Testimony to the Superfund and Environmental Health Subcommittee of the Senate Committee on Environment and Public Works Hearing –
Oversight of the EPA's Environmental Justice Programs
By Peggy M. Shepard, Executive Director,
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Good afternoon Madame Chair and committee members. I am Peggy Shepard, co-founder and executive director of WE ACT For Environmental Justice, a 19-year old non-profit advocacy organization based in Harlem in New York City. WE ACT works to build community power to fight environmental racism and to improve environmental health, protection and policy in communities of color. WE ACT has developed a national reputation for its community-based participatory research partnerships to improve environmental health locally, to develop a national environmental health research agenda to address a broad array of community-based environmental exposures, and to translate research findings into reformed public policy. My aim today is to portray an urban community of color and low income that is disproportionately impacted by pollution, and to address the impact of EPA programs on community capacity to advance environmental justice and children's environmental health. I am also a former chair of the National Environmental Justice Advisory Committee (NEJAC) to the EPA from 2001-2002.

The EJ Frame challenges the current environmental protection model in addressing environmental inequities, disparate impact and unequal protection. The frame is a precautionary one and seeks to prevent environmental threats before they occur and shift the burden of proof to the polluter. The vision of EJ places human health at the center of environmental struggles, understanding that communities of color and low income are home to more susceptible populations, that multiple environmental exposures must be addressed by studying their cumulative impact and synergistic effects on health, that children, in their early stages of development, are more vulnerable to environmental exposures, and that children of color living in communities of color disproportionately impacted by pollution are the most disadvantaged.

I have lived and worked for 22 years in Northern Manhattan, an area of 7.4 square miles composed of four neighborhoods where over 600,000 mostly African-American and Latino residents live on a median household income of $16,000. There are multiple environmental exposures, high proportion of learning disabilities, low birth weight, and excess mortality from asthma, cancer, and heart disease. This area has the highest asthma rates in the nation in East Harlem, and has two neighborhoods that rank in the top 12 in New York City for new lead poisoning cases. Significant broader impacts are that Manhattan is a non-attainment area for clean air standards and is ranked #1 in cancer risk from air toxics by the EPA.

In 1988, WE ACT was born out of community struggles around the use of Northern Manhattan as the dumping ground for the downtown elite. We began organizing around the operations of the North River sewage treatment plant whose odors and emissions were exacerbating respiratory disease. And in 2000, WE ACT filed a Title VI (of the Civil Rights Act of 1964) Administrative Complaint with federal DOT against the Metropolitan Transit Authority because

Northern Manhattan neighborhoods bear the disproportionate burden of hosting one third of the largest diesel bus fleet in the nation. There are six diesel bus depots in Manhattan and Northern Manhattan communities host five of those. Poor urban communities everywhere are burdened by a multitude of toxic exposures, often at high levels of concentration due to factors like: disproportionate siting of industry and infrastructure, to the aged and deteriorated buildings that serve as affordable housing, and to transportation-related air toxins.

To respond to community concern about these environmental impacts, WE ACT, no longer an unincorporated volunteer group (due to funds from the settlement of WE ACT vs. NYC DEP) began a process of inquiry, outreach and relationship building that led to discussions and ultimately, collaborative research projects with clinicians at Harlem Hospital and researchers at the Columbia Mailman School of Public Health. In 1995, WE ACT and Columbia were awarded an EPA Community-University Partnership (CUP) grant that allowed us to begin communication, relationship building, and community identification of concerns with our academic partners. Then in 1997, WE ACT was awarded a three-year grant from the National Institute of Environmental Health Sciences (NIEHS) new grant program, Environmental Justice Through Communication. We began work with the understanding that there was room for us to reshape and redirect the research agenda to include our critical concerns.

We have had a total of eight years of these partnership grants that have allowed us to develop capacity**.** We have been able to hire staff with advanced degrees in environmental health and science and provide technical assistance within our local, regional and national environmental justice community. WE ACT has leveraged additional funding for our research partnerships, and one Columbia Center alone has leveraged over $6 million in grants, due, according to them, to the effective community component. We have sustained the partnership for 10 years and continue as a matter of course to develop collaborative projects. We have developed new tools such as GIS, curricula, and air monitoring procedures. There is policy and system change with all levels of government, academic institutions and community groups who want to consult or work with us. And importantly, we are having impact on the field through our trainings, findings, publications, policy changes, new models of action, and the new perception -- that it can be beneficial to work with affected communities.

Our engagement in community-based participatory research (a method where scientists work closely with community partners involved in all phases of research, from inception of research questions, to study design, to collection of data, monitoring of ethics, and participation in the interpretation and communication of study results) has allowed us to answer community questions regarding their exposures from a variety of sources of pollution. According to a study conducted by Meredith Minkler, Dr PH, *"The 8-year partnership between WE ACT/ Columbia's NIEHS Center / Children's Environmental Health Center produced credibly scientific research and helped bring about environmental health policy change…From a research perspective, the 1996 Earth Crew(WE ACT's youth group that was trained to collect data) study, and the WE ACT partnership's careful look at the relationship between bus diesel emissions and asthma are still widely cited by the EPA and academic researchers…Policy makers commented on the strength of having research partners with recognized and respected staff scientists. These scientists, well-received by regulatory agencies, do the research that the*

community partner has access to and ownership of to present convincing health and public risk arguments."

WE ACT has engaged in research that has studied the relationship between community-level environmental exposures and environmental health outcomes of mothers and children in West and Central Harlem, Washington Heights, and the South Bronx. WE ACT is making environmental data and research accessible and relevant to community residents through citywide campaigns such as Our Housing Is our Health that translates relevant findings into practice and policy. We work to ensure that city policies related to environmental health and indoor air quality are informed by the latest and most relevant research. Through Environmental Health and Justice Leadership Trainings for over 200 residents, we and our academic partners have provided the scientific and regulatory foundation of environmental health issues that affect community residents. It has been a rewarding experience to educate youth as field technicians to engage in CBPR, and to co-author several peer-reviewed articles on our CBPR work: *Diesel Exhaust Exposure Among Adolescents In West Harlem* (PI: Dr. Northridge) and *Airborne Concentrations of PM2.5 and Diesel Exhaust Particles On Harlem Sidewalks* (PI: Dr. Kinney).

Three years ago, the Kellogg Foundation identified the WE ACT/Columbia partnership as one of ten CBPR projects that document the impact of CBPR on health policy. In a peer-reviewed article published last January 2007in the Journal of Urban Health, a bulletin of the NY Academy of Medicine, the authors found that "*carefully designed CBPR that is committed to strong science, high level community involvement, engagement in policy steps and activities, and the strategic use of study findings to help impact policy can be an important part of the broader struggle for urban health and environmental justice…"Conversion of NYC's bus fleet to clean diesel and installation by the EPA of permanent air monitors in Harlem and other hot spots were among outcomes for which the partnership's research and policy work was given substantial credit.*

*The partners' roles in creating awareness of, and leading the fight for environmental justice and the reduction in health disparities around asthma has been widely recognized and cited (Brown et al, 2003; Lee, 2004; Corburn, in press; Blackwell et al, 2005). As Brown et al (2003) have noted:" Asthma has become perhaps the primary disease in which poor and minority people have pointed to social inequality and have engaged in widespread political action. The case of asthma demonstrates how environmental justice approaches place ethics and rights issues in the center of health policy" [40]. (*Promoting Environmental Health Policy Through Community Based Participatory Research: A Case Study from Harlem, New York by Vasquez V., Minkler M., Shepard P., Jan.2007,Journal of Urban Health, NY Academy of Medicine.)

When I first began organizing around these issues in 1985, I recognized that the lack of scientific literacy, information, data, and context was and is a serious void that contributes to the systemic exclusion of communities of color and low income from decision making that affects their families and their communities. Around the nation, environmental justice advocates have realized that evidence-based campaigns move policymakers and empower residents. Though we understand that science cannot always correlate exposures with suspected point sources, or confirm community suspicions about exposures and outcomes, we recognize that science and

technology are important tools that can impact our ability to develop safe, sustainable communities.

To achieve that goal, we must ensure translation of research findings, scientific data, health information and government regulations into policy reform and educational materials for a broad range of stakeholders including research participants, residents, health care providers, elected officials, policy makers and civic and advocacy organizations. For that information exchange to be effective, we need to build and expand the capacity of low-income communities of color to improve children's environmental health pre-natally and post-natally by training area residents and organizations to apply this information in ways that will help to inform individual choices and to modify current policies to improve community environmental conditions.

In the 90s, the Environmental Justice Movement with little resources and capacity (i.e. the report *Green of Another Color* authored by Faber and McCarthy, published by the Aspen Institute in 2001, which found that just 12 foundations provided most of the environmental justice funding between 1996-99, and that the EJ Movement receives one-half of one percent of all environmental funding nationally), focused its attention on federal initiatives and achieved an Environmental Justice Executive Order 12898 by President Clinton, an Office of Environmental Justice (OEJ)at the EPA, and the National Environmental Justice Advisory Committee (NEJAC) to the EPA. WE ACT is here because we understand -- the Environmental Justice Movement understands -- that we must all hold each other accountable to ensure that the promise of that executive order is fulfilled.

I have had the challenge of being a member of NEJAC for seven years since 1995: serving two years as chair, and vice chair for one. From the beginning, the NEJAC was an important opportunity for environmental justice advocates to interact with policymakers on environmental policy, to dialogue with the business and academic sectors, and to have their voices heard on long standing issues that had gone unheard and ignored. There were many successes that were celebrated: The 1995 Interagency Meeting at Clark Atlanta University where the director of the NIEHS told me to contact Dr. Joe Graziano at Columbia School of Public Health which set me on our present course of CBPR, the first relocation of 358 African-American residents living next to the Escambia Wood Treatment plant in Pensacola, Fla., and in 1997. the partial denial by the EPA of Louisiana's Title V air permit to Shintech which led to Shintech's withdrawal of their application to locate in Convent, La., also known as Cancer Alley, because of the proliferation of chemical and oil companies emitting toxic pollution. That was a time of heady and exciting redress of longstanding abuse.

Though the executive order called on 17 agencies to address EJ concerns, the EPA has taken the lead in convening the Interagency Task Force that has had achievements – including the commitment to environmental justice and CBPR by the NIEHS, planning grants from the Department of Energy for groups in Empowerment Zones, and the inclusion of environmental justice advocates on other agency federal advisory groups. Those were not small steps for communities that had been locked out for so long. The federal Interagency Task Force is crucial to informing the goals, objectives, and initiatives of its 17 agencies. We must ensure that the Interagency Task Force is chaired by a senior manager with vision, experience navigating the federal bureaucracy, and a heart felt commitment to reducing environmental exposures in

communities of color. We must remember that environmental protection, public health, and community sustainability issues are shared by these 17 agencies, and it will take them all to address the challenges we encounter in cleaning up contaminated sites, encouraging green economic investment, reducing health disparities, transportation-related impacts, and ensuring equal environmental protection. But there came a time when these exciting successes became mired in bureaucracy and ambivalence, and unfortunately, it was on my watch, shortly after I became chair of NEJAC.

During the Bush Administration, the OEJ budget has been reduced, and important grant programs have been cut. To make matters worse, the Bush Administration has micro managed the EPA by editing scientific public health documents such as the statement on air impacts from the 9/11 World Trade Center disaster. It has attempted to roll back environmental regulations and supported regulations that would increase not reduce levels of air pollution. It has introduced schemes to trade mercury while failing to look at the full range of impacts of mercury emissions. It has sponsored research studies that were ethically compromised such as the recently abandoned pesticide study in Florida, and it has reduced the resources of the Office of Child Health Protection, an important office that was once a catalyst in the field of children's environmental health protection.

In the beginning, the NEJAC held two to three public meetings around the nation to solicit public testimony and concerns, and to review NEJAC-identified issues for recommendation to the EPA. By my tenure in 2001, there was one meeting every 12 to 16 months. Finally, I recommended that we hold regional public sessions where the EPA regional staff would host the meetings and follow up on the issues and concerns. A few of these "listening sessions" have been held, but I am embarrassed to say that Region 2 where I live, where Senator Clinton lives, began planning for a session in 2002. A session in Region 2 has never been held, despite the fact that I personally attended planning meetings with city and state officials for two years. The regions must be held accountable to implement goals and objectives that have been determined by the regional EJ coordinators. Any assessment of EPA regional initiatives on EJ will show the disparate and uneven implementation of the executive order's goals.

I hope that this hearing signifies a commitment by this subcommittee to strong oversight of the EPA's implementation of the executive order as well as an assessment of the goals and objectives of the other 17 agencies. I believe that the Office of Environmental Justice (OEJ) should be based in the Office of the EPA Administrator from which it can draw strength, authority, resources, credibility, and clarity in how the executive order should be implemented. Otherwise it can be a stepchild with no jurisdiction, few resources and staff.

The OEJ needs to have a director with not only a strong profile on environmental justice, but who is a member of the EPA "executive staff," someone who has had the experience of navigating a huge government bureaucracy, a leader who can interact and integrate the environmental justice perspective within EPAs departments and its "permanent government." We have an opportunity to identify a leader of OEJ who can be held accountable to strategic objectives through annual reports to this committee. NEJAC members have complained about the year-long reports they work on and submit to the EPA with little or no response. During my

tenure we submitted well researched and peer reviewed reports on CBPR, Pollution Prevention, Cumulative Impact, and Fish Consumption. The work on these reports was well done, the dynamics were frustrating, the members are all volunteers, and there was rarely any feedback or response after my letter accompanied the report to the Administrator. In some cases, the report sat for months in the OEJ without timely submission to the Administrator.

The bottom line is that the Bush Adminstration has failed to ensure that EPA managers integrate EJ into all departments and aspects of the agency. According to the EPA's own Inspector General, the EPA has failed to ensure that goals, objectives, and performance measures have been set to ensure that environmental justice is achieved. This lack of federal leadership has shifted the focus of advocates to state initiatives where there has been more opportunity. But even there, the lack of definitions of disparate impact -- despite the studies that demonstrate those impacts -- continues to paralyze innovative efforts in the states. The lack of protocols to measure cumulative impacts continues to stymie real progress.

I hope that I have articulated some of the challenges and how we may move forward to address them. Our goal is to improve the health and lives of all communities especially communities of color and low income those that are disproportionately burdened by pollution and health disparities. I echo the recommendations that have been advanced by Dr. Bullard in the 2007 Toxic Waste and Race At Twenty report to which I was a contributor. We need strong congressional oversight and support to ensure that the Inspector General's recommendations are implemented. We need the Executive Order 12898 fully implemented and codified. We need leadership and commitment.