of property is where you don't have to go DEP. DEP can't happen the way they have now.

DONNA: For the chemical plant, to go to the land use board, can I put a house there? Turn around and asked that question. Did you go to the DEP? That's where it has to start.

ANDY: Why won't that apply to the farm or the city, in the middle of the State park, happens to be unbeknownst—that's every site in the State of New Jersey.

DONNA: That's why it has to go the boards, to know enough to ask the question.

IRENE: And Andy's point is in the implementation of the Madden Bill known or suspected contaminated sites, what is a suspected site in the state of New Jersey? It could be anything, even a park.

MICHAEL G: Tells you the type of information you need for each and every site presumptively in need of information -- the historical use. Samples are taken so planning board members look at one of the uses. There was a time we didn't think of sampling and that caused problems. And if I can speak to brownfields, was sold as an industrial redevelopment, replaced standard for cleanups, redevelopment in the status of industrial, but it was also when the residential part was there. There were going to be very strict standards. We've seen a lot of standards with that dual cleanup and that's one of the reasons we're here.

The presumption originally was if you contaminated without a permit, you cleaned it up if it was doable for residential. I think that's really where we should be. We don't need to quantify, eliminate all of the contamination for the residential institutional controls used in the appropriate locations where they put together for when it's going to stay industrial. That's really how you eliminate that problem. The cities are growing. It's not—we're not going to shut it down. Basically a tidal wave and it's good and wanted to do—what we see is it got jump-started in part, some kind of manipulation under dual standards.

ANDY: All these things are fair characterizations of how the law went through. We'll come back to that on June 1. The focus needs to be the broader range of subjects and we need to be able to work practicality into the discussion, the difficulties. Could we make everyone truck it out and dump it, clean out anything, residential site, dump it someplace else? The practicality of that might not be going to have the redeveloping in the cities. That's been encouraged and certainly there are people proposing that. We haven't discussed the concept of the practicality in the municipal planning and zoning boards; it's asking a lot of these volunteers, because they are volunteers. Only point you can't analyze all other states' land use process to New Jersey's. If New York has a mini NEPA type, they don't have MLUL in New York; they don't have that type of process. Planning and zoning is done in a different way. You can't necessarily compare apples and oranges.

MICHAEL G: We need to add environmental information. I don't care what you call it.

IRENE: As long as it doesn't all come to the DEP, I'm happy.

ANA: I agree. We all want to see cities grow and people live in the cities, deal with what does growth mean. Very different pictures of growth and how that happens is very important for the people that live there. I think we're making a case for specific communities. All of us know about Camden, Newark. Certain communities for decades suffered disproportionate burdens in those communities. We need to think more holistically, maybe more stringently and maybe that will have some kind of balance. But, talk about growth in those cities. Can't be at the expense of other things, especially health of the people that have lived there for decades. I think there's a way to do this that—I'm not talking about changing the standards for the whole state, but maybe more stringent standards for some Environmental Justice communities.

IRENE: Excellent point.

STEVEN: Someone might put Jersey City on that list or might have ten or fifteen years ago. An awful lot of cleanup and redevelopment -- the Jersey City Gold Coast Engineering and institutional controls. I'm not aware of claims that those residential properties are not safe. There's been a redevelopment there. I think as a result of those kinds of cleanups and redevelopment, someone could take issue with some of that.

ANA: I definitely could. I think what's happened in Jersey City may not necessarily be what the people in

Newark want to see that in their community.

JORGE: That's qualitative.

ANA: Absolutely, talking about what's happening in Newark and Camden today. How can we help the people that live there today? We have redevelopment questions; we can have that in a different forum.

SHERYL: We have been talking about cumulative risk, risk assessment, and the underlying; all of this took public participation, site by site approaches. We need to start talking about risk resources because if these issues are going to be reevaluated, the Department really doesn't have the number of risk resources to, correct me if I'm wrong, on a case-by-case basis, to really look at things from a cumulative or site-specific risk basis.

JORGE: If I had the opportunity to fix the problem relative to risks in Camden, Jersey City, I know what would be first. Not site remediation. It would be air pollution. If you took out air pollution it would cut down the cumulative risk by 80, 90 percent. Maybe as part of the stakeholder process we need to identify what's associated with our process, we may not be able to really address the problem holistically. All we can do is identify the problem.

IRENE: What Maria is talking about is the paper coming out from EJ.

MARIA: And policy practices. It's a matter of the approach that could be taken, probably is not a wise thing to try to buy in one thing. I think you have to take a step at a time and maybe an analysis relative to a given contaminant, where is the major source, and focus on correcting that as opposed to trying to correct all the potential sources. As another example, lead, I'm guessing that probably the greatest source of lead in Newark and in Camden is from lead-based paint. Probably should be an effort attacking that in the sense of eliminating sources of lead-based paint as opposed to going after other sources at least as an initial step in attempting to eliminating the greatest amount of risk.

STEW: I'm an industry representative for the EJ Committee and Stakeholder Committee. I'm listening to this and I'm quite conflicted. So I want to share some of my thoughts because I think what's going on in my head is a little of what's happening in this committee. The risks in the cities are really not from the sites except when they are uncontrolled. The original program was uncontrolled. It's a little bit like a Clean Water Act problem; we got all permits in place and went out after the big polluters, easy to control. Then we found out about the non-point sources creating low amounts. Struggling with the same issues. These sites are point sources. They are easy. We have to figure out what responsibility we're going to take. We have to guarantee the cap won't fail. Find a way to make people feel comfortable that that won't happen. The flip side is if you make people dig up the sites, secondary impacts, air pollution, and walking away, and you won't get the tax base and. So it's a really, really difficult issue. I'm trying to frame it in my mind, figure out what responsibilities the Site Remediation Program has and how to get to where we want our cities to be.

ANA: I have a slightly different take than Camden; we have limited land, schools, parks or anything at this point. When we want something like a park, what are the Brownfields site remediation; how easy is it? It becomes difficult. Several issues where cumulative impacts come in, a lot of time on the remedy, which is a debate that we should have other places. What is the site priority? Children are playing on the sites. Tell you to concrete it like Tidewater; 20 years with asbestos on the site. Thousands of children near it playing baseball, all exposed to lots of different chemicals. How does it get prioritized? The remedy selection and institutional controls are part of that. How protective or stringent? What role does the public community that lives there have? We've been completely left out of that problem. Tidewater, the site, we wanted to build a park or residential housing, no way to trigger any review. As citizens that live next door, I think we should look beyond the remedy selection piece. How much influence we can have right now? We have zero.

IRENE: Good segue.

TONY: The Department of Health and Senior Services is taking a look at the data to see if there is a risk from a medical point of view.

MARIA: Working closely and we have DEP agricultural education, every State agency. We're looking at the problems together.

TONY: At some point in time somebody with a medical background in air quality, water, site remediation exposure—

MARIA: Looking at data, cancer registry, birth defects, superimposing that. Maybe more vulnerable; for another discussion. Would not be doing that on our own.

TONY: Part of the paper?

MARIA: That will be part of the paper. I think we are getting way ahead of ourselves. The concern is about perhaps things that we don't need to be. This process is going to guarantee a lot of issues are going—integrated into the process.

IRENE: That's an excellent conversation. Thanks Ana and Valorie and Olga for coming and talking. Jorge has been the number one proponent. We don't have the right crowd in the room. We're environmentalists.

MARIA: One of the two issues that Ana has, public involvement, Jorge will talk about risk prioritization.

Public Participation

JUDY: A lot of you have been involved for a long time with more public participation in site remediation. Because the statute precluded public participation in remedy selection, a lot of our initial educational effort was to help people understand that we didn't have the luxury of selecting remedies and we weren't ignoring it, simply didn't have the statutory authority to do that.

We have really focused more on public notification as a means of sponsoring participation rather than expecting that we would get legislation on remedy selection; we started on this several years ago. We did a lot of outreach to various groups. We put together a rule that is coming out in the register, maybe July 16. If you're not familiar with it already, it's a guidance document on the Community Relations website. More or less, it mirrors the rule. We encourage people to start practicing this outreach notification process prior to the rule getting through the review process. By fostering a dialog, notifying people about pending remediation, you obligate the responsible party, whether it's the Department or a private sector person, to have some kind of commerce with the affected community. Prior to this, we did not have that mandatory investigation.

We're not going to get remedy selection directly. If in the process of a conversation between someone doing a remediation and the community wanting to know more about what's going to change in the remedy occurring, the only way that's going to happen at that point is the conversation is between the community and the party responsible. That's been the biggest piece of it. I also passed out the front page of our website, just to give you a sense of the kinds of things that we have done to try and energize community relations as a source of information. The number one thing in meaningful public participation is accessed information. If you don't know what we're talking about, it's kind of still one-sided. Our biggest goal is to try and get information out in a way that makes it usable for the community. And one of the cases, for example, please excuse me for my situation, okay, but we have a couple of sites I want to have highlighted, OCR, we are out on a regular basis. The community relation office not only handles websites and the RCA issue or issues with the day care center, very involved in the opening run-on, but we're also very involved where there are immediate environmental concerns and wells are impacted. We're talking to the neighbors so that they understand the kinds of risks that they are exposed to and/or what the process is by which they are going to make sure their health and environment is protected. The public readings and residential—the time line is historically trying to keep them up on the web so in case

they get ahead of us, the site highlights really illustrate the different kinds of sites involved in the program. The sites in the news are basically thinking that comes from some the site remediation, they're very conscious of the fact that we can get information out to people now. In some cases as they come in and give you a sense of what those are, and one of them that we're particularly focused on are the cases that were connected to the Environmental Justice Program and that site. Long Branch and Camden and those two for sure have been a very high profile for us, and Ringwood.

Community relations has a site list. Any site in New Jersey that the Community Relations Office is involved with is listed on that site and sorted by county. Very easy to see where we're involved, what the community violation is, the point person, in that case. If anybody in the community has questions about those sites, get to one of the Community Relations staff whose expertise is in risk communication and understanding questions from the public and trying to respond appropriately and help people understand the context of the site remediation resources. I can't emphasize that enough. It's a tool for anybody to share, how site remediation does business, what our process is.

There's a Section for homeowners and homebuyers to give people basic information to understand and have a more productive dialogue. The work process to move those up in the *OCR In Action*, very much some inaction. Then they have other resources listed, going back to the guidance document. What I'd like to do is walk through that, if that would be useful. Four different areas that we're looking at. The first thing is I'd like to thank Ana about the discussion we had about neighborhoods. Probably one of the largest populations of cases that we have are fuel tanks. And when they have been, residential, fuel tanks leaking, that we're taking those out and do we have a hit number like 11,000, thousands, so we've got a huge number of those cases. They are not included in the notification. The logic behind that is very much that you're going to the next door neighbor to see what's going on. Most of the cases do not have effects beyond the property lines. The conversation will happen pretty easily, the two people that live next do it.

IRENE: Those tank cleanups [are completed] in the course of three days.

JUDY: Yes, and some of the notification guidelines are longer than the cleanup process for most homeowner tank cases. For a whole host of reasons, we did not include homeowner tanks or emergency response. One of the things that came up in discussions with stakeholders during this process was a belief that an emergency response, if it didn't have this, it had nothing. Emergency response has a very expansive public participation component. The local Fire Department; all those people are advised early on and then if the problem is resolved, it's done. But if it's not resolved it becomes a case and then it's captured in this population. That's just a point of clarification.

The first thing that we are asking people to do is to identify sensitive populations; create a *Sensitive Population & Resource Checklist*. The reason we used the language "sensitive populations" was because we didn't want to use a term that was already in the tech regulations. These are places where we can not demonstrate a scientific risk because they are in proximity to the area, the people who use those facilities, run those facilities, would have a concern that we need to meet. We're looking at residences, childcare centers, potable well areas and parks and playgrounds among other things; such as tier one well head protection areas, to identify where those are relative to the site and the site's boundaries.

So as the cleanup process moves forward, the party doing the remediation is conscious of the fact that there are these populations and hopefully asks themselves, why does DEP care if those populations exist around my site? I wonder if it's because the populations might be concerned about what I'm doing? And clearly, yes, those people are the likely parties that are going to be concerned, and so would we just want the party responsible to tell us where the sites are, to show that they have acknowledged where the sites are. Going forward, they have an obligation to notify the lead member of that group and I should say that also Environmental Justice petition neighborhoods as part of that list.

The first thing is to get sensitive populations identified. And then the second thing, prior to any activities, is they have to notify the municipality, and get approval if they wish to post signs. Could be DEP on the 300 or so sites that we have under the publicly funded sites in-house, or it could be any one of the other sites that are being cleaned up by someone, not the Department. They also have to notify the health officer and anyone living or renting within 200 feet, any owners or tenants within 200 feet of the property or they can post a sign on the property and the sign on the property is not modest. Two feet wide, three feet, has to be legible and visible by the public.

In a letter you would send, you would say I'm notifying you in this letter that we're going to be moving into a remedial action phase and that we're going to be digging things up or whatever activity we're doing; the sign would say, "Remediation in process. If you have any questions call the party responsible, their phone number, or call the office of Community Relations." This is so you can get basically to the same information. And we hope that the signs will be the option of choice in more cases than not. There are always considerations, whether or not the township wants a sign. We talked to a number of townships with this and they say yes, in some cases we don't want people to be near the site. We may not want a sign. We may request that they do the letters instead. That has to be worked out between the municipality and the party responsible. Again, one way or the other, that information has to be reachable to the neighborhood.

If the contamination leaves the property, there is a second level, the activity that's required and I'm sorry, I realize I jumped a couple stages ahead. There is a new section about instances where materials will be brought, this is an area that was brought onto a property, later in the process, Page 3 of the handout. There were a lot of landfill sites or general remediation properties where there was fill being brought into the property and that we wanted to make sure that we had a condition there that was notification about that fill as well. So we had that at a later time. The long term remediation similarly reflects if the remediation is going to take longer than two years, put in a requirement that every two years you have to go through the notification again to make sure if anyone recently moved to the neighborhood they are aware of it. Again, if the sign is posted, the signs will have to have a date of posting on it so that theoretically people will understand this is a continuing process. They can see this sign and come down. If they are pursuing the letter process, every two years they have to put the letter out.

VALORIE: An example could that be a parking lot in the mall?

JUDY: It could be. The RCA cases would have triggered this.

ED: To level off a site.

GEORGE: Landfill closure, to bring materials, to raise the grade.

TOM: Beneficial, may not meet our residential standards. Material for the remediation being used and acceptable for RCA, recycled concrete, aggregate, all kinds of residential situations, so it probably could be almost anything.

MICHAEL G: I know in Trenton the problem with the school site, this would probably avoid this.

TOM: Some facilities mixed it with something else.

JANICE: Would dredge soils be included?

JORGE: You mean criteria? You mean residential standards?

JUDY: I think there is Franklin Township in Middlesex County that had a situation and passed a local ordinance that requires anybody who's bringing a certain amount of fill in to have it tested – that's the first step. The sites with off site impacts – on a lot of sites, just the soils are contaminated. Then you can basically stop after the first step. If the contamination has gone off site or is multimedia, then there will be a requirement to do additional information, primarily to create a fact sheet. That fact sheet is as described

here. The description of the history of the site, description of the contamination, the actions that are being performed, the date it was required, and then contact information. That has to be handed out to the community within 200 feet. And we also urge the placement of the fact sheet in a local paper as well. Not required, but certainly a recommendation on our part. And as it says this level of community outreach may not be required when contamination is affecting only one other property and the contaminated media is limited to soil. This is currently being written as guidance. All of it is proposed in the regs. That would be it.

The next one is when cases have a high level of community concern. There is a condition that is called *Enhanced Public Notice*. The point being, there will be some conditions whereby either a Mayor or a local official by virtue of a letter or other request of an environmental commission requests more expansive outreach on the part of the remediating party. For some reason the remediating party doesn't seem to be stepping up in a way that is saying the community—this can also be petition, an approach which is the signature of five people in the neighborhood, people that live or work within 200 feet of the property. To focus on the fact that whatever is being done by way of outreach is not sufficient, that would require the remediating party consult with a community about what the community would like to have by way of a dialogue. Then through DEP's role, I guess I would say we act as a facilitator, to make that happen to the satisfaction of the community.

In that case they would definitely be required to do more outreach; do a public information session, put a notice in the paper, required at that point and establishing a repository and other things might be mutually agreed on; in some instances they can put up a website. They may say we want to be notified when certain activities happen. It could be any number of things. Truck traffic that comes with remediation, they notify the people in the neighborhood in advance.

Those are pretty much the conditions that we ended up with as far as trying to make our process more transparent, to make information more available to people and to help people have the opportunity to get dialogue with the remediating parties. And, as I said, we hope it will be in the register, June, July 16; you'll be getting an e-mail from me and imagine me smiling when I'm sending it, when that day happens.

IRENE: Comments and questions on this first—the bigger issue, do you go further? Is public notification enough? More involvement than people think needs to be addressed in the white papers and part of any legislative recommendations?

OLGA: It's very frustrating for a community if they come out and here this is, how we're going to do it and there is no discussion of other options. There isn't anything comparable to the Superfund process. Remediating party has to explain what the alternatives are and why one over another.

At the very least, people know what's going on, what dangers there may be in terms of exposure. They may be able to watch over the remediating party doing it right. It really needs to be put into the whole notion of being able to have DEP have a role in comment public and input. I'm disappointed that you backed away, that there be signs posted. I know that was part of the discussion. Once contaminated, a site should be posted in an urban area, terrible, people have no idea, kids play on them, vegetable gardens, as side lots, anything from barbecues on contaminated sites and cook on them. No one knows there's anything to worry about. The cities are not going to like it. Camden doesn't think it's encouraging to develop all 114 sites posted. In terms of protecting from exposures, at least the larger, more significant, more polluted sites, there should be some permanent notification. There is on Superfund sites. These signs say "Hazardous Do Not Enter."

JUDY: The third process, the petition process would be a vehicle to get that local discussion for a given site.

OLGA: To have a petition you have to know it's contaminated to begin with.

JUDY: Obligated to comply with this as you hit the stages of remediation. Once you're in DEP, somebody maybe passed a certain point here, the RA, but once they hit that milestone, they have to do something. They have to send a letter to everybody or post a sign.

OLGA: Starting remediation, most sites are sitting in limbo not being remediated for decades and taken over and start using as vacant land and they have contaminants, as long as you've had the list.

TOM: Food for thought. Tidewater Baling; responsible party is not around anymore. May not be something we can prioritize. Sites are out there; having a sign posted there is a good idea.

VALORIE: Advisory, that's all.

IRENE: We are not prohibited from doing that.

OLGA: Not required.

IRENE: Nobody to require it from our responsibility. So your point is well made and well taken from our standpoint.

ANA: No responsible party in communities. We know there's exposure. People are using lots that prioritize sites for simple signage without getting into responsible party or getting into that remedial action phases. Especially EJ petitioning communities to know that there are sites that people are using what we did, we knew that site was being used.

ED: Prepared signage is not going to cost a fortune for the DEP to put up. Our problem is keeping them up.

ANA: In New York, if you're going to get a permit for site remediation in an EJ community where a certain percentage of the people are below the poverty level, certain number of minority, low income people, disproportionate impacts; they are required to have enhanced public participation. It's automatically triggered. As soon as you come into EJ community, you have to go that extra mile in the communities that have been flagged.

MARIA: We don't have [identified] Environmental Justice communities in New Jersey.

ANA: But petitions are not all—it's a start.

MICHAEL G: We could recommend that we have them based on the executive orders, Federal order using the same criteria and also we should make funding available, hiring engineering expertise to review plans so that the community is empowered with the information just about the environmental issues since we're going to the legislature. Since they are not, you can make a big impact by allowing them to possibly get access to licenses, engineering firms, maybe volunteer at a reduced rate so that you can get it.

OLGA: Very technical stuff and the community folks really need their own expert.

MICHAEL G: Hopeful the State will get access to information, have your own professional you trust, you tend to be less skeptical about what's going on.

ANA: In New York and California in those EJ programs, they have technical assistance grants, small grants to communities just for that purpose. For communities to hire their own expert. Even at a reduced rate or pro bono, enter into that enhanced public participation process in a more informed way.

TONY: How do you guard against where the responsible party says, "I can meet the standards using this technology," and you said—"I'd rather you do another choice," who is going to have that ultimate say? If we can show we're going to meet the standard to DEP, drag on remediation, further delay. A process that's been flagged by delay.

IRENE: Table that for the remedy selection. EPA has a tagged grant money, \$50,000, now for

communities to hire their own consultants.

JORGE: If you were to do that I would recommend that the consultants be certified by DEP and an objective third party and capable of doing the work that they are being asked to do.

JUDY: We did have discussions about that. We first thought perhaps there was a way of using existing State monies. There wasn't a required participation component, so we couldn't. It did come up.

IRENE: Jorge's point is interesting, tie it into certifications, professionals, whether they do DEP's work or not, having licensed professionals, this could be a category that people could get licensed for.

MICHAEL G: Is a notification only required if and when you say additional notification should be performed in cases where you have proposed to bring contaminated material onto the site in an amount and in excess needed to complete remediation requirements or construction, the engineering controls by DEP in work plant? If you're doing it as part of the remediation, you don't need to give the notification?

IRENE: That requirement deals with when we are through closure, allowing materials to be brought on site, not just to close the landfill, but to accommodate development on top of the landfill. We've had some cases in the press recently where the locals are saying you're allowing materials to be brought into my township without me being notified. This is a notification process.

MICHAEL G: I'm saying if the proposal is not given to town officials, not the case when contaminated materials being brought in as part of remediation. I think it should be the town officials.

TOM: Any time we bring it in—

MICHAEL G: Give a head's up so they cannot say we didn't know.

IRENE: For sites that are undergoing SRP oversight, agreed we can do that. There are times when developers—

MICHAEL G: Bringing in the material, you're not aware of it because you're not in the process, right?

OLGA: I keep seeing improvement on the DEP website in terms of information on contaminated sites, good thing. It still needs more work. When I get on the DEP website, more information than used to be but it's not a user-friendly site. Still you get very, very limited information. You have that confusing different ID numbers depending on the program.

IRENE: Having been the CEO of the program for a few years, IT is always a work in progress. One of the major things you have to do as the IT folk is understand the community and the programs. That's something that George is in charge of that for site remediation. We are working on it more and more. You're right. When you have stuff put together strictly by IT folks on the web, not necessarily as user friendly. They are not thinking, they are thinking, for example, somebody in the public, how would they view it, would they understand the acronyms of what a PI number is.

JUDY: Municipalities have started linking our data from their websites. Some slice out of our massive data, just the data relative to their community. We're doing outreach to encourage municipalities so that when you go to the Camden website, you might actually see site remediation in Camden. See some data that they—without too much effort on their part, they can just connect to our Camden database and get it directly located.

OLGA: Ever talk to people in Camden? Should have CamConnect.

JUDY: That's a great idea. We're hoping you'll see municipal tag to our data. Also we think it will be a really significant step forward.

GEORGE: I'm responsible for the web page that we have. I handle our OPRA program, about 12,000 OPRA requests in every year under my responsibility. I'm responsible for Community Relations (Judy's group) and I handle our information systems internally; Not only just the website, but also our NJEMS

system. This not really a risk prioritization system, but a remedial priority system. We want to use digital data for our remedial priority logging or scoring that's a relative score between all the sites, not an absolute score.

Why do we want to use digital data? It's a resource issue; that's one of the pieces. Would you rather see five people ranking sites or cleaning up sites? Cleaning up sites is probably where they should be going. Different people look at one set of factors and they rank it differently. We'd like it to be concise. We're thinking of ranking the sites in tiers, first, second, third tier. With a live system, that is dynamic, that change in relative ranking to each other; it has only been an issue when they move from one tier to another.

We have an internal process that we're working on that started with a working concept. We've documented that work product. The next step is acceptance of the concept in the assumptions; run that by upper management. Once they give us the go-ahead to move forward, the next piece would be one point of the system and we're thinking of it in terms of versions, it's constantly improving, always going to be new things that we find, new ways that you want to adjust the system to make it better, to capture a better representation of the relative risk ranking between the sites. Once we get that first version done and out internally, to internal customers, re-examine that, look at the—assuming that we made it in making that system work and then put out another version of the system.

We're hoping to get the version one done for internal review in the next couple months, but resources are working on some other things as well. The daycare center issue -- we've been devoting a lot of time to ensure that we are offered some protection there. We're hoping to get that first version out in the next couple months, evaluate and internal review to see clients understand the assumptions and agree with them and revise. We'll set that process up for the future so that we're constantly improving the system. So that's the internal process we're working on, fundamental assumption that we're making in assuming the system, GIS (geographic information system) technology, to evaluate the relationship between the location of a site to a condition of a site. We think both of those things are important, depending on the respective scores of it, condition of the site and the sensitivity of the environment and compare the sites and come up with objective criteria that we list numeric values we can rank.

We've approached the project from two perspectives. First, what I'll call risk and that's really the local environment and hazards that are posed by the contaminated site. So how do we look at risks sensitive to local environment? There are receptor media elements that were evaluated; store those separately, combine that into a total score to talk about sensitivity to local environment relative to the site. How are we going to address the threat posed by the site? Look at internal information that we have, could be hazard elements that we have based on hazard ranking system. Could be other data that we have relative to what contaminants are present at the sites, evidence of those kinds of things. If other parts of the Department wanted to use that because it would be available to anyone within the Department, they wanted to lay on census data or any other data to look at other features, they would certainly be able to do that.

On the risk side, the environment, what are the impacts to people? As I said groundwater, surface water, soil, vapor, sensitive areas, the impacts that the environment, and also any special sensitive areas like threatened and endangered species, pinelands. We're going to borrow coverages from other programs within the Department and layer that together as we move forward. That was originally one of the things Irene had and when we looked at the systems and the ability to connect all this data, it's a little complicated. The devil's in the details, what numbers are you going to put on what values the site has certain considerations related to it relative to what we know about the site, what's the size of the site, what remedial levels are there, how old is the case, are there institutional controls at the site. All those things factor in, how big the site is.

Those are all the objective criteria we're looking to overlay; put some numeric values on them and come out with a relative ranking of sites. Where are we now, what things have we been able to layer, we'll be able to match up population density, day care centers and schools, groundwater recharge area, residential land use areas based on population, density, surface water bodies, private well areas, shellfish areas. We're looking at human food chain with agricultural land use areas. What's left for us to do. A whole list of coverages we're looking at, public community, water, surface water, drinking sources. All these kinds of things internally, we would expect the system will be utilized internally first and haven't made firm decisions about how we want to push that outside the Department.

IRENE: One of the things I don't want to do, I don't want to publish a list of a stagnant sites. We get new sites every day. We get new information on sites every single day. If this is a live system, live database, run these risks on a more frequent—goes up, got a volume of information, arsenic at the site, et cetera. Having a stagnant list doesn't do anybody any good. Roll it out internally first to get the bugs and do an evaluation to go through it and make sure it's useful and properly serving the functions we hope it serves. Clearly the goal is to put it on the website, live system for everyone to access at all times so everyone can see the relative risks in the community or the State.

OLGA: I'm a little confused on how this is actually going to be put into use. As a guide for where DEP is going to use public money for public funding cleanup?

IRENE: Enforcement, public funds, or HDSRF funds, additional checklists for Brownfields cases, which are separate, could get built on over time. Brownfields in the area bring in lots of jobs.

ANA: EDA [Economic Development Authority].

IRENE: ...Then a bunch of things really important in human health and to the environmental world need to look at simultaneously.

OLGA: You would be looking perhaps at priority for Brownfields site assessment funding or for things like that?

IRENE: The prioritization is a case manager. We can be using the Brownfields prioritization to get in and in the system that George was proposing that you can use the information to establish if this is a real risk to public health and the environment. Nobody's working on it externally or if somebody's working on it they sure are taking a long time to work on it. And then either we take enforcement action or step in with public funds, we need to take the following actions.

OLGA: It's such an obvious problem that these sites sit unremediated for 20, 30 years, whatever number of years. Are there no loopholes in the system that we need to look at closing that would give DEP needed authority to enforce cleanup or are those already in place and the reason DEP can't force a cleanup is just a matter of resources and staff time, not being able to give proper attention to the sites?

IRENE: 18,000 cases...No authority, no legislative authority. Do we have the enforcement to—

OLGA: So in cases known, since 1982, say a gas station, still haven't started. DEP would now have the authority to go and tell them this is a known contaminated site, you have to clean it up?

IRENE: Working closely with PSE&G to cleanup all the sites. If this prioritization system shows that a site needs additional action or attention on DEP's part, that's where attention will be triggered.

OLGA: To make sure that the system is usable once we have it.

IRENE: Ground it internally first, maybe even with stakeholders. It's helpful. We've done that in the past with IT systems. For Smith statements, play with this and tell us if it's going to work; no release on the remedial private system, sit in a room for a couple hours, what changes, make it more useful. Back to your other point to the lay person.

OLGA: Will you go back to the cumulative impact issues? Does your list give any priority for a community that's already over-burdened?

ANA: One of the questions I was going to ask, I know you talked about an overlay, send suggestion data in there, obviously you're looking at population density, residential use, get some of those urban areas in there looking at where child care centers are, any existing density of the Brownfields sites in that area, point source pollution in that area, impact in that risk assessment.

IRENE: The list of things isn't the whole list of what his staff is looking at. There is a lot more layers and points, census data is something we have in-house and integrate what we built for the first integration, then be more—into the cumulative impact area overlay, the water and health stuff, that Jeanne Herb and Sherry Driber have been trying to get environmental health impact system. All the same exact technology working together with the same baseline. What we do for SRP, a piece of what can be used for all of these.

OLGA: Within SRP, is it added risk factor in your current system that the community has many contaminated sites as opposed to a system that has one?

IRENE: I actually do think it's based on—they gave me a demo about eight months ago.

ANA: One of the concerns you're looking at is sensitivity to local environment and the risk. You can have cases of pristine sites with nobody living around it. It's a very pristine site. Whereas you can have a contaminated site in a residential area, lots of other contaminants, how do those two get balanced out?

IRENE: Look at relatively all those pieces together and weigh them and factor them.

TOM: Data samples and analytical information on the sites that you're talking about. One of the pieces of these systems. -

GEORGE: It's going to be used in part as an early warning system to keep track of something that might be important.

IRENE: If I don't have data, it can't be an early warning system, groundwater soil data.

GEORGE: We are going to give you an opportunity to see which sites pop up on the threshold, require some quick intervention, number one. Two, it's going to prioritize State remediation efforts and resources. Three, it's going to potentially put private parties on notice that they have got a real important site, get with the program, going to be used or not going to be for those sites. That private parties are coming in to develop on their own and allocate resources based on that.

IRENE: They will be able to see the sites and make a determination if they want to invest in the sites. We talked about merging the two, not right now. We're looking at a system for public health and environmental health versus economic.

JORGE: Against it at this point.

GEORGE: Right now separate the work that we do. They could use some that they leverage all the work that we're doing. With just a little bit they can do what they need to do.

IRENE: Also been a system out in the public, they can make a determination on how they want to deal with issues from zoning, lenders can make a determination on how they want to lend or not, insurance, environmental insurance out there for the larger public to use to make the determination that they need to make a daily—

GEORGE: The whole system is based on the accuracy of the data that comes into us.

IRENE: Clarify for public record, there is issues with the data that gets sent on the site remediation program in terms of soil, groundwater, GIS, coordinate points.

GEORGE: The data that comes in, not the values.

IRENE: The GIS data layers that come within the Department are rigorous, go through rigorous peer review and NEPA standards.

SHERYL: As you're going through this applying that system to your 18,000 or so sites—

IRENE: Not the homeowners.

SHERYL: Still a lot of sites. Still there will be issues from a resource perspective. Has the Department thought at all about some interim assessments or some interim milestone setting? The Site may be done, not done, gets to a certain point as you're evaluating it, get this new data and it tells you something new, things change on the list. Will you be adjusting your prioritization and your resource attention based upon that? I don't know if I'm being clear, if a site is stable because some work has progressed, would you then evaluate a site that you don't know anything about to try and get information on that site or would you keep moving along on the site where you have interim data?

IRENE: Move along on the cases because we're working on them. If something comes in now, has high levels of mercury in the air or water or stream, that would get elevated, probably would have a case manager, maybe not get a case merger. It would impact the program going out and public funds and things like that. We're not going to stop working on a case we worked on for 15 years.

TOM: The capabilities are such that we can look for sensitive populations and we can look for other things that are not specific to data and you find an area that's like that with no data; there might be a site, Tidewater, that could rise to the surface and we may use that to spend public funds. At least characterize some degree, more information to dig out where the site may go.

KEN: Or Bald Eagles nesting near your site, can that affect the relative ranking?

SHERYL: Substantial progress to longer—any exposure, you still have to work to do—having the same discussion with the application of public funds. Do we want to, do we take all the district funds for a more immediate need? If there is a site on the list that you don't have information about, would you then defer resources to get information to that site to understand where it lies?

TOM: From a publicly funded perspective?

ED: If the data indicates it seems to be a priority, but we don't necessarily have much with it, we might then use it to go out and use the PASI (ph) on that site.

ANDY: Emergency response comes, they stabilize that emergency. Then if it moves on, obviously EPA has removal and other models, but I think the issue comes to a broader issue which is a site is a priority for a reason and that reason once addressed might not be as important as the next site's reason, getting to a deeper area of metal contamination, right next store you have an uncontrolled site. That won't make sense when you're talking about prioritization, you have to segment it into exposure. I think if you prepared advertising for the site, if you have people eating stuff in soil and you're spending money on another site, writing up something that doesn't have the impact once it's in, this is not the first ranking system.

KEN: One of the shortcomings as well as the data, depending—the more you know about the facility, always scores higher. If you don't know a lot, you tend to score a lot.

ANA: The location, data, knowing what's in the middle of that site, what does it look like, what is the potential risk in there.

MICHAEL G: How many sites in the oil companies voluntarily use a self-ranking system? Pretty good size.

TOM: Co-op venture.

MICHAEL G: Hundreds, if not thousands of sites from all the companies. That might be a good place to examine. I mean, this is going to be more sophisticated with the electronic data risk numbers. They

voluntarily focus their response on sites.

TOM: I believe it's the different things, they look at receptor driven and other issues. It's not the same exact thing, but it's based on the same concept.

MICHAEL G: Get a sense from reviewing or taking a look at how it's working from the industry because it's been in place for over ten years.

GEORGE: We did have the system, discontinued using—we have the experience that we gathered from developing that system and the use. That's one of the reasons we're trying to move off of the subjective level and trying to move to an objective view to try and eliminate something if it falls from the past system.

IRENE: I have to run. Tom is going to take it from here.

TOM: Any other thoughts on this? You know, as we talked about something, we're continuing to work on it and as we know more about this, we'll let everyone know more.

ANA: You might be sharing that with the stakeholders involved after you do it internally?

TOM: Once we take a look and focus and run it through and see how it works, sounds like Irene thought that would be a great idea to bring in folks and have them take a look. You might have other ideas and thoughts, different things to look at when you use the system. As George said, a lot of different ways to pull in information, environmental and census data and other things. There might be other things we haven't thought of that would be a good idea.

The group thanked the environmental community for coming and providing input.

MICHAEL G: Environmental issues are being discussed at the State House. Public participation is a big issue in the environmental community. They want the opportunity to allow the public to view these sessions. It remains a critical issue within the environmental community. We had asked the DEP to reconsider its position to just allow people to observe. Having, you know, had the interaction today, we're not going to agree with some ideas. I can understand skepticism bring people in, but I think with relatively few exceptions, over 25 years of being in the community, there tends to be—understanding when there is open process, if you could see your way into allowing the public to view these proceedings.