

Third Meeting of the
JOINT ADVISORY COMMITTEE ON AIR QUALITY IMPROVEMENT FOR
CD JUAREZ, CHIHUAHUA \ EL PASO, TEXAS \ DOÑA ANA COUNTY, NEW MEXICO
SUNLAND PARK RACE TRACK - SUNLAND PARK, NM
MAY 13, 1997

JAC Members present:

For the United States of America:

Dr. Elaine Barron - an El Paso physician, member of the Texas Water Development Board and former Chairman of the Paso del Norte Air Quality Task Force (PDNAQTF);
Mr. Archie Clouse - Air Program Manager, Texas Natural Resource Conservation Commission (TNRCC) Region 6;
Mr. John Cordova - Public Works Department, City of El Paso, TX;
Dr. Carlos Rincon - Border Air Program Director - Environmental Defense Fund (EDF);
Fabian Macias - Alternate for Cecilia Williams, New Mexico Environmental Department (NMED), Air Quality Bureau;
Dickie Apodaca - Alternate for George Avalos, Doña Ana County, NM Engineering Dept.;
Mr. Tom Martin - Environmental Manager, ASARCO;
Dr. Charles Groat - Director, Center for Environmental Resource Management, UTEP;
Mr. Jerry Clifford - Deputy Regional Administrator for the EPA - Region 6 Dallas, TX;

For the United Mexican States:

Quim. Pilar Leal - Alternate for Biol. Maria del Pilar Lopez Marco - Federal Delegate, Procuraduria Federal de Proteccion al Ambiente (PROFEPA);
Ing. Jose Treviño - Director, Environmental Dept. for the State of Chihuahua;
Ing. Oscar Ibañez - Director, Department of Urban Development and Ecology for Cd. Juarez, Chih.;
Ing. Rene Franco - President, Mexican Environmental Movement in Juarez;
Mr. Angel Peralta - Representing the Business Community;
M. C. Felipe Adrian Vazquez - Representing the Chihuahua Consultative Committee for Sustainable Development;
Dr. Victor Hugo Paramo - National Institute of Ecology (INE) of the Secretariat of the Environment, Natural Resources and Fisheries (SEMARNAP)

Jerry Clifford - Welcomed everyone in attendance for the third meeting of the JAC.

Dr. Paramo - Thanked everyone in attendance and those who organized the meeting.

Jerry Clifford - First item is the review and approval of the minutes for the previous meeting; unless there are any changes he made a motion to have the minutes approved.

Carlos Rincon - Clarified page 3, paragraph 8 of the Feb '97 minutes stated "Federal" laws which should read "General" laws.

Jerry Clifford - There being no further comments the minutes were approved noting the necessary changes; the agenda for this meeting also was approved. Next item was a discussion on the By-laws, Rules & Procedures for JAC.

Carlos Rincon - Identified the following persons who met several times to review comments submitted to develop one common set of bylaws in both English and Spanish: Biol. Pilar Lopez Marco, Quim. Pilar Leal, Dr. Victor Hugo Paramo, Ing. Luis Raul Cordoba, Ing. Rene Franco, Archie Clouse, Victor Valenzuela, and Dr. Rincon. Shortly after this group met, a version was offered by the EPA's Office of the General Counsel. The version

currently in the members' hands is a synthesis of all input submitted to date, but he would like to meet once more to develop one common document that the JAC can approve.

Jerry Clifford commented on 2 issues that did not seem to get thoroughly worked out.

- 1) Page 4 "Substitution" - It appears that the way the language reads, if the JAC wishes to replace a committee member, it has the authority to do that. He understood that the U.S. and Mexican governments actually select the members. If the bylaws could be written that if a committee member wanted to resign from the committee for whatever reason the organization represented by that committee member would nominate someone and would seek the approval from the Mexican\American governments.

Tom Martin added that there is a clause in the bylaws that states that should any part of the bylaws conflict with Appendix I then Appendix I supercedes.

Jerry Clifford continued:

- 2) "Authority of the Committee" on page 2 - states the "JAC could make recommendations to any organization". His understanding was that the JAC's sole recommendations were to be directed to the Air Work Group.

Carlos Rincon - From speaking with members on the JAC, especially the non-governmental members, a review of Appendix I wording does not state "only". This leaves open a window of opportunity for the JAC to make well-founded observations to other organizations on a case-by-case basis.

Charles Groat agreed with Carlos. While the JAC is obligated to report to the AWG, he did not understand the JAC was prohibited from making well-founded recommendations or opinions to others as the group felt would be appropriate. He would hope the bylaws do not prohibit those sorts of actions specifically, and as they are written now they don't.

Oscar Ibañez - Indicated he does not feel the JAC should limit itself to one area. He believes the JAC can arrive at consensus to make such recommendations to groups or organizations other than the AWG, and supports this section of the bylaws as written.

Elaine Barron - Does not want to limit the JAC by more bureaucracy and also approves of this section of the bylaws as currently written.

Victor Hugo Paramo - He would like to go one step further - as to what would happen when the committee makes a recommendation to another entity that is not part of the AWG - as far as the legality and authority goes. When the JAC makes a recommendation to the AWG, the AWG is obligated to proceed and inform regarding that issue. When the JAC makes a recommendation to other entities we must follow-up with that recommendation.

Carlos Rincon - He wants added to this particular point Dr. Paramo made to the bylaws to clarify this issue. We would always inform the AWG of our activities. There will definitely be many issues where we need the follow-up. Therefore we can follow the Appendix and still make recommendations to other groups. This is fair to all those other

entities who do not form part of the AWG, and for this reason, the bylaws have been drafted to not limit itself to one specific area.

Jerry Clifford - His concern is that an issue may be presented to a U.S. Congressman that may be considered lobbying on behalf of the JAC. EPA attorneys may consider this type of activity against agency policy. So long as the JAC is aware of this agency policy, these issues can be dealt with on a case specific basis, and this particular wording can be considered acceptable.

Archie Clouse - agreed with this point, and brought up the issue of "Conflict of Interest". TNRCC received some feedback regarding the letter sent to the Chihuahua State Government (regarding mandatory vehicle emissions testing). However, the JAC needs some flexibility to act as a consulting body. Also, where do you draw the line regarding the type of projects on which we make recommendations when we can do those projects ourselves independent of the AWG. He would like to see the bylaws approved today.

Tom Martin - Agrees with AC, however the agenda says that this is a discussion of the by-laws and not their approval approval. An issue he wants to see on the bylaws regards continuity and staggered membership. He doesn't want to see an entire change of members on the JAC and would like more clarification on this specific issue. The bylaws can be "cleaned up" some more and we can have something ready for adoption of the by-law for the next meeting.

Charles Groat - On questions of authority, we do not want to specify on the bylaws just what the JAC will do. He prefers the flexibility that it now has and trusts the judgement of this committee.

Pilar Leal reiterated that these laws should not specify or limit as first stated in the Appendix. When something is generalized, it is easier to specify at a later point. Also several recommendations have been submitted by the Mexican members on the JAC that have not yet been added to the document. Extra time needs to be taken to modify the bylaws in accordance with comments submitted by both sides and present one single unified document at the next meeting of the committee.

Carlos Rincon - It has been the objective of the bylaws technical commission (subcommittee) to create one unified document. The paragraph on authority does not limit the JAC but at the same time it defines the scope of work which states that the JAC would provide recommendations without breaking some sort of rule.

Oscar Ibañez - It was agreed at the previous meeting that during this meeting the by-laws would be approved, however given the current discussion he indicated he would like to organize a meeting for the finalization of this document.

Several members agreed with this recommendation.

Victor Hugo Paramo added a point regarding the language of this Appendix and the proposed bylaws. Once the JAC establishes its bylaws it must obtain the concurrence of the AWG.

Carlos Rincon - indicated that the bylaws were written in general terms to not limit the JAC. This leaves the AWG to (Elaine Barron interjects "limit") us. If the AWG may not limit the JAC why should the JAC limit itself? He would like to have a special session before the upcoming National Coordinators meeting in Matamoros, Mexico so that both the Mexican and American delegations can come up with one document that can be agreed upon.

Rene Franco stated that the bylaws subcommittee should meet very soon, make the needed changes and develop one unified document that can be delivered to and approved by the JAC members prior to the National Coordinators meeting.

Jerry Clifford asked if there were just 2 outstanding issues: authority and the staggered terms. The proposal then is that the JAC defer the Bylaws to the technical committee to prepare a final unified document.

Oscar Ibanez- It is clear that we do not have a document on which to vote. It is also clear that we have to postpone the adoption of the by-laws until the next meeting with the final draft made available to all committee members 15 days before the next meeting.

Victor Hugo Paramo - The JAC does not need to wait for a meeting of the AWG. Once we have a document with which we're all comfortable we can submit it to that group with a recommendation to approve. The AWG can discuss this document once it has been finalized by the JAC and make recommendations.

Oscar Ibanez - The subcommittee will develop a single document that includes the 2 remaining observations. If there is any committee member that has any other observations, or concerns they still have time to bring them up for discussion before it goes to the Air Work Group in both English and Spanish.

Jerry Clifford - This is a good recommendation. The bylaws subcommittee will prepare a completed set of bylaws acceptable to the JAC that we'll forward to the AWG and the National Coordinators. Next item is a report on Emissions Reduction Credit by Dr. Ron Ketter.

Ron Ketter has been working with the Emissions Reduction Credit (ERC) Trading SubCommittee and will cover 4 topics:

- Progress since last JAC meeting;
- Background on Supplemental Environmental Projects (SEPs);
- International SEPS;
- Resolution for consideration

Progress Reports - They have taken direction from the JAC and the Air Working Group to explore how to go about with a demonstration project, and explore the feasibility of an ERC. He has worked with EPA to develop a "White Paper" as a tool to explore Binational ERC Trading Projects. Also, since the last JAC meeting the first ever ISEP has been agreed to by EPA that will take place between a US company and a maquiladora in Juarez.

Background on SEP's - a tool used by EPA whenever there is a violation of an environmental law or regulation. A party (violator) agrees to pay a certain fine and also agrees as part of the settlement to carry out a SEP in exchange for a partial reduction in

the civil penalty. The responsible party can offset up to 75% of penalty, but usually has to spend more than the fine; for example the offset ratio may be as high as 3-to-1. Suppose a fine of \$40,000 is issued. Up to 75% or \$30,000 of the fine can be offset for use of the SEP. But to do so the violator may have to spend \$3 for every \$1 used as an offset which means that the responsible party may end up spending up to \$90,000 to forego part of the \$30,000 fine. It appears that a lot of violators will go with this plan because if they pay the fine the money goes to the U.S. Treasury. If a SEP is agreed to, the money goes into the community. Many firms are amenable to this since the money benefits the quality of life and the environment in that particular community.

SEPs are a fairly new program that EPA began using in the early 1990's mostly for reporting violations under the Resource Conservation Recovery Act (RCRA). In the last couple of years EPA has expanded the use of SEPs into other areas. In 1995 EPA entered into 350 projects nationwide with over \$100 million invested by firms.

Current criteria for using a SEP:

SEP projects must go beyond compliance requirements with applicable laws and regulations. The company cannot do what it was supposed to do in the first place and receive credit. It has to do something more. The assessed penalty must reflect the gravity of the violation; the enforcement settlement must foster a deterrent effect.

Types of SEP projects:

Cleaning and restoration	Training
Disposal of unsightly materials	Process Modification
Conducting Environmental Audits	Recycling (waste water, etc.)
Public Outreach and Awareness	Technological Improvements

The company is not allowed to advertise that it is entering into a SEP for the benefit of the community.

On ISEPs - An El Paso firm violated the Hazardous Waste provisions under RCRA and was fined \$70,000. The firm agreed to enter into an ISEP with a Juarez maquiladora factory to offset 75% of the fine. The company agreed to take about \$50,000 of the fine and invest between \$135,000 - \$200,000 to invest into the maquiladora facility. Benefits are to the entire community while the firm is still fined. What is interesting is that the total cost of the penalty is greater than the fine. The specific maquiladora facility in Juarez makes electronic circuit boards for the auto industry, and part of the manufacturing process generates high levels of metals caused by the soldering process. The ISEP investment will modify production processes to reduce discharges; improves health and safety for the workers; and reduces lead-based solvents, solder wash, and air emissions. This first ISEP was signed on April 1, 1997 and will be carried out during the next 12 months.

Additionally the ERC subcommittee has explored other projects for the future such as:

- a) Road paving projects to reduce PM-10 (particulate matter of 10 microns and less;
- b) Finance Brick kiln modifications by converting to cleaner fuels and building more efficient brickkilns;
- c) Sponsor Employee Vehicular I / M Programs;
- d) Conduct a "Paint shop spray gun 'Buy-Back' program"; and
- e) Determine a company's willingness to participate in an ISEP.

Draft Minutes

JAC meeting 5/13/97

JAC-597.wpd

Why would ISEPs make sense for the JAC to consider?

- a) Authority already exists;
- b) Low-risk option for exploring ERC programs; one of the problems with implementing an ISEP is the details that need to be worked out where we're not sure how the details would be worked out such as monitoring and verification of the ISEP.
- c) Low risk - violation has occurred, & the fine needs to be paid or a project undertaken; we can also learn from early mistakes;
- d) Flexibility - a water violation man be invested in air pollution control strategies;
- e) Test, demonstrate, or explore the feasibility of future Binational ERC options.

Dr. Ketter submitted a resolution for consideration by the JAC which endorsed the ISEP concept and recommended a study to determine candidates for ISEPs.

Dr Paramo asked regarding the first ISEP project in which way the maquila benefitted or what exactly did the maquila do.

Dr. Ketter responded that the company must assure the equipment is installed and verification is self enforcing.

Dr. Paramo asked what the criteria was regarding selection of this particular maquila.

Jerry Clifford responded that when EPA enters into SEP agreements in the US we don't recommend SEPs; we offer them as options. In this case, the US business under enforcement identified an affiliated maquiladora that had some emission problems and could benefit from this new equipment.

Dr. Paramo asked if this event is public information because he feels it is a concrete example that can assist in the process we're analyzing here today, and SEMARNAP would like to know how the process of negotiating this particular ISEP was carried out.

Jerry Clifford indicated the EPA would develop a packet for the JAC identifying the process used to work out the ISEP. The important thing about ISEP's, is that the money goes to the community and not to the US Treasury. We're able to convert dollars that would have gone to the US Treasury to the local community where the violation occurred for environmental cleanup.

After Archie Clouse first thanked Ron Ketter for the excellent presentation he made and added that this type of agreement was one of the very first objectives that the PDNAQTF adopted, it was one of the first objectives of this group to look at and motioned that the JAC accept the resolution which Carlos Rincon seconded. A discussion then ensued regarding issues such as how ISEPs are related to the ERC trading.

Oscar Ibanez - Needs to know how examples identified in a document prepared by EPA and Dr. Ketter and handed to members on the JAC are related to work that has already been undertaken such as the first ISEP agreement. To which Jerry Clifford responded that the document submitted to the JAC members is a hypothetical example of what could occur in the future. Oscar went on to state that the resolution presented to the JAC only identifies participation by the US side, and he does not see this as a resolution that provides for binational cooperation or inclusion by the Mexican side.

Draft Minutes

JAC meeting 5/13/97

JAC-597.wpd

Elaine Barron added that the ISEP program must involve both sides so there is a trade off of emissions between the US and MX. Unfortunately most members of the JAC were unaware of the April 1 agreement. This is a prime example of emissions trading, and we need to make sure we have communication with the EPA on these issues because we do not need to be sitting here surprised that these activities are already taking place. Is all this benefitting both sides, and is it benefitting equally the US and MX. We want the same type of control and improvement on the US side as well as in MX. We need to enforce our environmental laws in the US and make sure there are ways they are going to accomplish this not only by Emission Trading. The candidates listed are possible projects, but there may be a feeling that candidate projects are not equally identified.

Oscar Ibanez responded that this resolution is a surprise. It seems that EPA does not have a control over the benefit that these programs would bring to the Cd Juarez community in identifying the various businesses that would participate in an ISEP project. If we do not know what benefits would be derived and under what conditions businesses are selected, then it will be difficult as a joint committee to evaluate the benefits and above all develop a pilot project that can work for the entire community first most for the US side and later for the Mexican side. This is where his concern rests. It seems that with the resolution that has been drafted, all actions will be taken by the American side and Mexico's participation will be passive which is not in the spirit of the JAC or the Air Quality Management Basin.

Archie Clouse responded that part of the SEP development includes the technical analysis. When a company comes into an area and proposes a SEP, the agency looks at what the reductions are going to be associated with that SEP so there are benefits that are stated in what the TNRCC calls the "compliant plan". So its not just money spent on some project that the violating company wants to do, it has to represent emissions reductions or it will not be approved. Regarding what Dr. Barron refers to as equality of reductions, we have emphasized since the beginning that what we want to do w/ ISEPs is to get more bang for our buck. We want to see control programs placed in Juarez where they are needed. When we hear this discussion about equal sides, what about putting controls in the US, I think we're going in the wrong direction if we're looking it that way. If we compare industry and infrastructure in the US with Juarez we have BACT in place in El Paso, we have paved roads, our environmental programs are substantially more developed. ISEPs will give us greater reductions in the airshed. We're making mistakes if we look at it bilaterally. We need to look at ISEPs as controls in Juarez, at facilities in Juarez that don't have BACT in place. They're cheaper, you get more reductions for less money and that's the reason we're looking at projects in Juarez. Paving roads in Juarez, etc.; the list goes on and on. Many projects can be undertaken in Juarez.

Adrian Vazquez stated that this option can be pursued, but questioned whether ISEPs are within the agenda of the JAC. Based on the presentation and follow-up comments he got the impression that this is a unilateral proposal and should not be considered as a resolution of the JAC at this time. This is an American initiative that is very interesting, but at this time he was not prepared to accept the resolution as currently presented.

Tom Martin added some technical comments regarding the proposal's wording then stated that the role the JAC can play is to provide a database or clearinghouse for projects. He also agrees with Archie that projects can be undertaken in Juarez.

Jerry Clifford reflected indicating that perhaps the proposal does look like a US initiative and he is sensitive to the concerns that have been stated. Since all three levels of government have regulations that each enforce then there is an opportunity that if any of those three are not now using ISEPs in their enforcement of environmental regulations the opportunity to do so may exist. For instance, if CD Juarez finds a company in violation of their regulations where they would traditionally assess a fine, they would approach the company like we're doing in the US and the company can suggest ways to offset the penalty with projects to achieve emission reductions. Similarly, you can have CD Juarez, the State of Chihuahua, and the Federal Government consider these types of proposals. This would be a way to make this a binational agreement, and we can work on the language on the current proposal.

Elaine Barron stated that as a committee we can recommend to the AWG the further consideration of how ISEPs would be feasible and practical in EP and Juarez and to continue sharing information about these programs to equally include both sides of the border in addressing air pollution problems through international cooperation.

Oscar Ibanez iterated that the fundamental point here is the priorities that we have to develop to reduce emissions and improve air quality in this airshed. If it is unilaterally decided where to apply the benefits of ISEPs unfortunately we will not come to any type of agreement. It is clear that we must control mobile source air pollution and particulates. We can approach these two issues. If the first ISEP was signed with some company and one and a half months later we do not know what the details were about how the ISEP will be utilized in Mexico then this is the most inadequate method to promote a pilot project and make an evaluation to the JAC. The binational participation must be defined and prioritized to obtain an efficient outcome. He is not concerned with types of projects pursued in terms of equality between the two countries. This scheme of binational information exchange will assist us in jointly moving forward, and there has been binational cooperation between the two countries in dealing with specific projects.

Jerry Clifford - When EPA inspects a facility and finds violations, it does what it can to come to an agreement with the company, and the discussions are handled confidentially. Keep in mind that it is a federal action, and they do not include the City of El Paso. We may have raised more uncertainty of the approach because we did not provide enough specifics to present to this committee. Perhaps we can have some separate conversations outside of this group to talk about how this ISEP worked.

Carlos Rincon - As the resolution is written, the JAC is responding to a recommendation by the AWG during our Feb. 28 meeting. Now we will work with the PDNAQTF to look at projects and identify for the JAC several projects so that if a company enters into a SEP with EPA, projects will already be identified. For this reason we don't need to modify the resolution, we can go to the next stage which is to identify those projects.

Ron Ketter - During the last meeting of the JAC there was some question as to whether there was authority to have an international emissions reduction credit (IERC) trading program. His understanding is that there currently is no such authority. ISEPs provide the authority to explore projects that could be like International Emission Reduction Credit (IERC) Trading programs, and EPA could if they wanted to, continue to do these in the future. With this resolution the JAC could be more involved in identifying opportunities and may in the future play a role in these ISEPs. The JAC can provide information to

companies negotiating SEPs regarding which would be the best projects, and this resolution allows a step forward in that direction.

Carlos Rincon then read a letter on behalf from the AWG to the JAC:

With respect to Emissions Reduction Credits issue, we believe that before there is any analysis on the legal aspects related to this resolution, it will be very useful to have on hand a detailed proposal for a pilot project as suggested by you.

This is exactly what the technical subcommittee is presenting to the JAC and requests approval. We no longer need to look at projects that are assumptions similar to the "white paper" handed out earlier. In that there are several assumptions with all the necessary calculations. Now we need to make the necessary calculations with real projects.

Rene Franco - As a Juarenze, he cannot go against something that will benefit the city. But as the old saying goes: "The one who pays, rules". I believe that if we're working in a binational aspect, to obtain the greatest confidence for EPA that projects are effectively and efficiently being handled in Juarez there must exist communication with all parties involved. The Mexican Government must be asked which projects need to be undertaken to avoid or preclude any controversy w/ EPA that sister companies are just trying to cover-up each other's activities and carrying out projects that they would have carried out anyway. There must be communication with the appropriate authorities to assure the funds are directed at the most effective projects.

Chip Groat - This resolution is missing the binational flavor. The resolutions refer to a binational aspect yet the Mexican government's opinion is not being considered. It does not imply participation in any way by the Mexican side of the equation, and there must be words here that give the resolution this favor.

Jerry Clifford - Given the uncertainty he recommended that the ERC subcommittee again look at the proposal from the binational aspect and incorporate binational considerations into a resolution. Maybe that goes beyond the notion of an ISEP; maybe it goes to the notion of SEPs - one component being an international SEP another component being SEPs on either side of the border but within the EP/Juarez air basin with the interest of getting emission reductions as opposed to simply assessing fines.

Matt Witosky envisioned that since SEPs, because they had been accomplished, could be done again. So the following steps could follow: 1) the JAC would be interested in this concept and would be willing to participate using local contacts to solicit interest and to participate in bringing that interest to a head; and 2) EPA would try to obtain services to evaluate what people were imagining could be projects taking place on the other side. The idea of the resolution was that EPA would request that the JAC become part of the process to find the right projects, and EPA would provide the funds to evaluate further what those projects would look like, how much the benefits would be worth, and what the scope of the project would be. The result of this would be that projects would be ready to be funded to bring the process quickly to closure.

Archie Clouse disagreed to the suggestion that there is not enough international flavor in the resolution. The entire resolution has the letters I-S-E-P throughout. International Supplementary Environmental Project. Regarding the comment about verification of whether controls are being put in place, if a US company wants to place control equipment

Draft Minutes

JAC meeting 5/13/97

JAC-597.wpd

that will reduce emissions in their process and not change their process significantly they don't need to have approval from the State or Federal governments. Therefore we shouldn't be overly concerned with putting controls on sources in New Mexico or Mexico. We have standard exemptions and we have a new "permit by rule" that allows companies to put controls on many type of devices. With that in mind we don't have to be overly concerned about ISEPs wherever they may be in Juarez. Therefore we don't have to have permitting authority and no extensive technical analysis for those kinds of projects, etc. Through this process we will develop an international review process by which we will involve the City of Juarez or an entity that can help in that process. We're sending a wrong signal if we don't at least look at this resolution and take some type of action to the AWG since this has been one of the major projects on the table from the beginning. For us to not take any action or go back to look at this as a more international project I don't see how much more international we can make it. We should move forward since we have something on the table. If the AWG doesn't like this they will tell us.

Carlos Rincon asked everyone to look at point 2 on the resolution to identify the pertinent agencies: EPA, SEMARNAP, TNRCC, and that's exactly who is identified. By supporting the resolution they don't have to provide resources within their own budget. The JAC will do the work with support from the PDNAQTF.

Oscar Ibanez indicated that based on the Feb. 28 AWG recommendation, the JAC can consider the ISEP recently entered into as a pilot project. Second the JAC can consider a prioritization of future ISEP projects emphasizing that if EPA wants to make us more aware of how ISEPs work it is up to them to have a public discussion on how these projects work and be aware that we are willing to find candidates for projects that can be evaluated. As Ron Ketter stated earlier, a binational format to evaluate projects for ISEP investment currently does not exist. Now there is a format that works, and we must evaluate that one and any others that may develop. Its more practical for EPA to amplify the public discussion on how SEPs work and from there we can determine all the possible projects that can be carried out. This resolution as currently presented may be a little bit more than the AWG requested.

Carlos Rincon asked if this was a motion for consideration. Oscar , yes. Rene Franco, I second. Discussion ensued.

Pilar Leal was in agreement with what Oscar Ibanez stated, however, in the case of PROFEPA she was concerned exactly how the ISEP recently entered into actually was worked out.

Carlos Rincon responded that this was exactly what was going to be worked out. The first ISEP being public information can be evaluated to look at emissions reductions that were accomplished. The other about how such a project would look like requires PROFEPA, and SEMARNAP and EPA to work together. As stated by Dr. Paramo during the Feb. 12 JAC meeting when all this can be referenced a person working within his agency can provide an evaluation from his own jurisdiction. Regarding what Oscar Ibanez stated earlier, we can reexamine the resolution.

Oscar Ibanez would like to propose the following: 1) the AWG will evaluate the first ISEP, 2) EPA will carry out a public discussion on all aspects of SEPs and the JAC will state that

it is looking for candidate projects to utilize SEPs and will evaluate pilot projects to find the best methods to utilize on a binational basis.

Jerry Clifford responded he would work with Carlos on how to phrase the resolution since we cannot solicit blanket proposals.

Oscar reiterated. We request that the AWG evaluate this project that EPA put into effect and since EPA initiated the first ISEP it should participate in the evaluation. If it is not possible to look at this project then any following projects should be evaluated by the authorities that enter into these agreements, and since EPA has the mechanism in place to enter into these agreements it should be conducting the evaluations. There are many businesses which would like to enter into one of these types of agreements and would like to participate as pilot projects. The only point being that since few if any members on the JAC were aware that these mechanisms were available which is now being presented as a done deal we would like to evaluate it and look at future projects. I'm not saying that pilot projects be offered to companies.

Jerry Clifford asked if the proposal was for the ERC technical committee to refashion something.

Carlos Rincon indicated that 1) we need an evaluation of current projects in place, 2) in order to use this experience, the JAC can discuss publicly what an ISEP is, and 3) the JAC will look at potential projects within the airbasin so that when companies need to enter into SEPs a list of projects will exist that is developed by the PDNAQTF and governmental entities.

Dr. Paramo asked what was being requested of the AWG. Are you requesting a response on this proposal taking into consideration the legal issues surrounding ISEPs or are you making a statement regarding ISEPs? Originally we had stated that we think that the system of IERC Trading be considered and we sent to the AWG a request that IERC Trading be considered. The AWG responded that you identify a detailed plan for a pilot project so that behind the pilot project we consider the legal aspects of the proposal and the AWG will provide a response.

Carlos Rincon - The ISEP mentioned today is the one we want to be brought up for consideration.

Dr Paramo responded that this project was merely a coincidence, and he does not feel the appropriate analysis has been made to say that this is the pilot project we will use that will serve to determine the legal issues regarding ISEPs. There is a mix of ideas and concepts here, and this project does not require participation on behalf of Mexico. As it now stands an American business can pay a Mexican business to install pollution control equipment. I would not know if the Mexican company complies or does not comply with environmental regulations or if the business needs the equipment at all. There is no criteria of efficiency since the investment is going to be made where it is convenient for the American business. Perhaps an analysis was made. The EPA white paper identifies controls on PM from unpaved roads, controls on brick kiln emissions, etc. He added that the AWG letter dated Feb. 28 that the design of a pilot project will be developed upon completion of an emissions inventory prepared for the entire binational airshed.

Dr. Barron interjected that she appreciates Dr. Paramo's concern regarding the efficacy of the project. We all have to remember the process and goal of the JAC is to recommend processes to the AWG rather than get into the details of projects so in that spirit we can look at the pilot project and the PDNAQTF can look at prioritizing projects identifying which are the higher emitters where we get the most bang for the buck.

Jerry Clifford indicated that the original proposal sent to the AWG was to look at the legal aspects of emissions trading. SEPs are legal so we don't need the legal advise of the AWG on this.

Dr. Paramo - We can inform the AWG of the existence of SEPs but at the same time the authorities responsible for entering into agreements must assure that the equipment was installed and is reducing emissions. Thus the concrete proposal can be to inform the AWG on the ISEP that was entered into since the AWG requested that a pilot project be submitted for consideration. If ISEPs are the scheme that will be followed then we must inform the AWG exactly what they are and how they work. Also we can identify to the US and Mexican authorities what would be the legal aspects, conditions or cooperative agreements that would need to be considered. Evidently Mexican environmental authorities cannot enter into an American facility to verify that emission control equipment is installed and vice versa.

Archie Clouse added that we're making assumptions that may not be in order. This resolution is a step in the process to develop pilot projects and answer those types of questions. We won't be able to answer those questions because we won't have any projects on the table unless we move forward with this resolution which is not in itself the final answer in SEP programs. All we're asking today is that we move a resolution to the AWG that they endorse the concept of ISEPs. That's all we're looking for. We're not here to answer the world's question about what is the best SEP program in the world. The most proper process would be to ask the AWG to adopt this resolution as their resolution so that the JAC can move forward and develop projects, studies, and information needed to assist this process in identifying further projects.

Jerry Clifford - there being no further objections the proposals to develop a resolution containing the above stated points were accepted.

Update on Border Crossing2000 Task Force::

Carlos Rincon presented a report on behalf of Danny Vickers who chairs the BC2000 group. An interagency committee meeting took place to discuss the Dedicated Commuter lane (D.C.L.) on 4/29/97. It took 2 years for the PDNAQTF to have a draft elements paper moved through the federal government to create the AQMB (Air Quality Management Basin) the D.C.L. is also taking a similar process. Carlos submitted documentation indicating improvements in air quality due to increased traffic flows. There is also funding appropriated by the INS and other funds currently being gathered to develop infrastructure for the Stanton Street Bridge which is a one way into Juarez and is normally empty.

Dr. Paramo provided an update on a letter to Cong. Sylvestre Reyes regarding air quality the co-chairs on the AWG are submitting to the AWG. The letter states that an official recommendation was submitted to the State of Chihuahua regarding the emissions inspection program and the JACs recommendation. The letter also refers to the JAC recommendation on air quality reporting. The co-chairs proposed that the air quality

Draft Minutes

JAC meeting 5/13/97

JAC-597.wpd

reports be submitted quarterly. Air quality reports submitted by EPA into AIRS is provided in a similar manner. Another matter regarding a proposal to provide air quality reports for the general public. They will be prepared jointly by the agencies involved with Environmental Health and Air Quality.

These themes will be taken up at upcoming meetings. Regarding ERC Trading, an evaluation of this type of scheme of credits shall be incorporated into the air quality plan for Cd Juarez which will enter into effect during the 2nd quarter of 1997. INE, State, and Local government will participate in development of the air quality plan. A note was also read by the Secretary Carabias, on behalf of Mexico, and a representative from the office of EPA Administrator Carol Browner. The letter sets out a plan for an air quality program in Cd. Juarez. The AWG also recommended that the JAC contact Mr. John Leary from the Western Governors Association.

A fifth recommendation regarding the sale of oxygenated gasoline in Juarez was also discussed. A letter was sent to PEMEX regarding the quality of their gasoline. The AWG indicated that once a report on oxygenated gasoline is received, it shall determine if it will submit a joint communique to PEMEX to provide oxygenated gasoline in Juarez or determine if this is a common practice in that city. He stated that if PEMEX does not respond, the committee will submit a formal petition to PEMEX requesting that it begin providing oxygenated gasoline.

Next item allowed for public comment.

Octavio Chavez reminded the JAC that any of its resolutions would be made after an opportunity for public comment. He provided the following comments on all previous discussions. He was concerned w/ Jerry Clifford's comments regarding approval requirements on behalf of the federal government for membership on the JAC. The PDNAQTF chairman supports staggered terms for filling vacant slots and allowing organizations to submit nominations for membership on the committee with the organization garnering the most support being the one allowed to fill those slots. If the community wants someone representing it, that person should be allowed to be on the JAC as opposed to the federal government deciding who participates.

The PDNAQTF supports the notion of having an open forum for discussion and preparing a common document for the group's bylaws. Regarding the oxygenated gas initiative, PEMEX may say that it tried using oxygenated gas. They took it out of the market because people had trouble with their vehicles. The problem was that oxygenated gas cleans engines and materials began clogging up the engine parts. We have taken samples of PEMEX gas and the fuel has no presence of oxygenating components. We need some lead time to inform the public that this fuel will be marketed and we need to communicate with PEMEX so that this information is made available to everyone. His concern is that if you let PEMEX drag their feet, PEMEX will not do anything to provide oxygenated gasoline.

Dr. Paramo - Asked Octavio if he had information regarding the oxygen content of Juarez content (or lack thereof) to provide that information to INE. He has not heard anything to the effect that oxygenated fuel damages a vehicle's engine; perhaps its the level of oxygenate in the gasoline. Perhaps PEMEX may not wish to dispense oxygenated gasoline due to vehicle problems which is what happened in 1992 in El Paso.

Archie Clouse - EPA provided reports that there were drivability problems where varnishes and other contaminants clog up engines. TNRCC early on worked with suppliers and the community to assure that fuel filters needed to be changed when oxygenated fuels were introduced.

Jerry Clifford asked if at the last minute PEMEX decides to introduce oxygenated fuel and the public is not informed in a timely manner to prepare their vehicles, if there may be enough pressure on PEMEX to remove the product. Are there resources available in Juarez to provide an educational campaign.

Carlos Rincon - EDF has funds available to inform the public in this event and can put together a package of public service announcements for this purpose.

Jerry Clifford asked if it was others (on the JAC) understanding that we should be soliciting public input before a public vote is taking on issues.

Elaine Barron recommended that it would be wise to do so. Items on the agenda of groups on which she serves are discussed and public comment is requested prior to final votes on issues. Perhaps that would provide an orderly manner in which the JAC operates. On the next meeting when the agenda is prepared we should have a consent agenda where we're all signed off such as on the bylaws. We would have an official list available for the minutes. On the regular agenda we should have new topics for discussion and where public comment is solicited and maybe we can bring discussions to closure. We should have more of a rules and regulation process to behave such as Roberts Rules of Order. This may clarify our opinions and we can move forward in an orderly fashion.

Carlos Rincon responded that this is the importance of the bylaws. After each of the topics is discussed by the JAC there is room for public comment, and it is the responsibility of the co-chairs to manage the meeting to stop discussion on issues where agreement is not reached.

Archie Clouse - The JAC was created was to develop recommendations by consensus and that was the reason we do not need to motion for a vote and second the motion, and then vote. It specifically states in our charter that the JAC will develop recommendations by consensus; that language is in our bylaws. When we need to make a decision and can't arrive at consensus then we should vote on the issue.

Jerry Clifford stated he has enjoyed working in both fora - those in which decisions are reached by consensus and those in which you vote majority rules and you move on. Certainly the latter is much more efficient. You get into situations when you're dealing with consensus where one individual may not be in sync and carry on a discussion for a long period of time. He is in agreement with Dr. Barron to have an agenda that lays out consent items right up front and there is an expectation coming into meetings that we're expected to approve certain things and discuss other things as opposed to discuss all things each time we have a meeting. He also agrees with Octavio's idea to get public opinion before acting on a certain subject which is why the JAC was created. In the draft agenda we will place time limits on items and move something out of this committee and back to the task force or some other subcommittee. He asked if everyone is comfortable with this. All were in agreement.

Elaine Barron - Suggested that perhaps to eliminate the problem of not being well informed each member on the US side should pair with a Mexican JAC member. For instance she can be a public member and pair with a public member on the Mexican side. That way between the two of them they can assure they have receive the same information and ideas before the meeting and do some communication with each other to preclude the need for lengthy, arduous discussions.

Jerry Clifford indicated that while some of the long discussions on topics were due to not having a fully defined document that can be agreed upon by all members. This could be one of the reasons for such long discussions, and we on the US side certainly can do a better job of that.

Beatriz Vera commented and recommended that the spirit of this meeting is different from past meetings in that in earlier meetings all JAC members were present for the benefit of the airshed, and today everyone was here representing their own agency or organization. She would suggest to the co-chairs that they instill a feeling among JAC members to work for the benefit of the JAC and move above their official responsibilities. Part of the dragging on may be due to the agenda, but members are working as individuals and not as a committee. With every man for himself, nothing will get accomplished.

Ismael Orozco - Mexican Consul in El Paso thanked Dr. Carlos Rincon for the invitation extended to him to participate and attend today's meeting. He provide a brief summary on the status of the Dedicated Commuter Lane. The final decision for this method of crossing that would reduce bridge wait time needs to be made bilaterally. In this regard there exists a US / Mexico Binational working group that deals with bridges and international crossing point. This working group is part of the Greater Binational Commission between the US and Mexico recently recognized by President Clinton during a recent visit to Mexico. Regarding information received from the Bridges and International Crossings Working Group there has been no mention whatsoever regarding the D.C.L. initiative. We will support your initiatives on our behalf. As far as bilateral activities to carry out this initiative we do not know if the US State Department or the Secretaria de Relaciones Exteriores (SRE-Mexican State Department) have submitted for proposals to move forward. There is strong interest that has been generated by the US and he understands funds currently available and destined for this endeavor. This endeavor can come to fruition through the appropriate channels. Most important is the attitude generated to promote projects such as these. However, we do have our problems with the bridges and their infrastructure which at times requires us to close lanes such as three lanes closed on the Paso del Norte bridge to make repairs. We do have these problems but they can be overcome with a positive attitude.

Dr. Paramo added that he will get together with SEMARNAP personnel whom coordinate on environmental issues along the US/Mexican border. He was not aware the bridge and crossings working group existed and perhaps this group will help us see how both countries can cooperatively work together to bring this endeavor to fruition.

Dickie Apodaca suggested that given the condition on the bridges some traffic can be diverted to the Santa Teresa Port of Entry.

Jorge Garces added that the Western Governors Association could be another forum to request assistance and participation in developing the D.C.L. initiative.

New Initiatives

Carlos Rincon submitted a proposal on behalf of the PDNAQTF regarding emissions control devices on vehicles imported into Cd Juarez. The AWG is requested to send a letter to the Secretaria de Hacienda y Credito Publico (Mexico's IRS) where the AWG requests that the Mexican Customs Authorities at the Cd Juarez Port of Entry be instructed to enforce Cd Juarez ecology regulations when a vehicle dealer proceeds with vehicle importation paperwork. Article 236 Section 5 in Juarez ecology regulation states that all vehicle dealers must execute a vehicle emissions inspection on an automobile prior to sale in Cd Juarez, Chih. Mexico.

Jerry Clifford asked if Carlos wanted us to think about and act on today. To which Carlos responded that if there is no major opposition the proposal can be forwarded to the AWG.

Archie Clouse asked Carlos for backup information to support his claims that in fact there is a problem. We're asking the AWG to act on a JAC recommendation on face value. Their comfort level may increase with supporting documentation.

Elaine Barron stated that there probably is general consensus that a problem does exist. Since we know that the facts exist and there is supporting documentation she's sure we can agree with this proposal.

Carlos Rincon added that there do exist reports such as the recently completed TNRCC Mobile 5 Juarez study indicating a high percentage of vehicles that have been tampered with. He brought forward a motion that this resolution be accepted considering all the data exists, and he will assure that all requested data is provided.

Dr. Paramo indicated that this issue would require the Mexican co-chair on the AWG to act. If we move forward with this proposal we will need to investigate the current situation & since local people will be responsible for ensuring the data is correct this appears like a good proposal. If we want a quick recommendation for the AWG the request that more data is needed is valid. Junk vehicles do overload the region's vehicular fleet.

Marco Antonio Fraire -coordinator for the Mexican Consul in El Paso commented that from the point of view of the people in Juarez the majority of Juarences buy vehicles from sources other than car dealers. If the proposal is passed and this regulation is enforced, the buyer will be passed on the added cost. Mr. Fraire also indicated that Juarez vehicle inspection sticker is a tax on using vehicles. Requiring all vehicles to have an emissions reduction devise is costly and should not be the responsibility of the buyer.

Dr. Paramo added that this cost must be borne by the buyer because the person who buys a vehicle without emissions controls is indiscriminately contaminating the air and is hurting everyone. This proposal is directed to a market whether formal or informal, but the fact remains that there exist vehicles that don't comply with Mexican vehicle emissions regulations and this also is an area of concern. This proposal may be forwarded to the AWG, but SEMARNAP is not ready to accept this proposal as policy.

Oscar Ibanez indicated to Mr. Fraire that this letter refers to the issue of imported vehicles. This is the responsibility of the importer, not the customer/client. There are three other issues that are riding here. Hacienda's responsibility for collecting taxes on imported

Draft Minutes

JAC meeting 5/13/97

JAC-597.wpd

vehicles. Responsibility that lies with CD Juarez dealing with the circulation of vehicles in the city. Another responsibility lies with the State of Chihuahua requiring that all appropriate registration documents are completed for vehicles. Each authority has a hand in their area of responsibility. Originally Hacienda had a mechanism in place to verify that the importation of vehicles complied with these requirements. There was an agreement between the parties responsible for the circulation of vehicles in Juarez, importers of vehicles, and Hacienda. Ultimately, Hacienda's participation in helping enforce local initiatives dissolved.

There being no major objection Carlos' proposal passed.

Dr. Paramo then discussed the development of an air quality program for Cd Juarez. He solicited the assistance of the public and JAC members in the development of an Emissions Inventory, the Cd Juarez air quality monitoring centers, meteorological monitoring, inventory of the vehicular fleet, etc.. The case for Cd Juarez will be different due to its binational character. Possibly on the Mexican side we haven't considered in great detail what it signifies to have the US sources identified and quantified. The program will contain a regional aspect since we cannot separate one sister city from the other.

Rene Franco submitted that he would like to form a subcommittee to realize the construction of a binational subway mass transit system since the appropriate authorities currently are discussing the development of high volume cargo lanes.

Octavio Chavez indicated that the IMIP (Juarez Planning Institute) currently is undertaking a large-scale transportation study. This study identifies various options available for future transportation systems.

Rene indicated that he would like to have a recommendation come from the JAC and the subcommittee can form to analyze the idea and help it mature into reality.

Jerry Clifford indicated that one of the issues Rene raises is linked with proposals this committee can consider and move forward. They're all terrific ideas, and we're doing good things by continuing to push these ideas forward. One of the things that's missing is the planning context for the recommendation this group is coming up with. If this group was not in existence and if there in fact were a joint El Paso / Juarez Air Pollution Control District that had the ability to adopt its own regulations, they would be conducting an emissions inventory for the basin, and based on the EI they would be developing a package of measures. In the US we have developed State Implementation Plans (SIPs) or Air Quality Implementation Plans (AQIPs). This seems like something not unlike the AQIP that Cd Juarez is developing. He would like to raise this as an item on the next agenda. There's some work being done to develop an emissions inventory (EI) jointly in El Paso and Cd Juarez; there's ongoing planning such as the IMIP transportation planning study. As a group we'd like to have the people who are developing the EI brief us and share their information, their schedule for completing their study, and help us get engaged in their process of developing the inventory as well as identifying measures in a more comprehensive framework for addressing the region's air pollution problems. This committee, he felt, can be more effective. This may be developed with some subset of this group to help facilitate discussion on this committee.

Matt Witosky announced an EPA Reg. 6 / INE sponsored 2-day workshop/symposium in the area to discuss the Toxic Release Inventory (TRI). The meeting will be held for state and local officials to determine if the US and Mexican programs can fit together and also increase the impact of TRI in Mexico. Information will be forthcoming.

Next meeting date

Given that the JAC is formed by people of El Paso, CD Juarez, and Dona Ana County, Dr. Paramo suggested the next meeting could be in El Paso on August 12, 1997. Agreed.

MEETING ADJOURNED