AGENDA
Power of Public Apology
National Community Involvement Conference
Washington, D.C.
July 21, 2011

1:30 Welcome

1:40 Why this Seminar?
• Background and who we are
• Agenda for the Day
• Personal Reflection

2:00 Public Apologies: a framework for the good, bad, and ugly
• Interactive presentation

3:00 Break

3:15 What, EPA say sorry?
• Participants review various “apology” scenarios for discussion and learning specifically relevant to EPA. Should someone apologize? Why or why not? What are the risks? Should someone ask for an apology? If so, how? What is the benefit to the staff and the agency? The risks and costs?

4:00 The Cerritas Case
• Small Groups work to prepare presenter
• Presenter offers statement regarding the issues in the case in a public meeting
• Debrief and discuss

5:00 Final Discussion

5:30 Adjourn
Apology
A Tool for Conflict Resolution?

Patrick Field

Consensus Building Institute
“I don’t want your apology -- I want you to be sorry.”
Why Consider Apologies?

GENERALLY

• Apology is an important part of dispute resolution and managing on-going relationships.
• Better understanding of the role of apology helps when encountering, desiring, or issuing one.
• Elements of an apology may be important tools even without a “full” apology.
• Public apologies might come from any organization or individual. This is not about what EPA needs to or not to do!

SPECIFICALLY

• Toxics, their impacts, and their cleanup, all affect people, sometimes dramatically.
• Risk or harm, perceived or substantiated, is truly “felt.”
• Apology may serve as an important part of “clean-up.”
Key Points

• Define *what is* (and isn’t) an apology?
• Consider *why* one should make a public apology
• Illuminate the *elements* of a “good apology” by reviewing the good, bad, and ugly
• Consider if, how, and when apology might be a useful *tool* for EPA
• Discuss the *difficulties* of apologizing well.
Apology: The Traditional View
Public Apology?
Something, but not an apology

- Apologia
- Regret
- Excuse
- Acknowledgement
- Manners
- Condolence
- Empathy
What is an Apology?

• An apology is:
  – An interaction, not just words, between two or more parties
  – A trajectory of events, not a singular act

• Key Elements include:
  – Acknowledging a mistake or failure
  – Recognizing hurt, harm, or offense
  – Taking responsibility for act
  – Stating clearly remorse or regret
  – Acting through contrition, amends, mitigation, commitment, or restitution that follow

• It is embedded in context, culture, and hierarchy
Check List for a Quality Apology

- Mistake acknowledged

- Hurt or harm affirmed

- Responsibility taken

- Remorse or regret expressed

- Commitment to action
Apologizing and Organizations

• Apologizing as . . .
  – One individual to another (I am sorry I didn’t get you that report on time)
  – One individual to a group (I am sorry I wasn’t responsive to your request)
  – On behalf of the organization to individuals or a group (I am sorry we didn’t conduct the investigation properly)
  – On behalf of a body politic (I am sorry we harmed this class of people)
1. Acknowledging a Mistake or Failure
FEMA “Press Conference”

• “FEMA’s goal is to get information out as soon as possible, and in trying to do so we made an error in judgment,” the agency says in a statement attributed to Johnson. “Our intent was to provide useful information and be responsive to the many questions we have received. We are reviewing our press procedures and will make the changes necessary to ensure that all of our communications are straightforward and transparent.”

Vice Admiral Harvey Johnson
2. Recognizing Hurt, Harm or Offense

- NAACP passes a resolution which called on Tea Party leaders "to repudiate those in their ranks who use racist language in their signs and speeches".
- Blogger Andrew Breitbart posts video excerpts of Sherrod's address to a March 2010 NAACP onto his website alleging she denied helping a white farming family
- Major media picks up story
- Numerous USDA officials ask her to resign
- NAACP condemns her statements via twitter
- Secretary Vilsak
He said then He said

• Vilsak releases the statement upon Sherrod’s resignation: “The controversy surrounding her comments would create situations where her decisions, rightly or wrongly, would be called into question making it difficult for her to bring jobs to Georgia. Our policy is clear. There is zero tolerance for discrimination at USDA and we strongly condemn any act of discrimination against any person.”

• Then, Roger Spooner, the white farmer in question, said on CNN that Sherrod is not a racist, that she did everything she could for his family, and over 20 years later, he and Sherrod remain friends.
The News Summary
Other Responses

*Bill O'Reilly*: “I owe Ms. Sherrod an apology for not doing my homework, for not putting her remarks into the proper context,” he said on "The O'Reilly Factor," adding that his own words had been taken out of context by critics in the past. “I well understand the need for honest reporting.”

*Breitbart*: “This was not about Shirley Sherrod. It's about the NAACP. This was about the NAACP attacking the Tea Party and this [the video of Ms. Sherrod] is showing racism at an NAACP event. I did not ask for Shirley Sherrod to be fired. I did not ask for any repercussions for Shirley Sherrod. They were the ones that took the initiative to get rid of her.”
And other responses

**NAACP:** “With regard to the initial media coverage of the resignation of USDA Official Shirley Sherrod, we have come to the conclusion we were snookered by Fox News and Tea Party Activist Andrew Breibart into believing she had harmed white farmers because of racial bias ... Having reviewed the full tape, spoken to Ms. Sherrod, and most importantly heard the testimony of the white farmers mentioned in this story, we now believe the organization that edited the documents did so with the intention of deceiving millions of Americans.”

**Fox News:** “[The network] did not make any mention of this story yesterday on the air until after Shirley Sherrod had already lost her job after Secretary Vilsack had already drawn his own conclusions – conclusions that the president apparently agreed with.”
3. Taking Responsibility: The Cochiti Dam

- 1972 ACE built dam, not to code, causing seepage
- 25 years of damage to land, way of life, culture, religion
- 1996 US Congress took ultimate responsibility and acted
- Not end of story -- healing beyond action
- 2004 ACE issued formal apology on Cochiti land
Cochiti Dam - Intake Tower Potential Water Leak Investigation

Suzi Hess-Brittelle, P.G. Dam Safety Program Manager, Albuquerque District
George E. Diewald, P.E. Lead Structural Engineer, Albuquerque District
4. Stating Clearly Remorse or Regret: The Columbia Space Shuttle

I had the opportunity & the information & I failed to make use of it. I don’t know what an inquest or a court of law would say, but I stand condemned in the court of my own conscience to be guilty of not preventing the Columbia disaster.

We could discuss the particulars: inattention, incompetence, distraction, lack of conviction, lack of understanding, a lack of backbone, laziness. The bottom line is that I failed to understand what I was being told; I failed to stand up and be counted. Therefore look no further; I am guilty of allowing Columbia to crash.

N.Wayne Hale, Jr., NASA launch integration manager
5. Committing to Future Action: Air Force Undersecretary McCall

• “I am sorry we polluted your water. I am sorry we have not dealt with investigation and cleanup in the way we should have. I will take responsibility for ensuring that the Air Force makes your community whole again.”

Air Force Undersecretary of Environment Tad McCall
I’ve got your forgiveness right here...
Question

With so many smart people and many smart advisors, why is this SO hard?

OR

Why do examples of mediocre to terrible apologies abound?
Challenges to the Art of Apology

- Organizations and people worry about liability risk
- Forgiveness is the other side of the equation and those harmed might not be ready to receive or accept
- Timing matters
- Psychological defenses impede making apologies
- Organizational complexity compounds the difficulty of making an apology.
- Cross-cultural communication and expectations make issuing an apology more difficult
## Check List for Legal Implications*

<table>
<thead>
<tr>
<th>Item</th>
<th>Assessment</th>
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<tr>
<td>Mistake acknowledged</td>
<td><strong>DIFFICULT.</strong> Highly likely to be admissible statement of guilt</td>
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</tr>
<tr>
<td>Commitment to action</td>
<td><strong>YES.</strong> Post-facto correction is not admission of negligence or guilt.</td>
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*NOTE: Settlement negotiations and mediation may protect more full admissions.
University of Michigan Medical System Program

- The approach summarized: “Apologize and learn when we’re wrong, explain and vigorously defend when we’re right, and view court as a last resort.”
- Incident reporting system increased reporting of errors, from roughly 3,900 reports in 2002 to an estimated 18,000 in 2009
- In 2001, approximately two-thirds of the claims were in some phase of litigation; by September 2009, that figure decreased to approximately 17 percent
- A first year estimated savings of $2 million
- Between 2001 and 2007, costs per claim decreased by 50 percent
- A 61 percent decrease in legal defense spending at the UMHS over time
Credit where Credit is Due

• Wikipedia, various news sources
• My colleagues who deliver this course with us: Ray Daw and Lucy Moore
• Lazare, Aaron On Apology, Oxford University Press, 2004
• Tavris, Carol & Aronoson, Elliot, Mistake were Made, Harcourt Books, 2007.
VIGNETTE #1: A mistake was made.

The RPM for the Brilliant Tire Superfund site gets a call from a frantic local citizen and well-known “watchdog.” “You’re re-contaminating the very site you promised to cleanup. This is outrageous” he yells. A contractor for the EPA doing monitoring is “dumping” water from the development of a new monitoring well into the street’s gutter. Sure enough, the citizen brings the issue up to the local paper who rushes down to the job site to see the water rushing from a flexible tube, down the street, and into a storm drain.

Despite your best efforts, you are unable to reach the contractor’s site employees until the next day. You find out that they were putting the water right back into the storm drains, which at this time, have no wastewater treatment capacity. The data from the development of the wells does show trace amounts of TCE and PCE, the primary contaminants of concern, but below the MCLs and practically at reporting limits.

You have the means to deal with the contractor contractually in terms of performance. The question is:

- Do you, EPA, issue an apology? Why or why not?
- Do you get the contractor to do one? Who, why, or why not?
- If an apology, or part of one, is issued, what should it say?
VIGNETTE #2: Making my citizens drink dirty water!

The Mayor of a City is furious at the EPA. She swears that the EPA promised her and her citizens that they would have “clean” drinking water during the Superfund cleanup. She has lambasted the EPA in community advisory meetings, public meetings, and in the press. “They lied to me!” she has said on countless occasions. “You cannot trust the EPA to take care of us. The name ‘environmental’ protection is a joke. They would rather clean up the river for the fish than protect us humans.” The Mayor is threatening to sue the EPA and to stop the cleanup.

A little background. This is a major PCB cleanup of a 20-mile stretch of river that runs through several communities. Most of the communities draw town water from surface reservoirs or from groundwater wells a mile or so from the river. However, three communities, including this one, lie several miles beyond the end of the actual cleanup and pull their water directly from the river. Despite the fact that sediments with PCBs have traveled down the river for decades, and despite the fact that measurable, but below action level detections have been found in the intake of these systems, and despite the fact that they have an activated carbon treatment system (granted, old, out of date, and in need to replacement), these towns are demanding full time, alternative water during the cleanup of the river.

The agency has gone to great lengths to develop a complex monitoring program with 24 hour sampling and 24-hour lab analysis turnaround. The EPA has performance standards for the cleanup actions in the river that would shut down action long before PCB levels upstream of the intakes would reach levels of concern. EPA is certain that there is no elevated risk from their approach and that more than adequate safeguards are in place to ensure public health. EPA is sure that the Town is simply using them as a scapegoat to get the federal government to pay for a new, alternative source of water for the City. EPA staff feels mistreated, maligned, unfairly attacked and that they are the victim of political theatre.

- Does the Mayor owe the EPA staff an apology? How would EPA even begin to ask for such a thing?
- What should management do? Staff are very hurt and very upset.
VIGNETTE #3: No One Cares

Twenty years ago the Radiant Uranium Company closed its mining and milling operation in central Nevada because the operation was no longer profitable. The site has changed ownership three times since then. The nearby town of Yelton plunged into an economic depression. But the real suffering began when contamination of radium and uranium was detected in the groundwater downstream of the tailings facility – a 200-foot high mountain of waste and a ten acre settling pond. The pile cover and the pond lining, both of supposedly impermeable materials, failed in the searing heat, extreme changes in temperature, and the passage of time. Cancers and nervous disorder rates soared, and property values plummeted. Houses in the area are now virtually unsellable.

Fifteen years ago, EPA declared the area a Superfund site. Working with the State Health and Environment Department, ATSDR and with the Nuclear Regulatory Commission they have attempted to address the groundwater contamination issues. Some families have new, deeper wells, or are hooked up to the Yelton water system. Other families were told that they would be provided with bottled water for ten years, until the company had addressed and resolved the issues. That deadline was two years ago, and those families are now hauling bottled water at their own expense.

At a recent EPA community meeting, the State revealed that the contamination is moving toward the Yelton municipal water supply. Residents came unglued. After 20 years, 15 of those years as a Superfund site, things were getting worse not better. The four agencies, they said, were passing the buck and failing to coordinate their efforts, at the expense of the community. The EPA RPM wants to apologize to the community for the slowness of the process. The EPA attorney advises against it.

- How can the very real suffering of the residents be acknowledged in a way that is believed?
- Would an apology at this point help? If so, who should offer it – EPA, the State, NRC?
- How should the difference of opinion within EPA be handled?
VIGNETTE #4: Broken Treaties

A long-abandoned Indian boarding school in South Dakota was deeded to three neighboring tribes by the US government in 1966. In the 1980’s asbestos was discovered throughout the complex of buildings. The grounds and buildings became a Superfund site, were remediated and then designated a Brownfields site. To assist the tribes in reaching agreement about the future development of the area, EPA hired a facilitator to do an assessment. After visiting with each tribal government and hearing conflicting visions of the future of the property, the facilitator organized a two-day workshop to clarify issues, identify resources and hopefully come to agreement. Attending the workshop were nine tribal members representing the three tribes, five EPA regional staff (including two attorneys), the local Bureau of Indian Affairs facilities manager (a Native American from Arizona), the South Dakota Department of Economic Development assistant director, and the Deadwood Chamber of Commerce board president.

Discussions went well until an EPA attorney suggested that it would be desirable to create a contract binding EPA and the three tribes to a future plan of action. A tribal member lashed out at him, reminding him that “only” 116 years previously, the US government had signed a treaty with her tribe and then distributed blankets laced with small pox, killing hundreds of her ancestors. She was crying as she said, “I will never put my signature on a piece of paper from the US Government! You are all liars and we have learned our lesson!” The other tribal members quickly called her into a caucus. The attorney left the room, visibly shaken.

- How could the facilitator handle the situation?
- What difference could an apology or an acknowledgement make here? Who should make it? What would the content be?
- How could the EPA attorney handle this?
The community of Los Montes sits on the US side of the border with Mexico. Most of the residents are immigrants, working in a nearby large city, or for a large agricultural corporation. Los Montes is surrounded by environmental threats – the region’s largest landfill is within 300 yards of the elementary school, a smelter for toxic substances is only a mile away, toxic substances are illegally dumped by unknown parties in the river that serves as the border between the two countries, and an incinerator for local garbage is located just outside Los Montes. The state environmental agency is preparing to review landfill’s permit renewal application for another 20 years.

The community is fed up with decades of being the repository for waste, much of it toxic, in the air, water and soil. At a pre-hearing meeting on the permit renewal, residents lined up for a chance to blast any government agency that showed up. Junior high school students performed a skit, with music and puppets, depicting the evil landfill company as a giant garbage bag, leaking a gooey smelly substance all over the community center floor.

EPA appeared for the first time in this community, represented by the Regional Environmental Justice Coordinator, who said that the community qualified for EJ status. He described the resources he had to offer – grants, technical experts, etc. – that could have an impact on the permit renewal process. The problem was that the agency’s funding cycle and EJ budget meant that no help could be expected for at least a year, that is if the community’s application was accepted. The permit hearing was in three months, and EPA appeared to be a day late and a dollar short. The community was outraged. The giant leaking garbage bag puppet was dragged back onto the stage.

- Would an apology from the EJ coordinator have made a difference?
- How can local advocates be convinced that the EPA is being responsive given the limitations?
- Are there other apologies that might help the situation?
VIGNETTE #6: Battle of Data

Luxury Gold mined the headwaters of a river in Colorado, and then fled to Canada, leaving cleanup of the river to EPA and the State. EPA designated the site a Superfund site and began discussions with the State on how to pay for cleanup of the river. Downstream farmers – many traditional Hispanics who had been there for generations -- were losing not only crops, but irrigation structures which were being eaten away by the high acidity in the river.

EPA hired a facilitator to help them negotiate with the State and the community to establish new water quality standards for the river. Residents insisted the river had been a coldwater fishery, and should be restored to that quality. Scientists with the State Natural Resources Department maintained that data from similar geographies and from newly developed models proved this was not possible. Leaching of naturally occurring minerals into the water would not have supported a coldwater fishery. The battle between technical and anecdotal science raged for months. Local residents were insulted that their evidence (stories and even photos) was not considered “real” data. They refused to agree to a lower standard, and pulled out of the negotiations, claiming they were victimized by the agencies who were unwilling to spend the money needed for real cleanup. EPA and state representatives were increasingly frustrated and resentful that they were not appreciated for their hard work, commitment to solve the problem and fine science.

- Is there a place for an apology? From whom and to whom?
- How can the very real suffering of the residents be acknowledged in a way that is believed or taken as sincere?
- Is there a way to validate the anecdotal science being presented by the residents?
VIGNETTE #7: I meant it was us

The EPA RPM site manager at a major Superfund cleanup has discovered egg on his face.

A few months ago, the program’s drilling and monitoring program discovered 1,000 ppb of TCE in a sample. They did not expect such a high sample in this area, given that the known plume, the other side of a large pond, was mostly at some 250 to 300 ppb at most. In a large public meeting, the RPM noted that the contamination had been found but given that it was in a very narrow band of groundwater (atypical of the generally large, spread out groundwater plumes in this sandy aquifer), he believed it did not come from the site. Rather, he said, “It’s clear to us that this must be some separate contamination from a careless household user of cleaning agents for car parts or something.” The local newspaper broadcasted that week in the headlines, “The screamin’ plume of Joe the Mechanic. Where are you Joe?”

After this sincere and public denial by the RPM and a few months of further investigation and modeling, the technical staff inform him that: 1) it is an unusual, very fast moving plume, likely shaped in its way due to the complex hydrology between two large ponds; 2) the TCE is likely from the plume the other side of one pond and is the responsibility, most likely, of the site; and, 3) unless a local user was dumping quarts of TCE at a regular rate over at least several months, there is no way a local, amateur mechanic or other user could create such a mess.

The RPM knows that he has made a mistake. He generally prides himself on his honesty and transparency. He also knows that when he releases this information to the public, the standard cast of skeptics watching the cleanup like a hawk will explain this mistake in a context of the treachery, dishonesty, and failure of EPA to do its job over the last ten years.

- What should the RPM say to the other regulators?
- What should the RPM say to the public?
- What should he say to the press?
VIGNETTE #8: Whoops, Not You

In June 2002, the National-Scale Air Toxics Assessment was released and declared that the town of Monte Vista had the single highest cancer risk in the country. Town residents were shocked. The Mayor and City Town Council did not know what to do with the media firestorm that erupted. Local health practitioners saw a quick rise in concern from local residents. The public health agent was inundated with questions and requests for various kinds of testing. The state’s Air and Water Quality (AWQ) agency was inundated with requests for more sampling. Residents feared for their health, for property values, and for the great uncertainty that suddenly overcame the town. Monte Vista is a town of 50,000 with more than half the population Asian, 10% Latino, and the remainder mostly white.

But, as it turns out, the Assessment was dated and inaccurate and Monte Vista was not the “cancer capital of the country” after all. The report had claimed that Monte Vista had an unusually high cancer risk, with 95 percent of that risk coming from a cancerous chemical called hydrazine. The EPA traced the source to the site of the Konig Metal Processing Plant in nearby Mountain Springs, which reportedly spewed 1,250 pounds of the chemical in 1991 or earlier. Records showed that the company has been fined multiple times for unauthorized storage of toxic waste, including hydrazine hydrate. With strong pressure from local officials, including the Congresswoman, the state’s AWQ immediately launched an inspection. AWQ determined that Konig now emitted less than two pounds of the chemical each year - putting the Town at an average cancer risk for the area. Moreover, they concluded information from 1991 was self-reported by the plant, then known as PCP Industries, and was likely an error. EPA officials noted that the assessment relied on air quality data from state and local agencies, and the erroneous information somehow was bungled between the three agencies.

You as the Chief of the Air Division for the Region are about to go to a meeting called by the Mayor, town council, the local Congresswoman, and the state delegation of two representatives and one state senator.

- Should you apologize?
- If so, for what and how?
- Besides what you might do in the meeting, what might you do before and after this high stakes meeting?
CERRITAS CALIFORNIA
Instructions for Exercise

The Cerritas, California case is a real case that involved U.S. EPA. Please do the following.

1. Read the initial *Los Angeles Times* story and the *U.S.A. Today* retraction.
2. Skim the Air Quality Management District report on their investigation.
3. Read the Cerritas Mayor’s letter.

As a small group, you will work to prepare one of your group members to deliver a statement to Cerritas in the meeting called for by the Mayor. You can expect that the meeting will include hundreds of citizens, local business, local officials, and some holding state offices such as the State Senator and Representative.

Please prepare as follows.

- *Who should lead the presentation on behalf of EPA?*
- *What kind of statement should this EPA official make?*
- *What kinds of additional correspondence, if any, should EPA issue prior to or just after the meeting? What should it say in general terms? Who should it be to? In what form or format (letter, press release, web posting, etc.)?*

One person in your group should be prepared to actually deliver the initial EPA statement at the meeting to the participants in the workshop.

Good luck!
EPA erred in figuring Cerritos' cancer risk

Agency used 1989 data for a plant that's really in Santa Fe Springs.

AMY LITTLEFIELD

The city of Cerritos is used to raking in awards and distinctions. Named an All-America City in 2006 and a Tree City USA for 11 consecutive years, Cerritos bills itself as an oasis in an urban desert. A fountain adjacent to City Hall belches up clean, chlorinated water to the delight of area children, who romp in its bathing suits in the sun reflected off the city's award-winning, titanium-clad library.

But Cerritos was tagged with a more noxious distinction two weeks ago, when the federal Environmental Protection Agency declared it the city with the highest cancer risk in the country — more than 33 times the national average. News crews descended, e-mail from alarmed residents flooded in, and city officials were forced to answer hard questions at a town hall meeting.

When he heard the news, Mayor Bruce W. Barrows said, his first thought was: "It had to be a mistake."

Two weeks later, it looks like the mayor was right.

The EPA said its data on the Heraeus Metal Processing plant, which it said was spewing about 1,250 pounds of the cancer-causing chemical hydrazine, was from 1989.

Twenty years later, Heraeus is emitting less than two pounds of hydrazine per year, according to air monitoring data released Thursday by the South Coast Air Quality Management District.

That pushed the lifetime cancer risk from hydrazine exposure to about 1 in 2 million. The EPA had calculated the area's cancer risk at about 1,200 in 1 million, largely due to hydrazine exposure.

An AQMD study released last year found the cancer risk for all of Southern California was about 1,200 in 1 million, predominantly from diesel exhaust.

Local investigators also found that the EPA had placed Heraeus in a Cerritos census tract, when it is actually in the adjacent city of Santa Fe Springs.

"It's really unfortunate that this wasn't caught before this community was named the toxic hot spot of the nation," said Barry R. Wallerstein, executive officer at the South Coast AQMD.

The AQMD also found that the EPA had relied on data from long-closed facilities in its ranking of at least four high-risk areas in the region.

The EPA defended the study, saying that it got its data from a 2002 national emissions inventory that used data from the state.

Why the inventory may have had 20-year-old data, and whether the facility even was emitting 1,250 pounds of hydrazine in 1989, remain a mystery.

"At some point in time, some professional made the engineering judgment that the facility was emitting that level," said Matthew Lulkin, air quality analysis office manager for the Pacific Southwest EPA.

The EPA admits that its computer modeling and data, which it says are used to identify pollution hot spots and to look at trends, are less accurate than the AQMD's air monitoring numbers.

"The South Coast Air Quality Management District has taken swift strides to protect the public's health," said Deborah Jordan, air division director of the EPA's Pacific Southwest region. "Because of their prompt response, there is now information on current, actual hydrazine levels at the facility and in the community."

Meanwhile, the Cerritos Council is trying to repair the damage to the city's reputation — and its budget. The city has set aside as much as $250,000 to cover legal fees, staff time, and an estimated $70,000 spent on hiring a private consultant to analyze the data.

The mayor remains concerned with attracting business and maintaining property values in a city known for its sprawling auto malls and retail centers.

The median value for a single-family home in Cerritos was $800,000 in May 2009.

"People pay a lot of money to live here because it's such a clean city, and the education levels are high," Barrows said. "We've had some major damage done to us by what I'm going to refer to as probably the most irresponsible press that I've read."

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Corrections & Clarifications

USA TODAY is committed to accuracy. To reach us, contact Standards Editor Brent Jones at 1-800-USA-6642. To email accuracy@usatoday.com, please indicate whether you are responding to content online or in the newspaper.

California officials have challenged a U.S. Environmental Protection Agency air pollution assessment that identified a neighborhood in Cerritos as facing the nation's highest cancer risk from air emissions. After the EPA released its assessment, which USA TODAY reported on June 24, California's South Coast Air Quality Management District reviewed the data and found "gross overestimation" in Cerritos and several other places because the EPA relied on outdated or incorrect emission data. The AQMD also tested emissions from a facility the EPA report blamed for much of the risk in Cerritos and found its current pollution levels were far lower than those the EPA cited.

The EPA sent a letter July 16 to Cerritos Mayor Bruce Barrows saying emissions from the facility "are now known to be at a safe level." The letter said the EPA would investigate further and promised "to continue to improve the accuracy" of the information it releases.
South Coast AQMD

FACT SHEET

U.S. EPA Report on Air Toxic Risk in Cerritos, CA

Background
- Earlier this week, the U.S. Environmental Protection Agency (EPA) released results from their most recent National Air Toxics Assessment (NATA). The report estimates toxic risk for each census tract in the United States using a national emissions database combined with modeling of exposures. This current NATA report estimates risk from emissions in the year 2002.
- While there is considerable uncertainty in the EPA emissions data, the report identified a single census tract in Cerritos as having a cancer risk of 1244 in one million, one of the highest in the country.
- According to the NATA report, one chemical from one facility accounted for over 95% of this risk. The facility is Heraeus Metal Processing (formerly PGP Industries Inc.) and the chemical was Hydrazine.
- EPA has classified Hydrazine as a probable human carcinogen and is considered a Hazardous Air Pollutant (HAP). It also has other serious acute and chronic (non-cancer) effects. It is a colorless liquid with an odor similar to ammonia and it is reactive in air. It has been used as a rocket fuel, and has several other industrial uses.
- Previous air toxics studies by AQMD (MATES) have shown that the vast majority of cancer risk is due to exposure to diesel particulate matter (PM). Many areas in southern California have cancer risks greater than 1200 in one million. The NATA report did not consider diesel PM in their cancer risk estimates, and the MATES studies did not consider Hydrazine.
- A 1200 in one million risk is unacceptably high and AQMD is working hard to reduce exposure to all air toxics.

AQMD Actions
- The AQMD has initiated an investigation of the emissions data used in the NATA report to assess its accuracy. Some of the data in the NATA report may be from the early 1990s or earlier.
- AQMD engineers and inspectors have been dispatched to the Heraeus facility to conduct inspections, records searches, and source tests to identify potential Hydrazine emissions. It has been confirmed that the facility currently uses Hydrazine.
- Hydrazine is used as a reducing agent in an industrial process and should react and be converted to less harmful products. The process that uses Hydrazine at Heraeus is a closed system that is vented to pollution control devices. These control systems should also reduce Hydrazine emissions.

Future AQMD Actions
- Ambient, stack, and process samples will be taken from the Heraeus facility as well as the surrounding community. They will be analyzed for the presence of Hydrazine.
- Investigations to assess the emissions data used by the NATA report will continue. This and all other work will be done in consultation and cooperation with EPA.
- AQMD will coordinate with the Cerritos City Manager to hold a Town Hall Meeting in Cerritos to communicate all findings and results. This will occur within the next two weeks.
- If the risk from Hydrazine is confirmed, AQMD will apply existing regulations or develop new regulations to reduce risk to the community from this chemical.
- If errors or gaps in the toxics emissions inventories are identified, AQMD will work quickly to improve emissions reporting procedures and requirements.

June 25, 2009
Dear Community Member:

The City of Cerritos has received hundreds of telephone calls and e-mail messages from Cerritos residents expressing their concerns about the air pollution study that was released by the United States Environmental Protection Agency (EPA) in June 2009. I am writing to inform the community about the City of Cerritos' findings related to the pollution study and share the actions the City is taking in response to this issue.

I would first like to assure you that results of air monitoring tests by the South Coast Air Quality Management District (AQMD) show there is no significant air toxic risk in Cerritos as was erroneously reported by the news media. The South Coast AQMD also reported that the EPA's pollution study was based on old data, from 1989, that was not validated. A full report on the pollution study and current air quality in Cerritos will be made to Cerritos residents at a Town Hall Meeting to be presented by the City and the South Coast AQMD. The EPA has been invited to participate in the meeting. The meeting will be held on August 18 at 7 p.m. in the Cerritos Center for the Performing Arts Sierra Room and I encourage you to attend.

As widely covered in the news media, the EPA's pollution study (the 2002 National Air Toxics Assessment) indicated that a particular census tract in Cerritos had the highest cancer risk in the United States. The City shares the community’s concerns for the public’s health and Cerritos’ reputation and immediately began investigating this issue. The news media reports incorrectly suggested the pollution cancer risk was from mobile sources on area freeways. The EPA's study only considers cancer risks associated with stationary sources of pollution (i.e. industrial plants), and does not consider cancer risks associated with diesel particulate matter from trucks on freeways and streets. According to the South Coast AQMD, diesel particulate matter makes up 80% of the local cancer risk from air pollution.

The City's first action was to demand current and accurate information from the EPA, South Coast AQMD and the California Air Resources Board. EPA representatives responded with information that the purported elevated cancer risk was caused by Hydrazine emissions reported from Heraeus Metal Processing (formerly PGP Industries Inc.) in the City of Santa Fe Springs. Also in response to the City's request, the South Coast AQMD sent field inspectors to the Heraeus Metal Processing facility to conduct current tests for Hydrazine emissions.

The South Coast AQMD has issued an executive office memorandum and a press release which state that results of the recent air monitoring tests from the Heraeus facility show that it does not pose a significant cancer risk to the surrounding community. The documents also report the South Coast AQMD's computer modeling of the tested emissions shows that they would result in a maximum cancer risk of 0.5 in 1 million. That is 20 times
lower than the threshold for public notification (10 in 1 million) and 50 times lower than the threshold for reducing toxic emissions and health risk (25 in 1 million) which are both required by South Coast AQMD rules.

As part of its active response to this issue, the City has retained an attorney who specializes in environmental issues to pursue all necessary legal actions related to the EPA’s report. The attorney’s initial investigation has revealed that the data used by the EPA for its report is highly questionable and may be based on data that cannot be supported.

Additionally, the City hired a highly regarded air quality expert to provide a thorough investigation and analysis of the EPA’s report as well as current air quality conditions in Cerritos. Her findings show the EPA’s pollution report contains very large errors in both the emissions data and the placement of the location of the Heraeus facility.

The City has posted detailed information about the findings related to the investigation of the pollution study issue on the City’s website at www.ci.cerritos.ca.us. We will continue to update this information, and will include the full report from the City’s air quality expert. Her report will present an in-depth analysis of the EPA’s flawed pollution study as well as the results of field testing of current air quality conditions in Cerritos.

The City is working with the news media to disseminate the correct information about local air quality. The "Los Angeles Times" published an article titled “EPA erred in figuring Cerritos’ cancer risk” and the “Press-Telegram” printed a story that reports “Cerritos air isn’t a toxic hot spot.” KTTV FOX 11, KCBS Channel 2 and KABC Channel 7 have broadcast news segments which stated the EPA’s report is erroneous. We are contacting additional news channels to further share this information. News clips can be viewed on the City’s website.

The City will continue working diligently on addressing the EPA pollution study and other environmental issues. Several years ago, the City was the leader in establishing the SR-91/I-605/I-405 Corridor Cities Committee to address the health and traffic affects of freeways on local communities. We are continuing this effort, as well as participating in the Gateway Cities Council of Governments environmental assessment of the I-710 Corridor Project.

Cerritos residents rightly pride themselves on living in one of the finest communities in the nation. Members of the community and the City have worked together since the founding of Cerritos towards common goals of developing a city with an exceptional level of municipal services in an environment that is beautiful and safe. I would like to assure you the City is working tirelessly on behalf of the community to continue this proud tradition. I would also like to again encourage you to attend the Town Hall Meeting to be held on August 18 at 7 p.m. in the Cerritos Center for the Performing Arts Sierra Room so you can receive answers to any questions you have regarding this issue. The meeting will be video taped for presentation on Cerritos TV3 later in the month and on the City’s website for the community’s convenience.

Sincerely,

Bruce W. Barrows
MAYOR
The U-M Health System approach to malpractice claims

Word is getting around that there’s something different going on at the University of Michigan Health System when it comes to patient safety, medical mishaps and medical malpractice litigation.

You may have heard something about our policy of “saying sorry”, or apologizing and having an open discussion, when clinical care does not go as planned. And while apologies are certainly part of our approach, there’s much more to it than that. Communication, full disclosure, and learning from our experiences are all vital.

You may have also heard that we have steadily reduced the number of malpractice claims pending against us and our doctors, slashed our malpractice expenses, dramatically dropped the amount paid to plaintiffs as a result of judgments or settlements, and cut the time it takes to handle a claim. All of this is true.

In short, we’re trying to “do the right thing” for our patients, our medical staff, and the public interest. We believe that court should be the last resort, not the first, when a medical mishap, complication or near-miss occurs.

This page will help you understand our approach, and what we have achieved in the years since we began using it. We don’t claim to have all the answers. But we hope this information will be useful to other health care institutions, as well as the news media, as we all grapple with medical errors and the current malpractice climate.

First, some important background information:

1. UMHS has committed itself to being one of the safest medical centers in America, and to a constant search for new ways to prevent errors, infections, patient and staff injuries, and near-misses. And when a mishap or near-miss occurs, we’re committed to confronting its causes in a blame-free way, and learning from it so that it doesn’t happen again.

2. We’re fortunate to be located in Michigan, a state that passed sensible medical malpractice reform in the 1990s and is not having some of the same crisis situations as other states. Our state law, among other things, builds a six-month “cooling off” period into the malpractice lawsuit process. If a patient is thinking about bringing suit against a doctor or hospital for medical malpractice, the patient must first alert prospective defendants of their complaints with a “notice of intent,” and both parties then have six months to consider their cases before going to court. UMHS systematically uses that period to investigate complaints
and establish a dialogue with our patients, and their attorneys if they are represented, which often eliminates their need to resort to litigation.

3. **We’re self-insured for malpractice insurance.** All of the U-M physicians who treat patients at the U-M Hospitals & Health Centers are also faculty of our Medical School, and part of our Faculty Group Practice. The U-M General Counsel manages all claims against our medical staff, through staff and outside attorneys.

4. **We have excellent faculty and staff who provide some of the most complex, advanced medical care in the United States,** from transplants of bone marrow and organs, to complex cancer regimens, to open-heart surgery on newborn babies. As a result, our patient population on the whole has more serious and more complex medical issues than the populations at other hospitals. And we’re attracting more patients than ever. This combination of factors means that we walk a high tightrope of risk every day. While independent measures show that our care is world-class, we face the reality that complications can happen despite our best efforts, that procedures and treatments carry risks, and that we must always search for ways to control factors that can affect our patients’ outcomes.

**So, what do we do when something happens that shouldn’t have? How exactly do we handle malpractice suits? And what results have this novel approach yielded?**

**Our approach can be summarized as:**

“Apologize and learn when we’re wrong, explain and vigorously defend when we’re right, and view court as a last resort.”

We care deeply about our patients, and we take it very seriously when one of them is injured, concerned or unhappy about the care we have provided. We also care deeply about our staff, and we want to support and protect them so they can continue to do great work. And, we want to create as safe an environment as possible for both patients and staff.

So, when a patient complaints, or a staff person realizes that a mishap or near miss has occurred, several things happen:

1. We follow our institutional policy of communicating openly and directly with the patient or his/her medical representative in the aftermath of the situation or complaint.
2. We review the incident or complaint thoroughly and impartially, to assess what happened. This includes a peer review involving professionals in relevant fields. We also note any opportunities for improvement that might prevent similar situations in the future.
3. If the patient has engaged legal counsel, we offer to meet with both of them to review the care and answer their questions, whether or not they have sent us a notice of intent to sue.

4. If we have concluded that our care was unreasonable, we say so – and we apologize. If our care caused an injury, we work with the patient and his/her counsel to reach mutual agreement about a resolution. This doesn’t always mean a settlement, but if it does, we compensate quickly and fairly.

5. If our investigation convinces us that the care was medically appropriate, we still offer to meet with the patient and his/her counsel to discuss our findings. Often, a medical staff member involved in the patient’s care will participate in this discussion. Many patients are satisfied with full explanations, and may even drop their complaint or suit. One important thing we have learned is that patients want an explanation of their care, and when they don’t get it, they frequently feel they were not treated appropriately.

6. If a patient persists in a suit over care that we think was medically appropriate, or declines to participate in a dialogue with us, we will vigorously defend our staff with the finest legal team we can assemble.

7. No matter what happens: We will seek to learn from the experience, educate our staff, and make changes to the systems and processes that were involved in the care that prompted the complaint. Even if our analysis convinces us that we provided medically appropriate care, the patient’s complaint teaches us that something has clouded his or her perception of our care. If we can do something to keep that from happening with another patient, we will.

Our results so far:

We have always worked to be open and provide full explanations to our patients. But since the year 2001, we’ve made significant changes and implemented a whole new process. Here’s what the old process looked like:
The picture is much different today. Over the past few years, we’ve been using a system that looks more like this:

One of the major features of this system is the investigation that we perform once we receive a pre-lawsuit notice, or other communication from a patient indicating that he
or she has retained legal counsel and intends to file suit. We also use this approach when a major error or near-miss occurs and is reported to our Risk Management office. The process looks something like this:

![Pre Suit Investigation Diagram]

This investigative step is crucial to the success of our approach. We’ve implemented many clinical improvements as a result of review of incidents, complaints and near-misses.

We’ve empowered our staff to speak up, to suggest changes, and to alert us to potential problems, including an easy-to-use secure online patient safety reporting form.

The number of claims and lawsuits has dropped dramatically. In July, 2001 we had more than 260 pre-suit claims and lawsuits pending, already an enviable number in our region. We currently just over 100.

Our legal costs appear to be down dramatically, with the average legal expense per case down by more than 50 percent since 1997. We went to court over seven cases between Aug. 2001 and Sept. 2002, using the principle of court as the last resort. If we had lost all of them, we estimate the verdicts would have cost us more than $8 million. If we had settled all seven at the lowest pre-trial settlement demands, it would have
cost about $2.5 million. We won six, and in the seventh the verdict called for a penalty of $150,000, far less than the $550,000 settlement demanded before trial. Trying all seven cost us $320,000 in legal fees. So, if you combine the settlement and the legal fees we paid, and compare it with the cost of settling all seven, we saved $2 million just in the first year of using this approach. We are still tallying results from later years.

**The severity of our claims is rising far less rapidly than the national average.** Nationally, the predicted severity of malpractice suits is rising by more than 10 percent each year. We’re also seeing an increase, but it’s about 2.6 percent each year. The slope of our claim severity graph began to change for claims arising from care in 2000, coinciding with our claims management changes in 2001 and 2002.

**Opening-to-closing times for claims are dramatically shorter,** down to about 10 months from more than 20 months in 2001.

**Our malpractice premiums are practically level, despite increases in our clinical business.** Both in terms of total expense and premium paid per adjusted hospital discharge, this goes completely against state and national trends. Because we’re self-insured, this is a true savings that helps us spend our Health System’s resources where they are needed.

**We have instituted many changes to our clinical care based on lessons learned from patient complaints.**

**In closing...**

**Do we think the medical malpractice system in Michigan, or in the United States, is perfect? Of course not.**

We see what our colleagues in other states without reforms are going through, and we hope that change will come in a form that will provide justice for both sides. We also hope that this country will work toward ensuring that litigation is held as a last resort, and that courtroom evidence is soundly grounded in mainstream medicine and science.

But we also feel that, if there is to be any major reduction in medical malpractice claims and the financial impact they have on the medical community, there must first be an integrated approach to patient safety, quality improvement and the education of both medical staff and patients.

We hope our experience will be informative to others grappling with these same issues.
CALL TO ORDER

The special meeting was called to order at 7:00 p.m. in the Sierra Room of the Cerritos Center for the Performing Arts, 12700 Center Court Drive, Cerritos, California.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Cho led the assembly in the salute to the flag.

ROLL CALL

The City Clerk noted attendance of the following Members of the City Council:

Councilwoman Carol Chen
Councilman Jim Edwards
Councilwoman Laura Lee
Mayor Pro Tem Joseph Cho, Ph.D.
Mayor Bruce W. Barrows

PUBLIC COMMENTS AND SUGGESTIONS

It was noted that those present who wished to comment would be given an opportunity to do so later in the meeting.

MATTERS FOR DISCUSSION AND/OR CONSIDERATION

Consideration and discussion of an informational report relating to information submitted by the South Coast Air Quality Management District, Environmental Protection Agency (EPA), and consultants for the City of Cerritos as it pertains to air quality issues in the City and EPA's issuance of the 2002 National Air Toxics Assessment (NATA) data.

A video was presented entitled "City of Cerritos response to the U.S. Environmental Protection Agency Pollution Study," which detailed the history and circumstances surrounding the air quality issue in the City.

Congresswoman Linda Sanchez commended the City for its forceful and quick reaction to the erroneous air quality report data and for its innovation in environmental quality. She commented on the negative effects of the release of this information and that steps would be taken to prevent this from happening in the future. Congresswoman Sanchez added that the Air Quality Management District (AQMD) was swift in its subsequent testing of the Heraeus Metal Processing facility and concluded the plant is using state of the art emission control procedures and emissions are not causing a significant health risk. She noted further that it is likely the hydrazine level data initially reported was faulty given the probable equipment that was in place at that time, that it appears the air quality levels were safe all along, and that work will continue to rehabilitate the perception that there is a risk in Cerritos.

Congresswoman Grace Napolitano commented on her involvement in attempting to resolve this matter and commended the City for its efforts. She indicated the information that was released was not verifiable and outdated and that it is the role of Congress Members to ensure that this does not happen again, noting that the U.S.
Environmental Protection Agency (EPA) had admitted the error and that other agencies have been alerted to their responsibilities in monitoring and reporting information accurately. Congresswoman Napolitano added that the City and its business community are due an apology for this error and that the AQMD had recently tested the Heraeus facility, finding that there were no violations.

IrantzuPujadas, District Representative for State Senator Alan Lowenthal, read a statement from Senator Lowenthal commending the City for its swift response to the air quality issue and expressing that the EPA informed the city that the data submitted by the 2002 National Air Toxics Assessment (NATA) did not accurately reflect the facility’s 2002 emissions of hydrazine, and in addition the data included incorrect census tract information for the facility. The letter included reference to pollution from diesel particulate matter in the Southern California area and his efforts to address this issue.

Los Angeles County Supervisor Don Knabe expressed that the report was in error and a disservice to the community.

Philip Fine, Ph.D., Atmospheric Measurements Manager for the South Coast AQMD, gave a PowerPoint presentation entitled "Air Toxic Risk in the City of Cerritos" dated August 18, 2009, which included an overview of air quality management agencies; EPA 2002 National Air Toxics Assessment (NATA); how NATA was developed; NATA and diesel particulate matter; 2002 NATA results for Cerritos; South Coast AQMD actions, investigation results, and modeled cancer risk; South Coast AQMD MATES-III study, MATES-III modeled air toxics risk, MATES-III results for Cerritos and nearby communities; and future actions to be taken.

Julia Lester, Ph.D., ENVIRON International Corporation, consultant for the City, gave a PowerPoint presentation entitled "ENVIRON Independent Review for Cerritos Related to the 2002 NATA," dated August 18, 2009, which included particulars with regard to background information; the scope of ENVIRON's independent review and the related results; overview of the 2002 EPA NATA and ENVIRON's review of that assessment; the inaccurate Heraeus facility location in the National Emissions Inventory (NEI); ENVIRON's re-evaluation of the 2002 NATA; review of South Coast AQMD source testing results; discussion of the different methods used by EPA and California to assess cancer risk from diesel exhaust and the continuing scientific controversy over the correct approach and data that should be used; and the lack of coordination among the different agencies that contributed to inaccurate data generation and release to the public. She noted that the 2002 NATA indicated a wrong location for the Heraeus facility and the wrong emissions level, which resulted in an inaccurate risk assessment. Dr. Lester presented recommendations: ENVIRON concurs with the South Coast AQMD's July 10 recommendations for future NATA, which included better interagency coordination and formal review protocols for air toxics databases and analyses; discussion with "high-risk" communities before data release; better documentation and risk communication by EPA; ongoing regular status reports and draft review protocols should be made public; and EPA, California and stakeholders should work together to resolve diesel exhaust risk scientific and regulatory issues.

In response to inquiry of the Council, Matt Lakin, Air Quality Analysis Office Manager, U.S. EPA Region 9, indicated that updated information has been posted to the EPA website with a note that states the Cerritos numbers for the 2002 NATA have been changed throughout the data; concurred that the EPA agrees that the time lag between emissions data gathering, modeling and reporting should be reduced; and apologized for the negative impact on the City of Cerritos of the erroneous information that was released and that the EPA should have done better on communications. He responded further that the City and the facility were not made aware of the high reading until the NATA analysis was completed and the NATA results should be made available more quickly and those affected notified in a more timely manner. Mr. Lakin also addressed the self-reporting process and noted that the high hydrazine levels were inappropriately flagged and not an appropriate use of NATA data.

Barry Wallerstein, Executive Officer, South Coast AQMD, commented on the AB 2588 toxic hot spot program, which requires the reporting of toxic air contaminants, and that the hydrazine data was corrected locally in 2002 for the Heraeus facility. He expressed that there needs to be more synchronization between State toxic control program and information report to the EPA, noting that coordination among air quality agencies has been initiated evidenced by the joint presentation and joint fact sheet prepared in response to this situation. He noted concurrence with the recommendation of Dr. Lester, particularly with regard to a progress report on coordinated efforts as well as
working to resolve differences between California and federal programs related to how diesel exhaust is treated. Mr. Wallerstein added that the self-reported number in the initial report for the Heraeus plant was likely in error.

In response to inquiries of Congresswoman Napolitano, Mr. Wallerstein addressed field visit procedures as well as auditing and permits review functions and indicated that state and federal agencies would work in coordination and put safeguards in place to avoid a similar incidence in the future. Congresswoman Napolitano also requested that the word "announcement" on the EPA website with regard to the modified Cerritos numbers be changed to "correction" to convey that incorrect information was previously posted.

In responding to further Council inquiries, Mr. Lakin reiterated that the air quality agencies on both the state and federal levels will be working very closely to ensure that this does not happen again, noting one measure to put in place for the next NATA version that ranks areas and checks them in advance of data release.

Additionally, Linda Murchison, Ph.D., California Air Resources Board (CARB), indicated that more quality assurance routines would be implemented to flag data that is out of the ordinary and that EPA, CARB and South Coast AQMD have made commitments at the highest levels that data will be reviewed more thoroughly and an opportunity to share information among agencies in advance would be implemented. She noted that when new procedures have been implemented the City would be notified.

Tonia Reyes Uranga, South Coast AQMD Board Member and Long Beach City Councilmember, commended the City for bringing the air quality agencies together to address this matter. She also noted that there is still work to do with regard to diesel particulate matter in the Southern California area in general and asked Mr. Wallerstein to provide regular updates on the coordinated efforts of the EPA, CARB and South Coast AQMD.

Nikki Noushkam, Cerritos resident, commented on the health risk posed by diesel emission from trucks traveling on the freeways and expressed an expectation that all levels of government will work together to create solutions to this problem.

It was noted by the Mayor that work through the Gateway Cities Council of Governments has been ongoing in this regard and regional attention to diesel emissions continues through the South Coast AQMD and the EPA. Likewise, Congresswoman Napolitano noted her work on the California Transportation Committee, commented on diesel emission reduction efforts through fuel modifications for ships and trucks, and called for a change in mindset toward the use of mass transit.

Herb Bryan, Cerritos resident, commented on past exposure to air toxics in the San Pedro area and expressed concern with the close proximity of Gonsalves Elementary School to the Heraeus plant as well as nearby residences.

Randy Economy, Cerritos resident, provided copies of State of California Environmental Protection Agency Department of Toxic Substances Control Consent Orders related to Heraeus Metal Processing Inc. for August 2003, January 2004, December 2006/January 2007, August 2007, and December 2008, noting that the Heraeus plant has been cited 9 times in the last 7 years. He expressed concern that the Heraeus facility presents a health risk to the community through the release of chemical toxics and urged the closure of the facility through legal means.

Kenneth Cha, Cerritos resident, discussed the health risks associated with toxic hot spots, particularly the East 91 to North 605 interchange that was included in a 2006 SCAG Transportation Corridor Study, and the Bloomfield Avenue off-ramp. He asserted that toxic hot spots contribute to high asthma and cancer rates traced to diesel particulate exhaust and called upon the Council to implement green programs and to encourage local businesses and manufacturing facilities to use low emission, cleaner alternatives.

The Mayor responded that zero pollution vehicles are being utilized and commented on the Gateway Cities Council of Governments work with the EPA in addressing these concerns through legislation and obtaining funding, noting that much of the effort is on the federal level. It was pointed out that the highest risk is in the ocean off the Port of Long Beach and that the 91/605 hot spot numbers are much lower than the port areas.
Matt Kauble, Cerritos resident, commented on the broader implication of the poor quality of the data with regard to its impact on policy change and how that potentially impacts local governments and businesses given the current fiscal environment.

DiosdadodeLeon, Cerritos resident, commented on Cerritos residents who are members of his choir who were stricken with cancer and thanked the Mayor for the letter to the residents regarding this air quality issue.

Chris Tierheimer, Cerritos resident, suggested passage of legislation that would require the use of diesel fuel #1, which would reduce the amount of particulate matter generated from passenger vehicles and trucks.

Ann Stallings, Cerritos resident, questioned the 20 year lag time between the initial data and when it was released to the public, noting that a procedure should be implemented that would flag problem areas, particularly those areas near schools. She inquired if the City would be able to recover any of the funding used for studies that were undertaken in regard to this matter and it was noted that legal avenues would be pursued.

Rahm Gupta, Cerritos resident, commended the City’s response to this air quality issue.

Kent Roberts, Cerritos resident, requested the results of a study by USC/Norris and UCLA in the mid-1980s and early 1990s regarding cancer rates in the immediate area adjacent to Carmenita Middle School.

Staff was directed to obtain the results of the study referenced by Mr. Roberts and it was suggested the report be publicized should other residents be interested in its findings.

Ram Kakkar, Cerritos resident, suggested the response from the South Coast AQMD regarding this air quality issue be included in negative declarations.

Matt Gaskill, Cerritos resident, suggested the City purchase its own air quality monitoring system to avoid the lag time in reporting air quality problems.

Discussion ensued regarding the importance to the City in maintaining ongoing involvement in the status of air quality within the City in general and with respect to the Heraeus facility in particular through continual and timely feedback from the South Coast AQMD, EPA and CARB, given the citations that Heraeus has received as noted earlier in the meeting. It was noted during the discussion that the City needs to be included in the discussions related to the Heraeus facility Conditional Use Permit from the City of Santa Fe Springs to ensure that the facility is operating within the strict confines of the law. It was also pointed out that staff is monitoring the situation closely and a report that addresses these issues will be forwarded to the City Council for consideration at a Council meeting.

During ensuing discussion the representatives from South Coast AQMD, EPA and CARB who spoke earlier confirmed and apologized for the lack of quality assurance and quality control of the data among the three entities, which resulted in the release of erroneous information to the public and the subsequent reporting of this data by the media. Assurances were made by these representatives that this error would not occur again because improved protocols are being developed to ensure accurate data collection, quality assurance and communication with local agencies in a timely fashion.

The Mayor thanked residents for attending the meeting as well as Congresswomen Sanchez and Napolitano and representatives from the various agencies for their assistance in addressing this issue.

ADJOURNMENT

The meeting adjourned at 9:55 p.m.
/s/Josephine Triggs
Josephine Triggs, City Clerk

ATTEST:

/s/Bruce Barrows
Bruce Barrows, Mayor

Approved: September 10, 2009
AUG 11 2009

Bruce W. Barrows, Mayor
City of Cerritos
18125 Bloomfield Avenue
P.O. Box 3130
Cerritos, CA 90703-3130

Dear Mayor Barrows,

Thank you for your letters of July 29 and August 4, 2009, to U.S. Environmental Protection Agency (EPA) Administrator Lisa Jackson. She has asked me to follow up on your concerns and it is my pleasure to do so. I understand the complications and concerns that have been raised by the June release of information about toxic air pollution in your community, and I want to work with you, CARB, and South Coast to address these issues. We are sorry that Cerritos suffered negative attention it did not deserve, and we would like to reiterate our commendation of the City for its strong commitment to a clean and healthy environment, as evidenced by the list of notable accomplishments in your August 4 letter.

I appreciate the invitation you extended for EPA to send a representative to an August 18 town meeting in Cerritos, which the city is holding to discuss local issues associated with the 2002 National Air Toxics Assessment (NATA) and to provide current information about air quality in Cerritos. Representatives from our Region 9 Air Division and Southern California Field Office will be pleased to participate in the meeting, and we look forward to ensuring that any remaining questions about NATA 2002 and current air quality conditions in Cerritos are addressed.

In addition, I would like to respond to the specific requests in your August 4 letter:

As you have pointed out, the data submitted to EPA by the state of California and reported in NATA relating to PGP Industries (now Heraeus Metal Processing) did not accurately reflect the facility’s 2002 emissions of hydrazine. In addition, the data included incorrect census tract information for the facility. We will revise the 2002 NATA with the correct data and provide you an updated report as soon as possible.

Our Regional Office has been working closely with the South Coast Air Quality Management District and the California Air Resources Board to investigate and correct shortcomings in the reporting process and to improve the verification and quality of NATA data, as explained in Acting Regional Administrator Laura Yoshii’s July 15 letter.

Internet Address (URL) • http://www.epa.gov
Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Postconsumer, Process Chlorine Free Recycled Paper
While EPA requested comments and corrections from all States, including California, on both the inventory used in NATA 2002 and on the NATA 2002 results, in advance of its release, we recognize that we must do more to facilitate these reviews. We acknowledge that we should have done better in our preparation to release this most recent NATA, and we are already working on improvements. As you know, we update our NATA analysis and website every three years to serve as a screening tool to provide consistent local and national estimates of air toxics.

In preparing for our next release, we will implement the excellent suggestions for both reviewing results and improving communications recommended by Barry Wallerstein that were cited in your letter – improving coordination with state and local air agencies, identifying and double checking areas with the highest estimated risk prior to public release, and more clearly highlighting the appropriate uses of the results, and data limitations.

I hope you will not hesitate to contact me at (202) 564-7404 or Laura Yoshii at (415) 947-8702 if you have additional questions or concerns.

Sincerely,

[Signature]

Gina McCarthy
Assistant Administrator