

**H.R. 2021, “ENVIRONMENTAL
JUSTICE FOR ALL ACT”**

LEGISLATIVE HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

Tuesday, February 15, 2022

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**LEGISLATIVE HEARING ON H.R. 2021, TO
RESTORE, REAFFIRM, AND RECONCILE EN-
VIRONMENTAL JUSTICE AND CIVIL RIGHTS,
AND FOR OTHER PURPOSES, “ENVIRON-
MENTAL JUSTICE FOR ALL ACT”**

**Tuesday, February 15, 2022
U.S. House of Representatives
Committee on Natural Resources
Washington, DC**

The Committee met, pursuant to notice, at 10:04 a.m., via Webex, the Hon. Raúl M. Grijalva [Chairman of the Committee], presiding.

Present: Representatives Grijalva, Napolitano, Costa, Sablan, Huffman, Lowenthal, Neguse, Porter, Leger Fernández, Stansbury, Velázquez, DeGette, Brownley, Dingell, McEachin, Soto, San Nicolas, García, McCollum, Cohen, Tonko, Tlaib, Trahan; Stauber, Young, McClinton, Graves, Radewagen, Fulcher, Tiffany, Rosendale, Boebert, Obernolte, and Bentz.

Also present: Representative Maloney.

The CHAIRMAN. Thank you very much, Heather, and thank you to the Committee members for being here.

The Natural Resources Committee will now come to order.

The Committee is meeting here today to hear testimony on H.R. 2021, the “Environmental Justice For All Act.”

Under Committee Rule 4(f), any oral opening statements at the hearing are limited to the Chair and the Ranking Minority Member or their designee. This will allow us to hear from our witnesses sooner and help Members keep to their schedule.

Therefore, I ask unanimous consent that all other Members’ opening statements be made part of the hearing record if they have been submitted to the Clerk by 5 p.m. today, or at the close of the hearing, whichever comes first.

Hearing no objection, so ordered.

I would also ask unanimous consent that Representative Carolyn Maloney join the hearing to ask questions of the witnesses.

Hearing no objection, so ordered.

Without objection, the Chair may also declare a recess subject to the call of the Chair.

As described in the notice, statements, documents, or motions must be submitted to the electronic repository at HNRCDocs@mail.house.gov.

Additionally, please note that as always, Members are responsible for their own microphones. And as with our in-person meetings, Members can be muted by staff only to avoid inadvertent background noise.

Finally, Members or witnesses experiencing technical problems should inform the Committee immediately.

I will now recognize myself for 5 minutes for my opening statement and then turn to the Ranking Member.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

The CHAIRMAN. Again, I want to welcome everyone to this hearing and thank our witnesses for testifying about one of the most stark and quantifiable inequities under our current laws: the lack of environmental justice for all.

We are here today to discuss H.R. 2021, the “Environmental Justice For All Act.” This legislation was developed and shaped directly by environmental justice communities during an extensive public engagement process.

The bill on today’s agenda has many components, but it is based on a very simple principle and premise—all people have the right to clean air, clean water, and an environment that enriches their lives. For far too many across our country, these rights are not realized or, in fact, acknowledged.

Today, environmental justice communities, including communities of color, tribal and Indigenous communities, and poor and working-class communities continue to be disproportionately burdened by pollution and harmful climate effects. This includes significantly greater exposure to polluted air, water, and landscapes, all this in EJ communities.

A major factor has been the fossil fuel industry and the other polluting industries having a long and troubled history of intentionally building projects that pollute surrounding neighborhoods within communities of color and poor communities. The numbers and statistics are clear and quantifiable and evident, which we will hear more about today in the testimony from our witnesses.

In my hometown and where I now live and grew up, all permitted emissions and discharges, and the groundwater contamination that followed, detached and created a Superfund site that is still an ongoing cleanup here in this community.

We see this clear environmental injustice through less equitable access to environmental amenities like parks, green spaces, public recreation opportunities, and less Federal investment in clean energy and clean drinking water projects that serve EJ communities. Addressing these disparities also demands our attention and our action.

Over the last few years, I have been proud to work with Representative McEachin on a comprehensive piece of legislation to address environmental injustice, racism, and discrimination. The legislation before us furthers environmental justice objectives in a variety of ways.

The bill includes several provisions to ensure more equitable access to parks and outdoor recreation opportunities for underserved and poor communities. The bill requires Federal agencies to provide early and meaningful community involvement opportunities under NEPA when proposing an action affecting an environmental justice community and strengthens the role and input that tribal communities can have in their consultations and their opportunity to be heard under NEPA.

The bill strengthens and restores civil rights protections for communities facing greater environmental hazards on the basis of race, color, or national origin, including through programs administered by the Interior Department and other Federal agencies under the Committee's jurisdiction.

The bill also increases transparency, coordination, and accountability for Federal agencies when they are carrying out activities affecting the environmental justice communities.

Today, we will hear from several witnesses who are experts in their fields and also experts in their lived experiences working with and living in environmental justice communities.

I hope the testimony today will inform our Committee about the urgent need to empower communities to protect their local environment and realize their right to clean air, clean water, and healthy outdoor spaces.

These rights are not being met for far too many communities, and doing something about it is what today's hearing is all about.

Before I turn to Ranking Member Westerman for his opening statement, let me just ask my colleagues to take a moment and picture landfills, waste disposal sites, gas-fired power plants, sewage treatment plants, emissions, and discharges that have to be permitted by law because they fall under the requirements for air quality and water quality, decrepit infrastructure that brings heat, water, and energy to these communities, transportation, and the lack of recreation and green space for those communities to enjoy.

I ask you to look at that, to just picture that. And now picture where all that is in your community, in the district you represent, in the state that you are from. Picture that.

And then you will see why this piece of legislation that we are having a hearing about today is needed. It is real, and this is, I think, the comprehensive approach to addressing that.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HON. RAÚL M. GRIJALVA, CHAIR, COMMITTEE ON
NATURAL RESOURCES

I want to welcome everyone to this hearing, and thank our witnesses for testifying about one of the most egregious inequities under our current laws: the lack of environmental justice for all.

We're here today to discuss H.R. 2021, the Environmental Justice For All Act. This legislation was developed and shaped directly by environmental justice communities during an extensive public engagement process.

The bill on today's agenda has many components, but it's based on a simple principle: All people have the right to clean air, clean water, and an environment that enriches their lives. For far too many across our country, these rights are still unrealized.

Today, environmental justice communities—including communities of color, tribal and Indigenous communities, and low-income communities—continue to be disproportionately burdened by pollution and harmful climate effects. This includes significantly greater exposure to polluted air, water, and landscapes in EJ communities.

A major factor has been the fossil-fuel industry and other polluting industries having a long and troubled history of intentionally building projects that pollute surrounding neighborhoods within communities of color and low-income communities. The numbers and statistics on this are clear, which we'll hear more about in testimony later today.

We also see clear environmental injustice through less equitable access to environmental amenities like parks, green spaces, public recreation opportunities, and less Federal investment in clean energy and clean drinking water projects that serve EJ communities. Addressing these disparities also demands our attention and action.

I've been proud to work over the past few years with Representative McEachin on comprehensive legislation to address environmental injustice, racism, and discrimination. The legislation before us furthers environmental justice objectives in a variety of ways.

The bill includes several provisions to ensure more equitable access to parks and outdoor recreational opportunities for underserved communities.

The bill requires Federal agencies to provide early and meaningful community involvement opportunities under NEPA when proposing an action affecting an environmental justice community and strengthens tribal input opportunities.

The bill strengthens and restores civil rights protections for communities facing greater environmental hazards on the basis of race, color, or national origin—including through programs administered by the Interior Department and other Federal agencies under this Committee's jurisdiction.

The bill also increases transparency, coordination, and accountability from Federal agencies when they are carrying out activities affecting environmental justice communities.

Today, we'll hear from several witnesses who are experts in their fields, and also experts in their lived experiences working with and living in environmental justice communities.

We hope their testimony today will inform our Committee about the urgent need to empower communities to protect their local environment and realize their right to clean water, clean air, and healthy outdoor spaces.

These rights are not being met for far too many communities and doing something about that is what today's hearing is all about.

The CHAIRMAN. With that, I yield now to the Ranking Member, Mr. Westerman, for his opening statement.

Sir, you are recognized.

Mr. STAUBER. Chair Grijalva, this is Stauber. I will be the Ranker today. Mr. Westerman could not join us.

The CHAIRMAN. My apologies. I just noticed that. With that, let me turn to you for your opening statement, sir.

STATEMENT OF THE HON. PETE STAUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. STAUBER. Thank you, Chairman Grijalva.

And thank you to the witnesses for taking the time to join us today.

H.R. 2021, titled the "Environmental Justice For All Act," as sponsored by the Chairman, truthfully is a legislative vehicle for more of the same from this Majority.

When Americans want to get back to work, it creates more red tape. When Americans are getting gouged at the pump, it doubles down on their pain by increasing the cost of production. And when it claims to speak to so-called environmental justice, it plainly misses the mark. For starters, it creates more opportunities for radical special interest groups to do what they do best, that is, to file lawsuits and get their lawyers paid while keeping workers on the benches.

Specifically, the bill requires Federal agencies to develop more reports, more studies, and more comment periods, as if the National Environmental Policy Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, and every other possible Act created does not already exist.

Renewable energy, broadband, affordable housing, and almost any new infrastructure will have to clear new studies that will be made into 90-day studies, which inevitably will turn into 6-month

studies because every environmental group in DC is licking its chops at more statutes to tie up in court, billing by the hour.

Meanwhile, the at-risk communities we seek to help are missing out on important opportunities to modernize their infrastructure, create jobs, and attract investment.

This bill also creates new fees on oil, gas, and coal industries and creates another government payout scheme. When levying these new fees, it will lead to job loss and eliminate production on Federal lands. Therefore, even the bill's new revenue scheme will dry up, once again leaving communities reliant on affordable energy and high-wage jobs high and dry once again.

And when we lose these jobs, we lose revenue to schools. We lose revenue and funding for law enforcement and other essential services, all while driving up the cost of gas.

According to AAA, right now the average price of gas for an Arizonan is \$3.66 a gallon, hovering above the national average. Instead of addressing this problem, the Majority is proposing to push this cost up even more.

Meanwhile, looking abroad we have Russia empowered by President Biden's Nord Stream 2 gift, knocking on Ukraine's door.

Mr. Chair, energy security is national security. Proposals like this make us less secure and hand another tool to Russia, who is leveraging their corner of the oil and gas market to push its goals.

The Majority has also failed to invite witnesses from the Federal agencies that would implement this bill. So, we will not receive the Administration's input on this legislation or their analysis on whether the provisions in this bill can be effectively carried out.

My guess is these agencies lack the personnel and capacity, but I suppose we will leave that up to our imagination.

Last Congress, the Majority held a hearing on previous versions of this bill, and Republicans invited Derrick Hollie, the president of Reaching America, to testify. Mr. Hollie keenly noted that energy poverty is a huge issue for minority communities across our country, and he urged our Committee to focus on increasing access to affordable energy by making Federal energy projects easier to build, not more difficult.

Since that hearing in 2020, Democrats chose to ignore his voice, energy prices are through the roof, saddling middle-class American families with new questions around the dinner table about how they will afford everyday life.

One of the witnesses we will hear from today is from the North Slope of Alaska, where President Biden continues his assault against American energy and recently announced plans to revert management of the NPR-A to the Obama administration's 2013 Integrated Activity Plan.

Even with the stated goal of increasing consultation, the—
[Audio malfunction.]

Mr. STAUBER [continuing]. Running counter to his Executive Order 13175. So, then I ask which communities qualify for consultation under 13175, because it certainly is not Mr. Hollie or the Inupiat.

Oil and gas production on the North Slope is critical to these communities. One project in particular, the Willow Project within

NPR-A, would provide thousands of good paying jobs and crucial funding to address the needs of North Slope communities.

Taxes levied on oil and gas development have enabled the North Slope communities to invest in public infrastructure, utilities, investing in education, law enforcement, fire fighters, emergency response and other services.

[Audio malfunction.]

Mr. STAUBER [continuing]. So, if the Majority were serious about environmental justice, today's hearing would be about permitting reform and reliable, affordable energy.

But instead, it is about the same topic the Majority has focused on in every hearing—more lawsuits, more red tape, and more inflation.

I look forward to hearing from the witnesses today.

[The prepared statement of Mr. Stauber follows:]

PREPARED STATEMENT OF THE HON. PETE STAUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

H.R. 2021, titled the Environment Justice For All Act and sponsored by Chairman Grijalva, truthfully is a legislative vehicle for more of the same from this Majority.

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And when it claims to speak to so-called environmental justice, it plainly misses the mark.

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Renewable energy, broadband, affordable housing, and almost any new infrastructure will have to clear new studies that will be made into 90-day studies, which inevitably will turn into 6-month studies, because every environmental group in DC is licking its chops at more statutes to tie up in Court, billing by the hour.

Meanwhile, the at-risk communities we seek to help are missing out on important opportunities to modernize their infrastructure, create jobs, and attract investment.

The bill also creates new fees on oil, gas, and coal industries, and creates another government payout scheme.

When levying these new fees, it will lead to job loss and eliminate production on Federal lands. And therefore, even the bill's new revenue scheme will dry up, once again leaving communities reliant on affordable energy and high-wage jobs high and dry once again.

And when we lose those jobs, we lose revenue to schools, and funding for law enforcement, and other essential services, while driving up the cost of gas.

According to Triple A, right now the average price of gas for an Arizonan is \$3.66 a gallon, hovering above the national average. Instead of addressing this problem, the Majority is proposing to push this cost up more.

Meanwhile, looking abroad, we have Russia empowered by President Biden's Nord Stream 2 gift, knocking on Ukraine's door.

Mr. Chair, energy security is national security. Proposals like this make us less secure and hand another tool to Russia, who is leveraging their corner of the oil and gas market to push its goals.

The Majority has also failed to invite witnesses from the Federal agencies that would implement this bill, so we will not receive the Administration's input on this legislation or their analysis on whether the provisions in this bill can be effectively carried out.

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Mr. Hollie keenly noted that energy poverty is a huge issue for minority communities across the country and he urged our Committee to focus on increasing access to affordable energy by making Federal energy projects easier to build, not more difficult.

Since that hearing in 2020 and Democrats chose to ignore his voice, energy prices are through the roof, saddling American families with new questions around the dinner table about how they will afford every day life.

One of the witnesses we will hear from today is from the North Slope of Alaska, where President Biden continued his campaign against American energy and recently announced plans to revert management of the NPR-A to the Obama administration's 2013 Integrated Activity Plan.

Even with the stated goal of increasing consultation, the Biden administration once again ignored minority voices in opposition, and especially the North Slope Inupiat, running counter to his very own Executive Order 13175.

So then I ask, which communities qualify for consultation under 13175? Because it certainly is not Mr. Hollie, or the Inupiat.

Oil and gas production on the North Slope is critical to these communities. One project in particular, the Willow project within NPR-A, would provide thousands of jobs and crucial funding to address the needs of North Slope communities.

Taxes levied on oil and gas development have enabled North Slope communities to invest in public infrastructure, utilities, education, law enforcement, fire fighters, emergency response and other services. The Trump administration understood this and worked hand in hand with these communities on the 2020 IAP.

If the Majority were serious about environmental justice, today's hearing would be about permitting reform and reliable, affordable energy.

But instead, it's about the same topic the Majority has focused on in every hearing: more lawsuits, more red tape, and more inflation.

I look forward to hearing from the witnesses today.

The CHAIRMAN. Thank you, Mr. Stauber.

The gentleman yields.

As I turn to the witnesses for their testimony, let me just remind the witnesses that under our Committee Rules they must limit their oral statements to 5 minutes.

Their entire written statement will be part of the hearing record.

When we begin with the witnesses, the time will start. It will turn orange when you have 1 minute remaining and red when your time has expired.

I recommend that Members and witnesses joining remotely use grid view so that they can lock in the timer on their screen.

After your testimony is complete, please remember to mute yourself to avoid any background noise.

I will allow the entire panel to testify before the Members can begin to question the witnesses.

I will begin with the testimony from Ms. Laura Cortez, Co-Executive Director with East Yard Communities for Environmental Justice.

Ms. Cortez, you are recognized for 5 minutes.

**STATEMENT OF LAURA CORTEZ, CO-EXECUTIVE DIRECTOR,
EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE,
COMMERCE, CALIFORNIA**

Ms. CORTEZ. Good morning, Chair Grijalva and House Committee on Natural Resources. My name is Laura Jazmin Cortez. I live on Unceded Tongva land in southeast Los Angeles. I am a member, organizer, and Co-Executive Director with East Yard Communities for Environmental Justice.

East Yard works in communities that are overburdened with direct and indirect sources of pollution from Long Beach to the east side of Los Angeles, and as a community we work to address soil, air, and water quality.

At the intersection of these types of pollution is environmental racism. The Environmental Justice For All Act is both a concrete commitment to the communities that have been harmed and a symbolic sign of respect to communities on the ground doing the work and the Committee that put this language together.

I will next highlight some of the work our communities are doing in relation to the EJ For All Act, that passing this policy would uplift and support.

In relation to cumulative impacts, there is no single evil villain polluter in EJ communities. What I see as one of the largest issues is that municipalities and agencies currently treat polluters on a case-by-case basis, without assessing cumulative impacts.

I grew up next to railroad tracks with trains passing at 3:00 a.m. I have always lived within 5 minutes of a refinery and a block away from warehouses. I attended elementary school next to the 710 freeway which sees 40,000 to 60,000 truck trips daily. My high school track is immediately next to train tracks. My reality is not an exception, and honestly, community is exposed to so much more, at the same time, all the time.

These issues in land use and health impacts can be reduced through the creation of effective permitting processes. In relation to outdoor access for all, in a high-density area such as California and Los Angeles specifically, the only spaces that are undeveloped are brownfields. This is why we do work nationally with the Moving Forward Network and locally through the Brownfields to Healthfields work.

There is opportunity for policy to create green spaces through investment in the clean up of these contaminated sites and through community-based processes. One example of that is Maywood Riverfront Park here in southeast Los Angeles, a former brownfield that was cleaned and developed as a community open space and is now a thriving social hub.

In relation to Environmental Justice grants programs, Federal funding for research in our communities is needed. We have seen research in our communities lead to discoveries that challenge agencies and health thresholds through East Yard's Marina Pando Social Justice Research Collaborative.

We have studied through this program lead soil contamination, toxic runoff into the LA River, and more. These studies are done by community members using academic methodology to study the environmental justice issues that our community lacks responses to.

The outcomes of these studies are then shared through community events that make sure research is done by our hoods, for our hoods.

In relation to NEPA, NEPA as it has been interpreted in my home of California through CEQA, allows for public participation through an environmental impact report process.

In our communities, EIRs are often waived through negative declarations. When EIRs are completed because of many community

requests, they do not accurately account for traffic bottlenecks, idling, housing in proximity to polluters, housing affordability, and green space.

In fair and just transition, labor in my community looks like folks working at the ports as truck drivers, in refineries, waste facilities, and rendering plants, then coming home to more contaminated soil, air, and water.

Therefore, environmental justice will always be linked to labor and a need to protect the health of workers, who are also our parents, uncles, sisters, and children, while ensuring that they have stable careers.

EJ For All proposes a Federal Energy Transition Economic Development Assistance Fund that is needed to ensure a just transition in which workers suffering the health impacts of the oil and gas industry can develop the skills to work in healthier systems that we are working toward.

Currently, workers feel like they have to choose between their health and income, but that should not be the case.

Finally, we are full of solutions. We have the answers. We have been doing this work. Being an EJ community carries a heavy burden and responsibility to fight for ourselves and each other or die slowly. That is not an exaggeration.

Passing EJ For All is that serious. Passing any policy that protects human health without giving loopholes to industry is that important. It is life and death, and we must acknowledge that countless EJ community leaders have worked on these types of solutions, and many of them are no longer with us.

And now we have this policy as an opportunity to take EJ seriously. Thank you.

[The prepared statement of Ms. Cortez follows:]

PREPARED STATEMENT OF LAURA J. CORTEZ, EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE

My name is Laura Jazmin Cortez. I live on Unceded Tongva land in Southeast Los Angeles. I am a member, organizer, and co-director with East Yard Communities for Environmental Justice (East Yard), an organization created by community in Southeast and East Los Angeles to address pollution through self-advocacy for a dignified quality of life. East Yard works in communities that are overburdened with direct and indirect sources of pollution from Long Beach to the Eastside of Los Angeles. As a community we work to address air, soil, and water quality. At the intersection of these types of pollution is environmental racism. Our communities are under-resourced, and though our organization does great work in our community, we will continue to fall short of the dignity we deserve for our health if the Federal government does not lead the way in protecting EVERYONES health. The Environmental Justice for All Act is both a concrete commitment to the communities that have been harmed and a symbolic sign of respect to communities on the ground doing the work and the committee that put this language together. The next section highlights the work our communities continue to do in relation to the EJ4A Act that passing this policy will uplift and support.

Health Equity

- Community & scholarly institutions have developed healthy relationships locally, regionally and nationally to create community based research, such as our water contamination program, H2Ours.¹ H2Ours focuses on community-based research to study public drinking water and learn about water contaminants and water agencies.

¹ <https://h2ours.org/>

- Because there are so many types of industries producing toxins in our communities, there is a huge need for continued and ongoing research. One such industry is rendering plants, of which we have five in close proximity to each other and smell the odor of decomposing animal carcasses daily.² The foul stench of this process to create cosmetics and food products can cause harm to human health as well as severely limit our access to the outside world, as we are forced to close our doors and windows to stop the smell from permeating our homes.

Cumulative Impacts

- There is no single “evil villain” polluter in EJ communities. What I see as one of the largest issues is that municipalities and agencies currently treat polluters on a case by case basis without assessing cumulative impacts. I grew up next to railroad tracks with trains passing at 3 am; I have always lived within 5 minutes of refinery and within a block of warehouses; I attended elementary school next to the 710 freeway that sees 40,000–60,000 daily truck trips; My high school's track was immediately next to train tracks. My reality is not an exception, and honestly, community is exposed to so much more . . . at the same time . . . all the time.
- EJ4A has the opportunity to address our realities: that we experience cumulative impacts, and municipalities, agencies, states and the federal government must consider the totality of toxic exposures in our communities in the permitting process.

Outdoor Access for All

- Because our communities are oversaturated with numerous polluters, there are few parks and recreational spaces in our community. The recreational spaces that do exist are a risk to community health since they are along freeways, railyards and polluters. I have the privilege to live near a park where I run along the Rio Hondo Riverbed. On my run I pass along a train crossing, a metal plating facility, a truck refrigerated unit (TRU) facility, a refuse station, a refinery, and two freeways. Many more community members are in close proximity to these types of polluters, without the park access. We need more parks because we are deserving of having safe spaces to enjoy life.
- In a high density area such as California & LA specifically, the only spaces that are undeveloped are brownfields. This is why we do work nationally with the Moving Forward Network and locally through brownfields to healthfields. There is opportunity for the policy to create green spaces through investment in the clean up of these contaminated sites and community based processes. One such example is Maywood Riverfront Park, a former brownfield that was cleaned and developed as a community open space, which is now a thriving social hub.

Environmental Justice Grants Programs

- Federal funding for research in our communities is needed. We have seen research in our communities lead to discoveries that challenge agencies and health thresholds through our Marina Pando Social Justice Research Collaborative (MPSJRC).³ We have studied lead soil contamination, toxic runoff into the LA River, and more. These studies are done by community members using academic methodology to study the environmental justice issues that our community lacks responses to. The outcomes of these studies are then shared through community events to make sure research is done by our hood, for our hood.
- The federal government has an important role in developing & implementing EJ projects. What we see on the ground is that state, regional, and local agencies hesitate to invest and implement EJ projects because they are waiting on another entity to lead. EJ4A could shift how other institutions invest in polluted communities, which would also uplift community leadership. One such example is the collaboration between LA County and East Yard to create a Green Zones policy;⁴ the policy consisted of community led groundtruthing and consistent communication between LA County and East

²<http://www.aqmd.gov/home/news-events/community-investigations/rendering-plants#>

³http://eycej.org/programs/httpseycej-nationbuilder-comthe_marina_pando_social_justice_research_collaborative_mpsjrc2016/

⁴<https://planning.lacounty.gov/greenzones>

Yard as the policy was created. The now adopted policy will stabilize land use in the area and create buffers between community and polluters.

NEPA

- NEPA, as it has been interpreted in my home of California through CEQA, has the potential to protect our communities from polluters. Unfortunately, that is far from the case now. The policy allows for the creation of studies so we can understand the harms in our communities through an Environmental Impact Report (EIR). In our communities EIRs are often waived through Negative Declarations. When EIRs are completed due to community requests, they do not reflect our lived realities: traffic bottlenecks & idling are unreported, housing in proximity to polluters is unaccounted for, housing affordability is not discussed, local jobs cannot be implemented on federally funded projects, green space is not considered.
- The CEQA/NEPA process does not consider grassroots community engagement: we are expected to read 5000 page reports and make comments on technical documents with no assistance to understand the language and with 30 days cited as sufficient time. I will highlight here that these barriers do not stop the community. At East Yard we have created community based committees to look at project EIRs and write comment letters. However, this policy needs to be amended to make community-inclusive changes.
- Tribal representation in the NEPA process must be strengthened. In the dozens of EIRs we have reviewed, tribal representation consists of a letter being sent to the tribal institution, placing the burden of a response on a few tribal representatives. We must acknowledge that we are all on Native land and the burden is on us (non-Native folks) to ensure due diligence and respect to the land and its historic uses.

Fair and Just Transition

- EJ communities consist of a mostly working class whose employment is related to toxic exposure. In my community this looks like working at the ports, as truck drivers, in refineries, waste facilities, and rendering plants; then coming home to more contaminated soil, air, and water. Therefore environmental justice will always be linked to labor and a need to protect the health of workers, who are also our parents, uncles, sisters, and children, while ensuring we have stable careers.
- EJ4A proposes a Federal Energy Transition Economic Development Assistance Fund that is needed to ensure a just transition in which workers suffering the health impacts of the oil & gas industry can develop the skills to work in the healthier systems that we are working toward. We stand firmly that we do not have to sacrifice our lives for labor, and we deserve zero emissions jobs and the respective improved health that comes with it.

I absolutely love our EJ communities. We are full of solutions, we have the answers, we have been doing this work. Being an EJ community is not fun, it is not prideful; It carries a heavy burden and responsibility to fight for ourselves and each other or die slowly. This is not an exaggeration. Passing Environmental Justice for All is that serious. Passing any policy that protects human health without giving loopholes to industry is that important, it is life and death. We must acknowledge that countless EJ community leaders have worked on these types of solutions, many of them are no longer with us. And we now have this policy as an opportunity to take environmental justice seriously.

QUESTIONS SUBMITTED FOR THE RECORD TO LAURA CORTEZ, EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE

Questions Submitted by Representative McCollum

Question 1. What challenges have EJ communities typically faced in accessing Federal funding to improve their environmental conditions and build green infrastructure?

Answer. EJ communities do not have the resources to create an infrastructure to access federal funding. Beginning with applying for and receiving funds, there are not enough EJ non-profits in our communities, and municipalities are also

underresourced and understaffed. When communities are able to learn about and have capacity to apply to funds, federal funding is attached to very detailed accounting and financial processes. Non-profits manage many projects and grants, thereby making it difficult to ensure the adequate reporting requested by federal funds.

Additionally, the scope of federal grants frequently do not align to the comprehensive, holistic approach taken by community.

Question 2. Will the Environmental Justice For All Act make a substantial difference in overcoming those challenges?

Answer. EJ for All Act would create a well-rounded approach in their grants by including uses of research, education, outreach, development, and implementation of projects to address environmental and public health from a community lens. By creating a more robust scope of work for federal grants, community-based organizations find more benefits in applying to them and completing community based work that is relevant to on-the-ground issues.

The CHAIRMAN. Thank you very much, Ms. Cortez.

We are going to hear next from Dr. Nicky Sheats, Director of the Center for the Urban Environment of the John S. Watson Institute for Urban Policy and Research at Kean University.

Dr. Sheats, you are recognized for 5 minutes.

STATEMENT OF DR. NICKY SHEATS, DIRECTOR, CENTER FOR THE URBAN ENVIRONMENT, JOHN S. WATSON INSTITUTE FOR URBAN POLICY AND RESEARCH, KEAN UNIVERSITY, HAMILTON, NEW JERSEY

Dr. SHEATS. Thank you, Chair Grijalva, and thank you for inviting me here to speak. Thank you to all the members of the Committee for allowing me to speak to you today.

I am going to focus on one aspect of the EJ For All Act that my colleague, Ms. Cortez, talked about, and that is on Section 7 of the EJ For All Act that addresses what is perhaps the pre-eminent EJ issue in our country today, and that is cumulative impacts.

Let me start by giving you a definition for cumulative impacts. You can think of it informally as the total amount of pollution in the neighborhood.

More formally, a definition we have been using here in New Jersey is the cumulative impacts consist of the risks and impacts caused by multiple pollutants, by these pollutants both individually and when they interact with each other and any social vulnerabilities that exist in the neighborhood.

It is such a critical issue to address cumulative impacts because unfortunately numerous reports have found that there are more unwanted land uses in EJ communities, Indigenous communities, communities of color, and low-income communities. There are more unwanted land uses, including polluting facilities, in these communities than in other communities. Thus, there is more exposure to pollution by residents of these communities.

And, unfortunately, in these communities there are also social vulnerabilities, as mentioned in the formal definition of cumulative impacts.

Think of higher rates of disease, less access to health care, and all forms of racial discrimination. And when you put this together, higher exposure to pollution and social vulnerabilities, you get a combustible mix that results in increased death and illness in these communities.

And cumulative impacts are almost certainly one reason why there are persistent and recalcitrant health disparities that exist in our country that are rooted in race and income.

More unfortunate news about cumulative impacts is that it is a tough issue to address, again, for several reasons. My colleague mentioned one of them. One reason it is difficult to address is because in our country we try to address pollution by setting individual standards for pollutants. We go pollutant by pollutant. We set a standard.

Unfortunately, one of the big problems with this is that the total amount of pollution in the neighborhood is not accounted for, so there can be detriment of health impacts to community residents even if no individual standard is violated.

Another problem with cumulative impacts that has been so difficult to address is because of its association with race and income. Unfortunately, race and income are the two most important factors that go into deciding where unwanted land uses are sited, race often coming out ahead of income in importance in siting decisions.

And we all know how difficult it has been for our country to address racial issues of any kind, and when you erase an integral part of an issue, like it is with cumulative impacts, it just makes the issue that much harder to address.

Let me give you some good news. The EJ community has been successful in moving issues like cumulative impacts from the margins to the mainstream of environmental policy-making discussions.

But we have not been successful in obtaining significant policy victories, and that is where the EJ For All Act comes in. The Act says that under certain circumstances, applications for pollution permits should be denied based on cumulative impacts, and this gives hope to EJ communities across the country that the elevated levels of pollution that many of these communities suffer, it gives them hope that there will be a policy that will actually reduce the pollution in their community.

I want to end, Chair Grijalva, by saying I am personally grateful, and I cannot speak for all of my EJ colleagues, but I think they are grateful to you and your colleagues on the Natural Resources Committee for strongly considering and recommending adoption of a policy that is a cumulative impacts policy in the center of the EJ For All Act that, if adopted, will result in measurable reductions in pollution in environmental justice communities and, therefore, will also result in reducing illness and death in of-color communities and low-income communities all across the country.

Thank you for giving me the opportunity to talk to you this morning. I think I look forward to questions. Thank you.

[The prepared statement of Dr. Sheats follows:]

PREPARED STATEMENT OF NICKY SHEATS, PH.D., ESQ., DIRECTOR, CENTER FOR THE URBAN ENVIRONMENT, JOHN S. WATSON INSTITUTE FOR URBAN POLICY AND RESEARCH AT KEAN UNIVERSITY AND MEMBER OF THE NEW JERSEY ENVIRONMENTAL JUSTICE ALLIANCE

My name is Dr. Nicky Sheats, Esq., and I am the Director of the Center for the Urban Environment of the John. S. Watson Institute for Urban Policy and Research

at Kean University.¹ I also work closely with and am a member and Chair of the Board of Trustees of the New Jersey Environmental Justice Alliance.² In these comments I focus on the portion of the Environmental Justice Act For All Act that incorporates a cumulative impacts policy into the legislation.

Section 7 of the Environmental Justice For All Act³ addresses what is arguably the most important issue in the field of environmental justice (EJ): cumulative impacts. Informally, cumulative impacts can be thought of as the total amount of pollution in a community or how to address multiple sources of pollution in a community. More formally, in New Jersey the EJ community has frequently used the following definition for cumulative impacts:

“The risks and impacts caused by multiple pollutants, both individually and when they interact with each other and any social vulnerabilities that exist in a community. The pollutants are usually emitted by multiple sources that are sited within a community.”⁴

Cumulative impacts has been a difficult problem to resolve for at least two reasons. One reason is that our country attempts to regulate pollution by setting standards for individual pollutants.⁵ The problem with this pollutant-by-pollutant approach is that it does not take into account the total amount of pollution in a community and therefore detrimental health impacts can occur in a community's population even if no individual standard is violated.

Another reason cumulative impacts has been such a difficult problem to resolve is its association with race and income. Here, an example from New Jersey is instructive. In 2009 the New Jersey Department of Environmental Protection (NJDEP) produced two figures that demonstrated a relationship between cumulative impacts, race and income in the state.⁶ Using nine indicators,⁷ NJDEP assigned a cumulative impacts score to every census block group⁸ in New Jersey. In this context, cumulative impacts can be thought of as a very rough estimate of the total amount of pollution in a community. NJDEP then graphed the cumulative impacts scores against the number of people Of Color living in these communities (the census block groups) and the number of impoverished residents in each community. Separate graphs were produced for each of these two demographic categories, but results were similar. As the number of either Of Color or low-income residents increased in a block group, the level of cumulative impacts also increased. These very troubling figures provide evidence that the amount of pollution in New Jersey communities is connected to the residents' skin color and income and violates all norms of equity and fairness that the state and our country very proudly promote. Race has always been a particularly difficult issue in our society to solve and the fact that it is integral to cumulative impacts is one reason this EJ issue is particularly difficult to solve.

It is important to note that New Jersey is not the only area of the country where there is evidence of a disproportionate amount of pollution in communities Of Color

¹ The mission of the Center for the Urban Environment is to support the environmental justice community on both a local and national level on substantive issues and on building organizational capacity.

² The NJEJA mission statement reads as follows: “The New Jersey Environmental Justice Alliance is an alliance of New Jersey-based organizations and individuals working together to identify, prevent, and reduce and/or eliminate environmental injustices that exist in communities of color and low-income communities. NJEJA will support community efforts to remediate and rebuild impacted neighborhoods, using the community's vision of improvement, through education, advocacy, the review and promulgation of public policies, training, and through organizing and technical assistance.”

³ Environmental Justice For All Act, H.R. 2021, 117th Cong., 2nd Sess. Section 7 (2021).

⁴ For similar formal definitions of cumulative impacts see *Cumulative Impacts: Building a Scientific Foundation*, California Environmental Protection Agency, at 3 (2010); *Ensuring Risk Reduction In Communities With Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts*, National Environmental Justice Advisory Council, at 5 (2004).

⁵ See National Environmental Justice Advisory Council, *supra* note 4, at 11; *Framework for Cumulative Risk Assessment*, U.S. Environmental Protection Agency, at 1-2 (2003).

⁶ The figures are contained in a technical report and power point which are both entitled “A Preliminary Screening Method to Estimate Cumulative Environmental Impacts.” The figures can be found at page 3 of the report and slide 5 of the power point, which can be accessed at http://www.state.nj.us/dep/ej/docs/ejc_screeningmethods_pp20091222.pdf and http://www.state.nj.us/dep/ej/docs/ejc_screeningmethods20091222.pdf, respectively.

⁷ The indicators were (National Air Toxics Assessment (NATA)) cancer risk, NATA diesel, NJDEP Benzene estimate, Traffic All, Traffic trucks, Density of Major Regulated sites, Density of Known Contaminated, Density of Dry Cleaners and Density of Junkyards.

⁸ A census block group is a portion of a census tract that is typically constructed to contain between 600 and 300 people. See Census Glossary at https://www.census.gov/programs-surveys/geography/about/glossary.html#par_textimage_4.

and low-income communities, i.e., EJ communities. In fact, several investigations that found evidence of more unwanted land uses in EJ communities than in other communities helped start the grassroots EJ movement.⁹ Since then, other studies have confirmed the finding of disproportionate siting¹⁰ and also produced evidence of an elevated exposure to pollution in EJ communities. This is perhaps especially true for air pollution¹¹ where vehicular traffic¹² also contributes to the pollution from stationary sources. The association between race, income and pollution sources, and pollution exposure, that exists in our country is one reason why cumulative impacts is such a critical EJ issue.

The ultimate concern with the disproportionate siting of polluting facilities and disproportionate exposure to pollution in EJ communities is that they have contributed to health disparities in our nation which are rooted in race and income.¹³ Therefore, if the country at least begins to address these very problematic issues it is reasonable to hope for a decline in these disparities.

One of the successes of the EJ grassroots movement has been moving EJ issues from the margins to the mainstream of environmental policymaking discussions. However, even though at times extensive support for EJ has been expressed by environmental policymakers,¹⁴ significant policy victories have been slow in coming. Adoption of the cumulative impacts policy contained in the Environmental Justice For All Act would be one such victory. The Act addresses cumulative impacts by requiring that any pollution permit requested pursuant to the Clean Air or Clean Water Act should be denied if there is not a reasonable certainty of no harm to the relevant community due to cumulative impacts.¹⁵ The relevant community is the one that would be affected if the pollution permit would be granted.¹⁶

It should also be observed that the Act would positively impact another federal law, the National Environmental Policy Act (NEPA),¹⁷ that is important to cumu-

⁹The two reports were: *Toxic Wastes and Race in the United States: A National Report on the Racial and Socioeconomic Characteristics of Communities with Hazardous Waste Sites*, United Church of Christ (1987); and “*Siting Of Hazardous Waste Landfills And Their Correlation With Racial And Economic Status Of Surrounding Communities*”, General Accounting Office (1983); Another influential report that focused on unequal enforcement of environmental violations and unequal clean-up times of polluted sites was M. Lavelle & M. Coyle, *Unequal protection: the racial divide on environmental law*, National Law Journal (September 21, 1993).

¹⁰For example, see Robert D. Bullard et al., *Toxic Wastes and Race at Twenty 1987–2007: Grassroots Struggles to Dismantle Environmental Racism in the United States*, United Church of Christ (2007); and Paul Mohai & Robin Saha, *Racial Inequality in the Distribution of Hazardous Waste: A National-Level Reassessment*, 54 Social Problems 343 (2007).

¹¹See C.W. Tessum et al., *PM_{2.5} polluters disproportionately and systemically affect people of color in the United States*, Science Advances, Vol. 27 (no. 18)(2021); C.W. Tessum et al., *Inequity in consumption of goods and services adds to racial-ethnic disparities in air pollution exposure*, Proceedings of the National Academy of Sciences of the U.S. (2019); Michael Ash et al., *Justice in the Air: Tracking Toxic Pollution from America's Industries and Companies to Our States, Cities, and Neighborhoods*, Political Economy Research Institute, University of Massachusetts Amherst (2009); Manuel Pastor et al., *The air is always cleaner on the other side: Race, space, and ambient air toxics exposures in California*, 27 Journal of Urban Affairs 127 (No. 2)(2005); Douglas Houston et al., *Structural disparities of urban traffic in Southern California: implications for vehicle related air pollution exposure in minority and high poverty neighborhoods*, 26 Journal of Urban Affairs 565 (No. 5)(2004); Manuel Pastor et al., *Waiting to Inhale: The Demographics of Toxic Air Release Facilities in 21st-Century California*, 85 Social Science Quarterly 420 (No. 2)(2004); Michael Jarrett et al., *A GIS-environmental justice analysis of particulate air pollution in Hamilton, Canada*, 33 Environment and Planning A 955 (No. 6)(2001); D.R. Wernette and L.A. Nieves, *Breathing Polluted Air*, 18 EPA Journal 16 (1992).

¹²David Reichmuth, *Air Pollution from Cars, Trucks, and Buses in the US: Everyone is Exposed, But the Burdens are not Equally Shared*, Union of Concerned Scientists (2019).

¹³For information on health disparities see *Health, United States, 2012: With Special Feature on Emergency Care*, National Center for Health Statistics (2013); Rachel Morello Frosch et al., *Understanding the Cumulative Impacts of Inequalities In Environmental Health: Implications for Policy* 30 Health Affairs 879, 880–881 (2011); N. Adler & D. Rehkopp, *US disparities in health: descriptions, causes, and mechanisms*, 29 Annu Rev Public Health 235 (2008); William Dressler, *Race and Ethnicity in Public Health Research: Models to Explain Health Disparities*, 34 Annu. Rev. Anthropol. 231 (2005); Roberta Spalter-Roth, *Race, Ethnicity, and the Health of Americans*, American Sociological Association Series on How Race and Ethnicity Matter, Sydney S. Spivack Program in Applied Social Research and Social Policy (2005); George Mensah, *State of disparities in cardiovascular health in the United States*, 111 Circulation 1233 (No. 10)(2005).

¹⁴For example, see the U.S. Environmental Protection Agency's EJ program that is involved in a number of activities. Their website can be accessed at <https://www.epa.gov/environmental-justice/factsheet-epas-office-environmental-justice>.

¹⁵Environmental Justice For All Act, H.R. 2021, 117th Cong., 2nd Sess. Section 7 (2021).

¹⁶*Id.*

¹⁷42 U.S.C. § 4321 et seq.

lative impacts. The previous Administration removed a portion of the NEPA regulations which required cumulative impacts analyses be included in environmental reviews performed pursuant to the legislation.¹⁸ The EJ community is hopeful that the current Administration will restore this requirement to the NEPA regulations.¹⁹ Among other things, the Environmental Justice Act For All would place additional community involvement requirements into NEPA.²⁰

I applaud the Environmental Justice For All Act for converting words into action by including a cumulative impacts policy, that if adopted, would reduce pollution, decrease illness and save lives in communities, particularly communities Of Color and low-income communities. This Act would significantly benefit EJ communities in the United States and move us closer to a just society for all of our nation's residents.

QUESTIONS SUBMITTED FOR THE RECORD TO DR. NICKY SHEATS, DIRECTOR OF THE CENTER FOR THE URBAN ENVIRONMENT AT THE JOHN S. WATSON INSTITUTE FOR URBAN POLICY AND RESEARCH, KEAN UNIVERSITY

Questions Submitted by Representative Grijalva

Question 1. Dr. Sheats, I wanted to ask you about cumulative impacts in the context of the National Environmental Policy Act, or NEPA. While NEPA has long required cumulative impact analysis for proposed actions, it does not require a Federal agency to choose a course of action that avoids harmful cumulative impacts for an EJ community. On top of that, many polluting projects permitted under other Federal laws are actually exempt from NEPA review and its procedures for analyzing cumulative impacts.

(1a). Do you think EJ communities might benefit if Federal agencies did NEPA reviews for federally permitted or funded projects that are currently exempt from NEPA review?

Answer. Yes, I do believe that communities would benefit if projects which are now exempt from the procedural requirements of NEPA would be subject to NEPA review because it would provide valuable input from communities affected by these projects. This community input could be critical for at least two reasons. First, in a number of cases it would undoubtedly yield changes in the projects that all stakeholders, including the project proponents, would consider to be improvements. Second, and perhaps more importantly, it would also produce changes in the projects that would make them more protective to the health of the communities in which they would be located. It must be kept in mind that many of these projects can produce detrimental impacts on communities and the projects will be in existence for decades, if not longer. Given these two facts communities should be involved in project development as much as possible and in as many projects as possible.

(1b). And do you think EJ communities might also benefit if Federal agencies were directed to choose a course of action under NEPA that avoids further harm to overburdened EJ communities?

Answer. Requiring federal agencies to choose a course of action under NEPA that would avoid harming communities would put more “teeth” into NEPA and be more protective of communities. Currently NEPA is mostly procedural and does not mandate that particular actions be implemented. Directing the avoidance of harm to communities would potentially require some actions that would be protective of community health.

¹⁸See CEQ, Notice of Proposed Rulemaking, Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 1684, 1699, 1707–1708, 1728 (§ 1508.1(g)(2))(Jan. 10, 2020). Also see comments submitted by the New Jersey Environmental Justice Alliance on the topic: New Jersey Environmental Justice Alliance, *Comments on CEQ's Proposed Changes to the Regulations That Implement Procedural Provisions of the National Environmental Policy Act*, Docket ID No. CEQ-2019-0003, Notice of Proposed Rulemaking, 40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508, prepared by Nicky Sheats (March 10, 2020).

¹⁹See New Jersey Environmental Justice Alliance, *Comments on National Environmental Policy Act Implementing Regulations Revisions*, Docket No. CEQ-2021-002, prepared by Nicky Sheats (November 22, 2021).

²⁰See Environmental Justice For All Act, H.R. 2021, 117th Cong., 2nd Sess. Section 14 (2021).

An existing course of action that should more often be given serious consideration is the take no action alternative.¹ It appears to the environmental justice advocacy community that this alternative is rarely considered and there could be situations in which a project could cause harm to the affected community and where the no action alternative would be the best option.

Questions Submitted by Representative Dingell

Question 1. How have NEPA protections successfully been used to protect vulnerable communities from some of the worst impacts of industrial and extractive activity?

Answer. NEPA has ensured public participation in projects that could have detrimental impacts on communities and remain in these communities for decades and possibly longer. At hearings and in comments conducted and accepted due to NEPA regulations,² community voices have been heard and provided input into the design and implementation of projects that would have the potential to impact the lives of community residents. Without NEPA these projects would proceed with little or no community participation or input.

Question 2. How would strengthening NEPA and community input opportunities under the Environmental Justice For All Act impact ordinary Americans' ability to have a voice in major projects like pipelines or extractive activity that directly impacts their communities?

Answer. The EJ For All act contains several new requirements that would result in community members having more information and a better understanding of the impact of federal action on their communities. One such requirement would be a community impact report that would provide some detail on the effects of a federal action on a community. It would also mandate additional requirements through NEPA regarding hearings, the length of comment periods, notice and translation of documents pertaining to federal actions.³ These additional procedural protections should put communities in a better position to participate in NEPA reviews of all types of projects including pipelines and other projects that could be harmful to EJ communities.

Question 3. How would comprehensive legislation like the Environmental Justice For All Act address some of the shortcomings of current Federal protections for at-risk communities?

Answer. During my oral testimony to the Natural Resources Committee, I concentrated on the cumulative impacts portion of the EJ For All Act⁴ and I do so again in this document. The EJ For All Act would for the first time on a federal level require that, under certain circumstances, an application for a pollution permit under the Clean Air Act or Clean Water Act be denied. This would provide significant protection from additional polluting facilities in overburdened EJ communities, i.e., communities Of Color and communities with low-income, that has long been sought by these communities. By providing this type of protection the EJ For All Act would become a frontline protection against creating, perpetuating, or exacerbating disproportionate pollution burdens in EJ communities. However, the EJ For All Act would not be a silver bullet for elevated pollution levels in EJ communities and the federal government should still develop and adopt more laws and regulations to protect these communities.

Questions Submitted by Representative McCollum

Question 1. As someone working to implement the Justice40 Initiative, how will the Environmental Justice For All Act help ensure equitable access to Federal opportunities to restore, conserve, and build resilience to support environmental and public health in all communities?

¹ 40 CFR § 1501.9(e)(2); See also Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses, U.S. Environmental Protection Agency, at 42 (April 1998).

² See A Citizen's Guide to the NEPA—Having Your Voice Heard, Council On Environmental Quality (December 2007).

³ See The Environmental Justice For All Act, H.R. 2021, 117th Congress, 1st Session, Section 14 (March 18, 2021).

⁴ *Id.* at Section 7.

Answer. At the risk of being accused of acting in a way that is excessively single-minded, let me return to the section of the EJ For All Act that incorporates cumulative impacts into the legislation.⁵ For decades the EJ grassroots movement has insisted that at some point our society must begin denying applications for pollution permits in communities that already have more than their fair share of polluting facilities and other unwanted land uses. The EJ advocacy community, and EJ residential communities, have become extremely frustrated at what seems to be a refusal to actively prevent an inequitable geographic distribution of unwanted and detrimental land uses in communities. The cumulative impacts section of the EJ for All Act could be the beginning of changing this disturbing situation on a federal level. If it is eventually adopted, the bill would be a significant step toward addressing EJ concerns over the dipropionate siting of polluting facilities in EJ communities and toward supporting “environmental and public health in all communities.”

Question 2. Your testimony notes that cumulative impacts of pollutants has been a difficult problem to resolve due to its association with race and income. What are some of the key findings from the research you’ve done to highlight this issue?

Answer. My “research” type of work typically involves helping the EJ advocacy community develop the best possible public policy from an EJ perspective. Much of this policy addresses issues that directly involve race and income. For example, one policy recommendation on which I’ve spent a significant amount of time is what has come to become known as “mandatory emissions reductions.” This recommendation advocates that climate change mitigation policy should not only be used to fight climate change but to also reduce the disproportionate amount of toxic pollution in EJ communities.⁶ The most important elements of the policy would require power plants located in EJ communities, or whose toxic air pollution emissions significantly impacts an EJ community, to reduce their emissions. These mandatory reductions would occur no matter what type of mitigation policy the plants are subject to. The most likely definition of an EJ community under this type of policy would be based on race and income. Even if the communities being protected by this policy would be “overburdened” communities instead of EJ communities, race and income would most likely still be an important criterion used to identify the safeguarded communities. Thus, this policy directly “highlights” race and income as crucial issues to be addressed.

Question 3. What can we be doing at the Federal level to help combat the disproportionate exposure to multiple types of pollution found in low-income communities and communities of color?

Answer. There are two types of policies that would address cumulative impacts and disproportionate pollution loads in EJ communities. One type would use the concept of cumulative impacts directly to address this issue. An example of this is the cumulative impacts policy contained in section seven of the EJ For All Act.⁷ It explicitly uses the concept of cumulative impacts to tackle the issue itself. The other type of policy that will be needed to address cumulative impacts are strategies that will reduce the different types of pollution that compose the disproportionate pollution loads connected with this issue. An example of this is discussed in the question immediately above: climate change mitigation policy from an EJ perspective. Power plants release air pollution which is often part of the elevated pollution loads that negatively impact EJ communities.⁸ The mandatory emissions reduction policy explained above, which would force plants located in EJ communities to reduce their emissions, would address the air pollution from these facilities that is affecting community residents. Congress should adopt the EJ For All Act that includes the cumulative impacts policy and develop additional legislation that would address the varying types of pollution that impact EJ communities. It could begin the work on additional legislation by adopting the mandatory emissions reductions recommendation. But, of course, Congress shouldn’t stop there, it should also create policy and legislation that specifically addresses water pollution and solid waste hazards in EJ communities. These different policies, when combined with the cumulative impacts policy in the EJ For All Act, would go a long way in creating a coherent EJ

⁵*Id.*

⁶See Nicky Sheats, *Achieving Emissions Reductions For Environmental Justice Communities Through Climate Change Mitigation Policy*, 41(2) William and Mary Environmental Law and Policy Review 377 (winter 2017); New Jersey Environmental Justice Climate Change and Energy Policy Platform, New Jersey Environmental Justice Alliance (2017).

⁷Environmental Justice For All Act, *supra* note 15, at Section 7.

⁸See Sheats, *supra* note 18.

cumulative impacts policy on the federal level and reducing disproportionate pollution loads in communities Of Color and communities with low-income across the United States.

Questions Submitted by Representative Cohen

Question 1. Could you describe how the screening tool that you are working on with the White House Environmental Justice Advisory Council to identify communities that need help due to risks and impacts caused by pollution will be helpful to policymakers?

Answer. The Economic and Climate Justice Screening Tool that the Council on Environmental Quality (CEQ) is developing is part of the Biden's Administration Justice40 Initiative.⁹ This Initiative requires that 40% of the benefits produced by federal investments in the environment and other areas go to "disadvantaged" communities.¹⁰ The screening tool will be used to identify disadvantaged communities that will be eligible to receive Justice40 benefits. An initial version of the screening tool has been released to the public and is being beta tested.¹¹ Input gathered from the public will be incorporated into the tool in an effort to refine and improve its performance. CEQ intends for improvement of the tool to be an ongoing and iterative process.¹² (145)

Question 2. Are there any current tools or technology available that can be used to measure the cumulative impact of a future project?

Answer. There are several states and scholars that have developed cumulative impacts and other types of EJ screening tools.¹³ But perhaps the tool that has faced the most examination and vetting is the one developed by the state of California, which is called CalEnviroScreen.¹⁴ This screening tool develops an overall cumulative impacts score for California census tracts.

New Jersey adopted a groundbreaking cumulative impacts and EJ law in 2020¹⁵ and proposed regulations¹⁶ to implement the law were issued by the New Jersey Department of Environmental Protection in early June of this year. The regulations detail how to conduct an EJ analysis mandated by the law that takes into account cumulative impacts. It is likely that this analysis developed by New Jersey will be highly scrutinized for possible utilization in other states and perhaps even on the federal level.

Question 3. Could you elaborate on any effect that considering a project's cumulative impact would have on its design and implementation under the National Environmental Policy Act (NEPA)?

Answer. Because the concept of cumulative impacts takes into consideration the contribution of multiple sources to the total amount of pollution in a community, a cumulative impacts analysis identifies sources of pollution, including relatively small ones, that might be ignored by more traditional types of analyses that

⁹See Executive Order 14008: Tackling the Climate Crisis at Home and Abroad, § 223(a) (January 27, 2021).

¹⁰*Ibid.*

¹¹See The Economic and Climate Justice Screening Tool website located at: <https://screeningtool.geoplatform.gov/en/about#3/33.47/-97.5>.

¹²See The Economic and Climate Justice Screening Tool website at <https://screeningtool.geoplatform.gov/en/public-engagement> regarding public input into the construction and operation of the screening tool, and the author of these comments has attended several meetings with CEQ during which the Council stated its intention to make input into the tool an iterative process.

¹³For example, the states of Minnesota and Michigan have developed, are developing, or it has been recommended that they develop a cumulative impacts tool and, of course, EPA has EJ screen, which provides demographic and pollution-related information to communities. For a good discussion of these tools and activities around cumulative impacts in these jurisdictions see Laura Grier et al., *Assessing the State of Environmental Justice in Michigan*, A report submitted in partial fulfillment of the requirements for the degree of Master of Science, School for Environment and Sustainability, University of Michigan (May 2019). Faber and Krieg also developed an EJ screening tool they applied to communities in Massachusetts. See D. Faber and E. Krieg, *Unequal Exposure to Ecological Hazards: Environmental Injustices in the Commonwealth of Massachusetts*, 110 Environmental Health Perspectives 277 (supplement 2) (April 2002).

¹⁴See CalEnviroScreen website which can be accessed at <https://oehha.ca.gov/calenviroscreen>.

¹⁵N.J.S.A. 13:1D-157, et. seq.

¹⁶The proposed regulations were published in the New Jersey Register on June 6, 2022, and a courtesy copy can be accessed on the New Jersey Department of Environmental Protection website at <https://www.nj.gov/dep/rules/proposals/proposal-20220606a.pdf>.

examine the impacts of individual sources in isolation.¹⁷ A cumulative impacts analysis would also look at the *combined* impact that multiple sources and pollutants would have on a community as opposed to isolated individual impacts.¹⁸ Additionally, a cumulative impacts analysis would also incorporate social vulnerabilities that exist in Of Color communities and communities with low-income.¹⁹ These social vulnerabilities could make the impacts of pollution more harmful in EJ communities than in other communities that suffer from fewer social and economic issues.²⁰ Again, more traditional types of pollution and environmental analyses would most likely ignore these vulnerabilities. Since a cumulative impacts analysis should address the impact of the total amount of pollution in a community, as well as relatively small sources of pollution and social vulnerabilities that could intensify the impact of combined pollution sources, mechanisms to eliminate or at least mitigate these problematic aspects of a project could be incorporated into the project design and implementation. Therefore, consideration of cumulative impacts should result in a project that is less harmful to a community than a project that is designed and implemented using more traditional analyses.

The CHAIRMAN. Thank you, Doctor.

The Chair now recognizes Mayor Harry K. Brower, the Mayor of North Slope Borough in Alaska.

Mr. Mayor, welcome. You are recognized for 5 minutes.

Is the Mayor connected? Mr. Mayor, you probably need to unmute.

I can hear you, sir. Mayor Brower, welcome and you are recognized for 5 minutes, sir.

**STATEMENT OF THE HON. HARRY K. BROWER, JR., MAYOR,
NORTH SLOPE BOROUGH, UTQIAGVIK, ALASKA**

Mr. BROWER. Thank you, Chairman Grijalva and members of the Committee. Thank you for inviting me to speak to you about the Environmental Justice For All Act.

This legislation contains many good ideas that are worth pursuing, but parts of this legislation could have serious negative consequences for the people it is intended to protect.

My name is Harry Brower, Jr. I live in Utqiagvik, Alaska, and I serve as the Mayor of the North Slope Borough. I am a whaling captain and a former Chairman of Alaska Eskimo Whaling Commission.

The Borough is a county-level government. It covers the entire northern region of Alaska, an area about the size of Wyoming. Nearly 80 percent of the Borough's 10,000 residents are Alaska Natives.

The Borough is a unique example of Native people creating a municipal government to advance the self-determination of an entire Native group, the Inupiat people of our region. In 1971, when the Alaska Native land claims were settled by Congress, we

¹⁷A definition for cumulative impacts that is often used by the New Jersey EJ community is: The risks and impacts caused by multiple pollutants, both individually and when they interact with each other and any social vulnerabilities that exist in a community. The pollutants are usually emitted by multiple sources that are sited within a community. For other formal definitions see *Cumulative Impacts: Building a Scientific Foundation*, California Environmental Protection Agency, at 3 (2010); *Ensuring Risk Reduction In Communities With Multiple Stressors: Environmental Justice and Cumulative, Risks/Impacts*, National Environmental Justice Advisory Council, at 5 (2004).

¹⁸*Id.*

¹⁹*Id.*

²⁰See Rachel Morello Frosch et al., *Understanding the Cumulative Impacts of Inequalities In Environmental Health: Implications for Policy* 30 Health Affairs 879, 880-881 (2011).

were denied the ability to select areas of our traditional lands that had oil and gas potential.

The Federal Government and the state of Alaska had already claimed that land. Our Inupiat leaders countered this injustice by establishing the North Slope Borough, giving our people the ability to tax oil and gas infrastructure in our region and to use that tax revenue to provide benefits to our communities.

Today, 95 percent of the tax revenue that supports the Borough comes from taxes on oil and gas property in our region. These oil and gas tax revenues support our health clinics, schools, tribal college, water and sewer infrastructure, fire departments, search and rescue services, and other essential services in all our communities.

We understand that many Federal decisions have had disproportionate negative impacts on disadvantaged communities. We have had firsthand experience with this on the North Slope.

The impulse to right this historic wrong is good. But I am concerned that well-intended legislation, like this bill, could empower outside special interest groups to use Federal courts to defeat the interests of communities and elected leaders.

Many non-government organizations claim to represent the interests of disadvantaged communities. In reality, it is the elected leaders of disadvantaged communities that represent disadvantaged communities.

Unfortunately, when our decisions and our perspectives do not match up with what some people want us to say, our voices are suddenly silenced, or perhaps worse, other groups claim to speak for us. This is not the proper way to promote environmental justice for our communities.

We faced this reality again recently. For years, the Borough worked closely with the Bureau of Land Management as a cooperating agency to develop a new National Petroleum Reserve-Alaska Integrated Activity Plan. They developed the IAP in part due to the requests from the Borough for BLM to reconsider its management of the NPR-A.

The Borough's participation on behalf of four Alaska Native communities within the NPR-A was substantial. For example, we cooperated with BLM in the development of various management alternatives and reviewed and commented on the adequacy of the environmental analysis. The final management plan was released in 2020. It reflected our input and had our support.

At least 10 environmental organizations wrote to the new Administration last year asking BLM to reject the new plan. They claimed environmental justice demanded this result because Alaska Native communities who live within the region rely on its resources. But none of our communities signed that letter. None of our tribal governments signed that letter. None of our elected leaders signed that letter.

With no notice to the Borough, in January, BLM announced that it was selecting a new preferred alternative for management of the NPR-A. By adopting the "no action" alternative, BLM ignores the input and desires of the Borough, our communities, and the people who most directly rely on the resources of the NPR-A.

We are talking today about legislation that would allow organizations to use environmental justice to defeat Federal decisions in

court. While well intended, I feel that there will be negative unintended consequences.

The CHAIRMAN. Mr. Mayor.

Mr. BROWER. Yes.

The CHAIRMAN. Mr. Mayor, if I may, I have let people go somewhat over, the witnesses, but we are approaching 2 minutes, sir, and I hate to insist, but I think we would like you to wrap it up as soon as possible, sir.

Mr. BROWER. Well, let me just say, Chairman Grijalva, I am grateful for you to making environmental justice a priority. I have some concerns with this legislation, but I hope that we can work with you, Congressman Young, and with the members of the Committee to advance these important goals in a way that will be beneficial to our Alaska Native communities.

Thank you for the opportunity to speak.

[The prepared statement of Mr. Brower follows:]

PREPARED STATEMENT OF HARRY BROWER, JR., MAYOR, NORTH SLOPE BOROUGH, ALASKA

Chairman Grijalva and Members of the Committee: Thank you for inviting me to speak to you about the Environmental Justice For All Act. This legislation contains many good ideas that are worth pursuing. But it is my view that parts of this legislation could have serious negative consequences for the people it is intended to protect.

My name is Harry Brower, Jr. I live in Utqiagvik, Alaska, and I serve as the Mayor of the North Slope Borough.

I have served as Mayor of the Borough since 2016. I previously served as Deputy Director of the Borough's Department of Wildlife Management. I am a whaling captain and the former Chairman of the Alaska Eskimo Whaling Commission.

The North Slope Borough is a county-level government. It covers the entire northern region of Alaska, an area about the size of Wyoming.

Nearly 80% of the Borough's 10,000 residents are Alaska Native, and our communities are the Inupiat villages of Anaktuvuk Pass, Atqasuk, Kaktovik, Nuiqsut, Point Hope, Point Lay, Utqiagvik, and Wainwright.

The Borough is a unique example of Native people creating a municipal government to advance the self-determination of an entire Native group, the Inupiaq people of our region. In 1971, when the Alaska Native land claims were settled by Congress, we were denied the ability to select areas of our traditional land that had oil and gas potential. The federal government and the State of Alaska had already claimed that land. Our Inupiat leaders countered this injustice by establishing the North Slope Borough, giving our people the ability to tax oil and gas infrastructure in our region and to use that tax revenue to provide benefits to our communities.

In a speech he gave in 1976, Eben Hopson—the first Mayor of the Borough and the founder of the Inuit Circumpolar Council—talked about the discovery by the U.S. Navy of natural gas near Utqiagvik, which was called Barrow at that time. The federal government had created the Naval Petroleum Reserve in 1923 and, within the Reserve, the Navy established a research facility near Point Barrow. The Navy's drilling led to the discovery of natural gas in 1949, and a gas field was developed near Barrow. Natural gas was used to heat federal buildings like the hospital, the Bureau of Indian Affairs school, and the Naval Arctic Research Laboratory. But the Navy did not allow the community of Barrow to use the gas from the federal lands to heat their homes.

In his speech, Eben Hopson spoke about the long, frustrating struggle to get permission to hook our homes in Barrow to gas mains that crisscrossed Barrow. The federal government refused to let our people use the natural gas that came from our own backyard to heat our homes. It took an act of Congress in 1963 to allow the Native people of Barrow to buy their own natural gas back from the federal government.

Today, 95% of the tax revenue that supports the North Slope Borough comes from taxes on oil and gas property in our region.

These oil and gas tax revenues support our health clinics, schools, tribal college, water and sewer infrastructure, fire departments, search-and-rescue services, and other essential services in all of our villages.

We understand that many federal decisions have had disproportionate negative impacts on disadvantaged communities. We have had first-hand experience with this on the North Slope.

The impulse to right these historic wrongs is good. But I am concerned that well-intended legislation, like this bill, could empower outside special interest groups to use the federal courts to defeat the interests of communities and elected leaders.

Many NGOs claim to represent the interests of disadvantaged communities. In reality, it is the elected leaders of disadvantaged communities that represent disadvantaged communities.

To be clear, I support the general objectives of this legislation. We should empower disadvantaged communities. We should review federal policy through the lens of environmental justice. But I am concerned that some sections of this legislation will unintentionally give power to special interest groups that often wrongly attempt to wear the mantle of environmental justice.

It seems like every “Arctic” oil and gas project—even if it has had 10 years of environmental review—ends up in court. As the Mayor of the North Slope Borough, I have to use community resources to defend the decisions of the federal government—decisions that we support—to allow responsible resource development in our region of the country. I urge the Committee to be careful about creating new layers of review and new opportunities for litigation. For example, the National Environmental Policy Act (NEPA) already requires an extensive analysis of the impacts of federal decisions on our communities, including impacts on community health, the environment, and our cultural resources.

Our people have always debated where and how to develop oil and gas in a responsible way in our region. These are not easy decisions. We take our role as stewards of our ancestral lands very seriously. We work closely with project developers and with the federal government to ensure that the evaluation of proposed development projects incorporates our knowledge and perspectives to minimize and mitigate potential negative impact on our resources. We have challenged resource development in court when it was the right thing to do for our communities.

Unfortunately, when our decisions and our perspectives do not match up with what some people want us to do or say, our voices are suddenly silenced. Or perhaps worse, other groups claim to speak for us. This is not the proper way to promote environmental justice for our communities.

We faced this reality again recently. For several years, the Borough worked closely with the Bureau of Land Management (BLM) as a cooperating agency to develop a new National Petroleum Reserve-Alaska (NPR-A) Integrated Activity Plan (IAP). BLM developed the IAP in part due to a request from the Borough for BLM to reconsider its management of the NPR-A.

The Borough’s participation on behalf of four Alaska Native communities within the NPR-A was substantial. For example, we cooperated with BLM in the development of various management alternatives and reviewed and commented on the adequacy of the environmental analysis. The final management plan that was released in 2020 reflected our input and had our support.

At least ten environmental organizations wrote to the new Administration last year asking BLM to reject the new NPR-A management plan. They claimed “environmental justice” demanded this result because “Alaska Native communities who live within the region rely on its resources.” But, none of our communities signed that letter. None of our tribal governments signed that letter. None of our elected leaders signed that letter.

With no notice to the North Slope Borough, in January, BLM announced that it was selecting a new “preferred alternative” for management of the NPR-A. By adopting the “No Action” alternative, BLM ignores the input and desires of the Borough, our communities, and the people who most directly rely on the resources of the NPR-A.

After we dedicated years of work on the NPR-A IAP, the federal government reached this decision without consulting with us first. For the first time ever, the Borough—a cooperating agency that represents a community whose population is 80 percent indigenous—had to formally request consultation with the BLM on a project. This is not a problem that will be solved with more litigation. It is a problem that can be solved through more meaningful consultation between the federal government and the impacted local communities.

We are talking today about legislation that will allow organizations to use “environmental justice” to defeat federal decisions in court. While well intentioned, I fear that there will be negative, unintended consequences. I have just watched outside special interest groups successfully use their power and influence to convince federal decision makers to overturn a decision that had the support of, and would

benefit, our local communities. This is not “environmental justice.” It is a self-serving effort to use our communities to support someone else’s agenda.

When we look at federal policy today—federal policy that governs oil and gas development on our traditional lands—I, as an elected leader, must ask this question on behalf of my community: When Congress prohibits oil and gas development in our region, even when all of our local elected leaders support that development, are the actions of the federal government today, executed in the name of environmental justice, really any different than they were in the 1940s or 1950s when the government didn’t allow us to access the natural gas under our own feet to heat our homes?

The federal government often says it wants to work with our communities, but the reality is that it often does so when it is convenient for the government and when our perspectives amplify the views of the day. This is not a partisan view. It is a reality that has been a reality for a very long time.

I am concerned that this legislation could give more power to people who are not from our communities, who are not elected to represent our communities, and who don’t have to find a way to survive in our communities. Instead, environmental justice should be promoted by listening to and respecting the desires of those who are actually living in impacted communities.

Chairman Grijalva, I am grateful to you for making environmental justice a priority. I have some concerns with this legislation, but I hope that I can work with you, with Congressman Young, and with the Members of the Committee to advance these important goals in a way that will be beneficial to our Alaska Native communities.

Quyanaqpak for the opportunity to speak with you today.

The CHAIRMAN. Thank you for your comments, sir, and we appreciate the time and your service.

Let me now—our final witness is Ms. Amy Laura Cahn, Director of the Environmental Justice Clinic at the Vermont Law School.

Ms. Cahn, you are recognized for 5 minutes.

STATEMENT OF AMY LAURA CAHN, DIRECTOR, ENVIRONMENTAL JUSTICE CLINIC, VERMONT LAW SCHOOL, SOUTH ROYALTON, VERMONT

Ms. CAHN. Thank you and good morning, Chair Grijalva, Ranking Member, members of the Committee, and my fellow witnesses.

My name is Amy Laura Cahn, and I am the Director of the Environmental Justice Clinic at the Vermont Law School. I appreciate the opportunity to testify today.

For too long, this nation has denied people of color, Indigenous communities and Tribal Nations, and low-income communities the right to a healthy environment. Our nation has saddled the environmental justice communities with the burden of proving harm and neglect and discrimination with little redress in the face of a mountain of evidence.

Environmental racism is segregation imprinted on our landscape. Racially discriminatory housing, land use, and transportation policies mean that environmental justice communities breathe disproportionately more air pollution. Black Americans, in particular, are exposed to more pollution from all major emission sources, including waste, energy, industrial agriculture, transportation, and construction.

Race remains the strongest predictor of hazardous waste siting across the United States. Residents of historically Black communities contend with degraded air and water quality from landfills, such as Arrowhead, a 974-acre site adjacent to Uniontown,

Alabama, permitted to receive up to 15,000 tons of commercial and industrial waste per day from 33 states.

And the ever-expanding Stone's Throw Landfill, which continues to displace Tallassee, Alabama residents and threatens to turn this community into yet another example of Black land loss.

Oil and gas and petrochemical production also disproportionately harm environmental justice communities at every stage of their life cycle.

The racial disparities of the COVID-19 pandemic have laid bare just how profoundly the energy and environmental policy decisions of the past have failed communities of color creating sacrifice zones with climate change now a threat multiplier.

And environmental justice communities bear the burden of proof. For years residents of Uniontown and Tallassee have collected pollution data, documented health impacts, filed open record requests, marshalled turnout, filed public comments and civil rights complaints, and advanced solutions that respond to community needs, with too little response and too few available resources or remedies.

Environmental protections that respond to environmental racism are scant, underenforced, and as the last administration has shown us, easy to roll back and even easier to ignore. And environmental justice communities have not been able to depend on civil rights enforcement to fill this gap.

We, and Members of this Congress in particular, have the power to shift this burden. H.R. 2021 fills a long-standing gap in protection for air and water quality. Neither the Clean Air Act nor the Clean Water Act account for cumulative impacts of multiple sources or types of pollution on individual bodies and whole communities.

As the EPA's Office of Inspector General stated in 2020, it is often easier for a community that has seven facilities to get an eighth approved than for a community that has no existing facilities to get one.

The Fourth Circuit Court of Appeals recently reversed a decision by the Commonwealth of Virginia to permit the construction of a compressor station associated with the Atlantic Coast Pipeline, stating that environmental justice is not merely a box to be checked.

That decision relied on state law and policy mandating analysis of disproportionate health impacts on the predominantly Black community of Union Hill.

The Clean Air Act, the Clean Water Act, and the National Environmental Policy Act all fall short of such substantive remedies currently.

H.R. 2021 would shift the burden onto regulators and polluters, requiring a hard look at the distribution of polluting facilities and action to prevent harm to already overburdened communities.

And H.R. 2021 restores communities the right to challenge environmental discrimination.

In 2001, residents of Camden, New Jersey showed the power of Title VI of the Civil Rights Act of 1964. In a briefly successful challenge to a permitting process that failed to consider the impacts of a cement processing facility in an already overburdened community

of color, the U.S. Supreme Court's decision in *Alexander v. Sandoval* stopped that case in its tracks, barring non-Federal parties from bringing disparate impact lawsuits and placing enforcement solely in the hands of Federal agencies.

Still, Title VI should be one of the most salient tools to remedy the harms created by environmental racism and prevent future injustice.

Yet, in the absence of a private right of action, long-standing deficiencies in civil rights enforcement and oversight enable recipients of Federal funding to permit facilities that exacerbate racially disproportionate pollution burdens.

Approved transportation projects that split communities of color in half and deny equitable participation of people of color and people with limited English proficiency in siting and permitting decisions. H.R. 2021 would restore to communities and the courts the power to ensure that discrimination does not occur without consequences.

So doing, H.R. 2021 would begin to shift the burden of proof and transform how we address environmental racism and prepare for the climate crisis.

Thank you so very much for the opportunity to testify.

[The prepared statement of Ms. Cahn follows:]

PREPARED STATEMENT OF AMY LAURA CAHN, VISITING PROFESSOR AND DIRECTOR, ENVIRONMENTAL JUSTICE CLINIC VERMONT LAW SCHOOL, SOUTH ROYALTON, VERMONT

I am a Visiting Professor and Director of the Environmental Justice Clinic at Vermont Law School. We practice a community-based lawyering approach to advance civil rights and environmental and climate justice.

On January 20, 2021, in issuing Executive Order 13985, President Biden called out the “unbearable human costs of systemic racism.”¹ Among those costs is a pattern of sacrifice zones throughout this nation where Communities of Color, Indigenous and Tribal Peoples, and low-income communities bear disproportionate environmental and climate harms, while being denied access to environmental benefits and climate solutions.² I will speak today on the impacts of that unjust distribution of burdens and benefits—created and perpetuated by gaps in our legal system.

Section 2 of the Environmental Justice for All Act (H.R. 2021 or the Act) finds that “[a]ll people have the right to breathe clean air, drink clean water, live free of dangerous levels of toxic pollution, and share the benefits of a prosperous and vibrant pollution-free economy.”

The bill further finds that “[t]he burden of proof that a proposed action will not harm communities, including through cumulative exposure effects, should fall on polluting industries and on the Federal Government in its regulatory role, not the communities themselves.”

For far too long, this nation has denied People of Color, Indigenous and Tribal Peoples, and low-income communities—environmental justice communities—the right to a healthy environment. Our nation has saddled environmental justice communities with the burden of proving harm, neglect, and discrimination—with little redress in the face of a mountain of evidence. H.R. 2021 would fill those gaps and transform how we address environmental racism and prepare for a just transition in the face of the climate crisis.

¹ Exec. Order No. 13985, 86 FR 7009 (Jan. 20, 2021).

² See e.g. Dorceta E. Taylor, *Toxic Exposure: Landmark Cases in the South and the Rise of Environmental Justice Activism*, in *Toxic Communities: Environmental-Racism, Industrial Pollution, and Residential Mobility* 6 (New York University Press 2014) (highlighting major environmental racism cases in the South).

Environmental racism is segregation imprinted onto our landscapes.

The legacies of *de jure* and *de facto* segregation are imprinted on our landscapes. Racially discriminatory housing, land use, and transportation policies have resulted in environmental justice communities breathing higher concentrations of harmful air pollutants,³ including from transportation⁴ and chronically substandard housing where multiple asthma triggers and lead hazards in paint, dust, soil, and water endanger residents of all ages.⁵ Black Americans, in particular, are exposed to more pollution from all major emission sources, including waste, energy, industrial agriculture, vehicles, and construction.⁶ These disparities exist nationally and across states, urban and rural areas, and all income levels.⁷

Race remains the strongest predictor of hazardous waste siting across the United States.⁸ Eighty percent of the nation's incinerators are in low-income communities and/or communities of color like Saugus, Massachusetts; Hartford, Connecticut; and Trenton, New Jersey. Residents of historically Black communities like Uniontown and Tallassee, Alabama, contend with the degraded air and water quality from Arrowhead Landfill, a 974-acre site permitted to receive up to 15,000 tons of commercial and industrial waste per day from 33 states, and the ever-expanding Stone's Throw Landfill, which continues to displace Tallassee community members and threatens to turn this historical community into yet another example of black land loss. In the words of Perry County (Alabama) Commissioner Benjamin Eaton, "if the air smells bad, you know it's bad."

The impacts of the fossil fuel industry are also particularly stark. At every stage of its life cycle, oil and gas production disproportionately harms environmental justice communities.⁹ More than 1 million Black people live within a one half-mile radius of natural gas facilities¹⁰ and Black and Latino/a people make up nearly two-thirds of those living within three miles of the dirtiest refineries.¹¹ The proliferation of toxic facilities, mines, and fossil-fuel infrastructure has taken an irreparable toll on Indigenous land, cultural resources, and the health and well-being of Indigenous and Tribal communities.¹²

³See, e.g., Lara P. Clark et al., *National Patterns in Environmental Injustice and Inequality: Outdoor NO₂ Air Pollution in the United States*, 9 PLOS One e94431, 2 (2014), www.ncbi.nlm.nih.gov/pmc/articles/PMC3988057/pdf/; Marie Lynn Miranda et al., *Making the Environmental Justice Grade: The Relative Burden of Air Pollution Exposure in the United States*, 8 Int'l J. Envtl. Res. Pub. Health 1755, 1768–69 (2011), www.ncbi.nlm.nih.gov/pmc/articles/PMC3137995/pdf/jerph-08-01755.pdf; Ihab Mikati, et al., *Disparities in Distribution of Particulate Matter Emission Sources by Race and Poverty Status*, American Journal of Public Health 108, 480–485 (2018), <https://doi.org/10.2105/AJPH.2017.304297>.

⁴See e.g. Union of Concerned Scientists, *Inequitable Exposure to Air Pollution in California*: Fact Sheet (February 2019), <https://www.ucsusa.org/sites/default/files/attach/2019/02/cv-air-pollution-CA-web.pdf>; *Inequitable Exposure to Air Pollution from Vehicles in the Northeast and Mid-Atlantic*: Fact Sheet, 1 (June 2019), <https://www.ucsusa.org/sites/default/files/attach/2019/06/Inequitable-Exposure-to-Vehicle-Pollution-Northeast-Mid-Atlantic-Region.pdf>.

⁵See, e.g., Jeremy L. Mennis & Lisa Jordan, *The Distribution of Environmental Equity: Exploring Spatial Nonstationarity in Multivariate Models of Air Toxic Releases*, 95 Annals Soc'y Am. Geogr. 249 (2005); Russ Lopez, *Segregation and Black/White Differences in Exposure to Air Toxics in 1990*, 110 Envtl. Health Persp. 289 (2002); see also Jayajit Chakraborty & Paul A. Zandbergen, *Children at Risk: Measuring Racial/Ethnic Disparities in Potential Exposure to Air Pollution at School and Home*, 61 J. Epidem. Cmty. Health 1074, 1074 (2007). 16 See e.g. Robert Bullard, *Addressing Urban Transportation Equity in the United States*, 31 Fordham U.L.J. 1183 (2004); Stephanie Pollack et al., *The Toll of Transportation*, Northeastern University Dukakis Center for Urban & Regional Policy (2013); Brian S. McKenzie, *Neighborhood Access to Transit by Race, Ethnicity, and Poverty in Portland, OR*, 12 City & Cmty 134–155 (2013).

⁶Christopher W. Tessum, et al., *PM2.5 polluters disproportionately and systematically affect people of color in the United States*, Science Advances, Vol. 27, no. 18, (Apr. 28, 2021); see also Tabuchi & Popovich, *People of Color Breathe More Hazardous Air. The Sources Are Everywhere*, NYTimes, Apr. 28, 2021.

⁷*Id.*

⁸Robert D. Bullard, Ph.D.; Paul Mohai, Ph.D.; Robin Saha, Ph.D.; Beverly Wright, Ph.D., *Toxic Wastes and Race at Twenty: 1987–2007*, xii (2007).

⁹NAACP, *Fumes Across the Fence-Line*, 1, 6 (Nov. 2017) <https://naacp.org/resources/fumes-across-fence-line-health-impacts-air-pollution-oil-gas-facilities-african-american>.

¹⁰*Id.*

¹¹Ben Kunstman et al., Envtl. Integrity Project, *Environmental Injustice and Refinery Pollution: Benzene Monitoring Around Oil Refineries Showed More Communities at Risk in 2020*, 14–16 (Apr. 28, 2021), <https://environmentalintegrity.org/wp-content/uploads/2021/04/Benzene-report-4.28.21.pdf>.

¹²Renee McVay, Envtl. Def. Fund, *Natural Gas Waste on the Navajo Nation: Updated analysis of oil and gas methane emissions shows growing problem* (2021), <https://www.edf.org/sites/default/files/content/NavajoEmissionsReport2021.pdf>; Kyle Whyte, *The Dakota Access*

Continued

Sources of pollution come to environmental justice communities, rather than the other way around¹³ and residential zip code remains the strongest predictor of life expectancy overall.¹⁴ As communities of color breathe air pollution caused by white peoples' consumption,¹⁵ segregated housing and land use patterns now put environmental justice communities most at risk from extreme temperatures,¹⁶ flooding,¹⁷ and other extreme weather impacts of climate change, while inequitable resource distribution obstructs recovery from extreme weather.¹⁸ Environmental and climate impacts dovetail—heat increases the impacts of degraded air quality in historically redlined neighborhoods¹⁹ and flooding compounds the “toxic threat” of unremediated and uncontained Superfund sites.²⁰

The impacts of environmental racism are dire and deadly.

This legacy of environmental racism has led to disparities in illness and death based on race, ethnicity, and income, including disproportionate levels of lead poisoning, asthma, diabetes, heart disease, respiratory illness, cancer, and now COVID-19.²¹

The COVID-19 pandemic has laid bare just “how profoundly the energy and environmental policy decisions of the past have failed communities of color.”²² Racial disparities of COVID-19 infection, hospitalization, and deaths emerged early in the

Pipeline, Environmental Injustice, and U.S. colonialism, Red Ink: Int'l J. Indigenous Literature, Arts, & Humanities (Apr. 2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2925513; R. Emanuel & D. Wilkins, *Breaching Barriers: The Fight for Indigenous Participation in Water Governance*, Water (2020), <https://www.mdpi.com/2073-4441/12/8/2113/htm>; U.N. Special Rapporteur, End of Mission Statement by the United Nations Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz of her visit to the United States of America (Mar. 3, 2017), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21274&LangID=E>.

¹³ See Paul Mohai & Robin K. Saha, *Which Came First, People or Pollution? Assessing the Disparate Siting and Post-Siting Demographic Change Hypotheses of Environmental Injustice*, 10 Envtl. Res. Letters 15–16 (Nov. 2015).

¹⁴ Laura Dwyer-Lindgren, Amelia Bertozi-Villa, Rebecca W. Stubbs, Chloe Morozoff, Johan P. Mackenbach, Frank J. van Lenthe, Ali H. Mokdad, Christopher J. L. Murray, Inequalities in Life Expectancy Among US Counties, 1980 to 2014: Temporal Trends and Key Drivers, *JAMA Intern. Med.* (Jul. 1, 2017).

¹⁵ Christopher W. Tessum, et al., *Inequity in Consumption of Goods and Services Adds to Racial-Ethnic Disparities in Air Pollution Exposure*, *PNAS* (Mar. 11, 2019).

¹⁶ See e.g. Marilyn Montgomery and Jayajit Chakraborty, *Assessing the Environmental Justice Consequences of Flood Risk: A Case Study in Miami, Florida*, 10 Environmental Research Letters (2015); Stacy Seichsnaydre et al., Rigging the Real Estate Market: Segregation, Inequality, and Disaster Risk, The Data Center (2018).

¹⁷ See e.g. Bill M. Jesdale, Rachel Morello-Frosch and Lara Cushing, *The Racial/Ethnic Distribution of Heat Risk-Related Land Cover in Relation to Residential Segregation*, 121 Environmental Health Perspectives 811–817 (2013); Jackson Voelkel et al., *Assessing Vulnerability to Urban Heat: A Study of Disproportionate Heat Exposure and Access to Refuge by Socio-Demographic Status in Portland, Oregon*, 15 Int J Environ Res Public Health (2018).

¹⁸ See generally, Robert D. Bullard and Beverly Wright, *Race, Place, and Environmental Justice After Hurricane Katrina: Struggles to Reclaim, Rebuild, and Revitalize New Orleans and the Gulf Coast* (2009); Rachel Morello-Frosch, Manuel Pastor, Jim Sadd, and Seth Shonkoff, *The Climate Gap: Inequalities in How Climate Change Hurts Americans & How to Close the Gap* (2009); Gustavo A. Garcia-Lopez, *The Multiple Layers of Environmental Injustice in Contexts of (Un)natural Disasters: The Case of Puerto Rico Post-Hurricane Maria*, 11 Environmental Justice 101–108 (2018); USGCRP, *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* (2018) available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf.

¹⁹ Daniel Cusick, *Past Racist “Redlining” Practices Increased Climate Burden on Minority Neighborhoods*, E&E News (Jan. 21, 2020).

²⁰ David Hasemyer and Lisa Olsen, *A growing toxic threat—made worse by climate change*, Inside Climate News (Sept. 24, 2020).

²¹ See, e.g., Jyotsna S. Jagai et al., *The Association Between Environmental Quality and Diabetes in the U.S.*, *Journal of Diabetes Investigation* (Oct. 2019) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7078099/>; Olga Khazan, *A Frightening New Reason to Worry About Air Pollution*, *The Atlantic* (July 5, 2018) <https://www.theatlantic.com/health/archive/2018/07/a-frightening-new-reason-to-worry-about-air-pollution/564428/>; Anthony Nardone et al., *Associations between historical residential redlining and current age-adjusted rates of emergency department visits due to asthma across eight cities in California: an ecological study*, *Lancet Planet Health* (Jan. 4, 2020); *New Research Links Air Pollution to Higher Coronavirus Death Rates*, *N.Y. Times* (Apr. 7, 2020) <https://www.nytimes.com/2020/04/07/climate/air-pollution-coronavirus-covid.html>; Claudia Persico & Kathryn Johnson, *The effects of increased pollution on COVID-19 cases and deaths*, *J. Envtl. Econ. Mgmt.* (Feb. 2021), <https://www.sciencedirect.com/science/article/pii/S0095069621000140>.

²² The Biden Plan to Secure Environmental Justice And Equitable Economic Opportunity (n.d.) <https://joebiden.com/environmental-justice-plan>.

pandemic, and voluminous research now links air pollution exposure to those outcomes.²³

That environmental injustices impact the same communities most harmed by COVID-19 is not a coincidence. It is the cumulative—and often catastrophic—impacts of discriminatory decision-making, poverty, and industrial pollution that disproportionately and adversely impact health in environmental justice communities,²⁴ with climate change functioning as a threat multiplier.²⁵

Inequitable distribution of resources compounds harms and stymies community-driven solutions.

Over decades, historic disinvestment has also pulled resources from communities of color to more affluent white communities.²⁶ Such inequities persist in the distribution of Federal investments into improved water quality and air quality, clean and renewable energy, and climate-resilient infrastructure. As a result, environmental justice communities are far less likely to benefit from environmental and social determinants of health that mitigate environmental burdens, including:

1. Access green and open spaces²⁷ and other resources for recreation and healthy, active living;²⁸
2. Access to clean drinking water and sanitation;²⁹
3. Access to affordable and clean transportation;³⁰
4. Access to healthy, affordable, and culturally appropriate food,³¹ including the land to securely grow one's own food;
5. Access to healthy and resilient homes and schools;³² and

²³ See e.g. Wu, X. et al., *Air pollution and COVID-19 mortality in the United States: Strengths and limitations of an ecological regression analysis*, *Sci. Advances* (2020), <https://projects.iq.harvard.edu/covid-pm>. See also Pallavi Pant, COVID-19 and Air Pollution: A summary of analyses, resources, funding opportunities, call for papers & more, https://docs.google.com/document/d/1UTQvW_OytC37latMNR5qJK7qKfSylNp12fT3pdteVZA/edit.

²⁴ Rachel Morello-Frosch et al., *Understanding the cumulative impacts of inequalities in environmental health: implications for policy*, *Health Aff (Millwood)* 30(5):879–87 (May 2011) <https://pubmed.ncbi.nlm.nih.gov/21555471/>.

²⁵ H. Orru et al., *The Interplay of Climate Change and Air Pollution on Health*, 4 *Current Envtl. Health Report* 504, 504 (2017).

²⁶ Danielle M. Purifoy & Louise Seamster, *Creative extractions: Black towns in White Space*, *Sage Journals* (2020).

²⁷ Jenny Rowland-Shea et al., *The Nature Gap: Confronting Racial and Economic Disparities in the Destruction and Protection of Nature in America*, Ctr. for Am. Progress (July 21, 2020), <https://www.americanprogress.org/article/the-nature-gap/>; Robert Garcia & Erica Flores Baltodano, *Free the Beach! Public Access, Equal Justice, and the California Coast*, 2 *Stan. J. C.R. & C.L.* 143 (2005); Chona Sister et al., *Got Green? Addressing Environmental Justice in Park Provision*, 75 *GeoJournal* 229 (2010); Jennifer Wolch et al., *Parks and Park Funding in Los Angeles: An Equity-Mapping Analysis*, 26 *Urb. Geography* 4 (2005); Ming Wen et al., *Spatial Disparities in the Distribution of Parks and Green Spaces in the USA*, 45 *Supp. 1 Annals Behav. Med.* 18 (2013); Dustin T. Duncan et al., *The Geography of Recreational Open Space: Influence of Neighborhood Racial Composition and Neighborhood Poverty*, 90 *J. Urb. Health* 618 (2013).

²⁸ Penny Gordon-Larsen et al., *Inequality in the Built Environment Underlies Key Health Disparities in Physical Activity and Obesity*, 117 *Pediatrics* 417 (2006); Lisa M. Powell et al., *Availability of Physical Activity-Related Facilities and Neighborhood Demographic and Socio-economic Characteristics: A National Study*, 96 *Am. J. Pub. Health* 1676 (2006); Lisa M. Powell et al., *The Relationship Between Community Physical Activity Settings and Race, Ethnicity, and Socioeconomic Status*, 1 *Evidence-Based Preventive Med.* 135 (2004).

²⁹ (Leila M. Harris et al., Revisiting the Human Right to Water From an Environmental Justice Lens, 3 *Pol., Grps., & Identities* 660 (2015)).

³⁰ See e.g. Robert Bullard, *Addressing Urban Transportation Equity in the United States*, 31 *Fordham U.L.J.* 1183 (2004); Stephanie Pollack et al., *The Toll of Transportation*, Northeastern University Dukakis Center for Urban & Regional Policy (2013); Brian S. McKenzie Neighborhood Access to Transit by Race, Ethnicity, and Poverty in Portland, OR, 12 *City & Cnty* 134–155 (2013).

³¹ See e.g. Kimberly Morland et al., *Neighborhood characteristics associated with the location of food stores and food service places*, 22 *Preventative Med.* 23–29 (Jan. 2002); L. Powell L et al., *Food Store Availability and Neighborhood Characteristics in the United States*, 44 *Preventive Med.* 189–195 (2007); Thomas A. LaVeist, *Segregated Spaces, Risky Places: The Effects of Racial Segregation on Health Inequalities*, Joint Center for Political and Economic Studies (2011). See also Alison Hope Alkon & Julian Agyeman eds., *Cultivating Food Justice: Race, Class, and Sustainability* 89, 93 (2011).

³² Paul Mohai et al., *Air Pollution Around Schools Is Linked to Poorer Student Health and Academic Performance*, 30 *Health Affs.* 852 (2011).

6. Access to energy security,³³ clean energy and energy efficiency resources,³⁴ and the benefits of energy transition opportunities and a just transition for fossil-fuel dependent communities.³⁵

Environmental justice communities bear the burden of proof.

In the absence of comprehensive environmental justice laws, environmental justice communities must rely on a patchwork of statutes, regulations, and executive orders insufficient to address structural inequality. Environmental protections that respond directly to the impact of environmental racism are scant,³⁶ underenforced, and, as the last Administration has shown us, easy to roll back and even easier to ignore.³⁷ Nor can environmental justice communities depend on civil rights enforcement to fill this gap.³⁸

For years, residents in environmental justice communities like Uniontown and Tallassee have collected pollution data, documented health impacts, filed open records requests, disseminated know your rights information, marshaled turnout for public meetings, filed public comments and civil rights complaints, and advanced just and equitable solutions that respond to community needs—with too little response and too few available resources or remedies from the federal government.

We—and members of this Congress, in particular—have the power to shift this burden.

H.R. 2021 strengthens NEPA and the voice of environmental justice communities on major federal projects.

The National Environmental Policy Act (NEPA) has been essential in the fight against environmental racism, requiring Federal agencies to involve potentially affected parties in deliberations about projects with significant environmental effects and consider potential environmental, economic, and public health impacts on environmental justice communities.³⁹ NEPA ensures that the public's input is evaluated and considered prior to expenditures of public resources—including whether no action is the best option. Though often requiring litigation to enforce,⁴⁰ NEPA operates from the principle that, when those most affected are consulted at every stage, better decisions are made.

The 2020 Trump Rule eviscerated key environmental justice provisions while prohibiting the climate impacts of a project from consideration in a NEPA analysis. The White House Council on Environmental Quality has embarked on a phased rulemaking intended to course correct. However we get there, now is the time for a stronger NEPA.

³³ Diana Hernández, *Understanding 'energy insecurity' and why it matters to health*, *Social Science & Medicine*, 167 (2016) <https://doi.org/10.1016/j.socscimed.2016.08.029>.

³⁴ Tony G. Reames, *Targeting Energy Justice: Exploring Spatial, Racial/Ethnic and Socio-economic Disparities in Urban Residential Heating Energy Efficiency*, 97 *Energy Pol'y* 549 (2016).

³⁵ Sanya Carley and David M. Konisky, *The justice and equity implications of the clean energy transition*, *Nat Energy* 5, 569–577 (2020).

³⁶ Brenda Mallory and David Neal, *Practicing on Uneven Ground: Raising Environmental Justice Claims under Race Neutral Laws*, 45 *Harvard Env't L. R.* 295, 299 (2021).

³⁷ See e.g., José Toscane Bravo, Amy Laura Cahn, Jeannie Economos, and Rachel Stevens, *Federal Dereliction of Duty: Environmental Racism Under Covid-19* (Sept. 2021) <https://www.vermontlaw.edu/sites/default/files/2021-08/Federal-Dereliction-of-Duty-Full-Report.pdf>.

³⁸ See, e.g., Deloitte Consulting LLP, Final Report: Evaluation of the EPA Office of Civil Rights (Order # EP10H002058) 1-2 (noting EPA's failure to "adequately adjudicate[] Title VI complaints . . . has exposed EPA's Civil Rights programs to significant consequences which have damaged its reputation internally and externally."); Kristen Lombardi et al., *Environmental Justice Denied: Environmental Racism Persists, and the EPA is One Reason Why*, Ctr. for Pub. Integrity, (2015) (noting EPA "the civil-rights office rarely closes investigations with formal sanctions or remedies," so EPA's Office of Civil Rights "appeared more ceremonial than meaningful, with communities left in the lurch."); U.S. Comm'n on Civil Rights, *Environmental Justice: Examining the Environmental Protection Agency's Compliance and Enforcement of Title VI and Executive Order 12,898*, at 2 (2016) ("U.S. Comm'n on Civil Rights Environmental Justice Report") ("The [United States Commission on Civil Rights], academics, environmental justice organizations, and news outlets have extensively criticized EPA's management and handling of its Title VI external compliance program."); see also Marianne Engelman Lado, *No More Excuses: Building A New Vision of Civil Rights Enforcement in the Context of Environmental Justice*, 22 *U. Pa. J.L. & Soc. Change* 281, 295–300 (2019).

³⁹ The White House, *Memorandum for the Heads of All Departments and Agencies, Re: Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (Feb. 11, 1994).

⁴⁰ See e.g. Ellen M. Gilmer, *Dakota Access Pipeline Loses Appeal, Fueling Shutdown Fight*, Bloomberg Law (Jan. 26, 2021).

The Investment and Jobs Act (IIJA)⁴¹ directs over a trillion dollars toward major projects involving highways and bridges, railways, and energy and water infrastructure projects, including funding for climate resilience, workforce development, and Superfund remediation. Many of these projects could benefit environmental justice communities; all will require robust input from surrounding residents and stakeholders. Yet, the IIJA also weakened NEPA by increasing state authority to exclude projects from NEPA review and making permanent the FAST Act, which imposes unnecessarily tight timelines for project review and authorization.⁴² These provisions undercut CEQ's efforts to restore NEPA and the Administration's commitments to prioritize environmental justice.

Section 14 of H.R. 2021 requires federal agencies to provide early and more robust community involvement opportunities under NEPA when proposing an action that can affect a defined environmental justice community. In this critical moment, H.R. 2021 re-centers environmental justice in the NEPA process, bolstering agencies' responsibilities to assess harmful impacts, engage environmental justice communities, and consult with Indigenous and Tribal leadership in a manner intended to better honor Indigenous sovereignty, land, and sacred sites.

H.R. 2021 fills a long-standing gap in protections for air and water quality.

As the EPA's Office of Inspector General stated in 2020, “[t]here is no precise threshold to determine when a community is overburdened[, which] means that it is often easier for a community that has seven facilities to get an eighth facility approved than for a community that has no existing facilities to get one approved.”⁴³ Limited as they are to establishing standards for and regulating individual pollutants, neither the Clean Air Act⁴⁴ nor the Clean Water Act⁴⁵ provide a mechanism to account for the cumulative impacts of multiple sources and uses of pollution on individual bodies and whole communities. Thus, environmental permits are routinely issued that allow regulated entities to increase levels of pollution without evaluating or accommodating adverse, cumulative, or disparate impacts on the surrounding community.⁴⁶ The lack of air and water quality monitoring to understand baseline pollution levels in environmental justice communities compounds this problem.

The Fourth Circuit Court of Appeals recently opined that “[e]nvironmental justice is not merely a box to be checked,”⁴⁷ reversing a decision by the Commonwealth of Virginia to permit the construction of a compressor station associated with the Atlantic Coast Pipeline project. That decision relied on state environmental justice and energy law and policy that mandated analysis of the potential for disproportionate health impacts on the predominantly Black community of Union Hill. Even with a robust environmental justice analysis that considers direct, indirect, and cumulative impacts, NEPA still only offers a procedural framework, falling short of such substantive remedies.⁴⁸

Section 7 of H.R. 2021 requires the consideration of cumulative environmental impacts in permitting decisions under the Clean Air Act and the Clean Water Act and provides that permits not be issued if projects are unable to demonstrate a reasonable certainty of no harm to human health after consideration of cumulative impacts. This bill would finally shift the burden onto regulators and polluters, requiring a hard look at the distribution of polluting facilities and action to protect already-overburdened environmental justice communities.

H.R. 2021 restores to communities the right to challenge environmental discrimination.

Title VI of the Civil Rights Act of 1964⁴⁹ prohibits recipients of federal funding from discrimination based on race, color, or national origin, either through intentional discrimination or through actions that, while neutral on their face, have a disproportionate and adverse impact. Title VI applies broadly to recipients of funding from the family of environmental, agricultural, natural resource, land management,

⁴¹ H.R. 3684, 117th Cong. § 11312(a) (2021).

⁴² 42 U.S.C. § 4370m.

⁴³ Office of Inspector Gen., U.S. Envtl. Prot. Agency, Fiscal Year 2022 at 28 (Nov. 12, 2021) https://www.epa.gov/system/files/documents/2021-11/certified_epaoig_20211112-22-n-0004.pdf.

⁴⁴ Marie L. Miranda et al., *Making the Environmental Justice Grade: The Relative Burden of Air Pollution Exposure in the United States*, 8 Int. J. Env't. Rsch. and Public Health, 1755, 1755 (2011).

⁴⁵ Clean Water Act, 33 U.S.C. § 1251(a).

⁴⁶ *Id.* at § 1251(e).

⁴⁷ *Friends of Buckingham v. State Air Pollution Control Bd.*, 947 F.3d 68, 93 (4th Cir. 2020).

⁴⁸ *Id.* at 310.

⁴⁹ 42 U.S.C. 2000d (1964) et seq.

energy, and disaster recovery agencies. As such, Title VI should be one of the most salient tools to remedy the harms created by racial segregation and prevent future injustice as we respond to the impacts of the climate crisis.

In 2001, residents of the Waterfront South community in Camden, New Jersey, showed the power of Title VI in a briefly successful challenge to a permitting process that failed to consider the cumulative health and environmental impacts of siting a cement processing facility in an already-overburdened community of color.⁵⁰ The U.S. Supreme Court's decision in *Alexander v. Sandoval*⁵¹ stopped the Waterfront South case in its tracks, barring any non-federal parties from bringing disparate impact lawsuits and placing enforcement against disparate impact discrimination solely in the hands of federal agencies.⁵²

Title VI mandates that every federal agency ensure compliance by its funding recipients and investigate complaints of discrimination, authorizing agencies to effectuate compliance by terminating or refusing grant funding or "any other means authorized by law." In the absence of a private right of action, severe and long-standing deficiencies in civil rights enforcement and oversight have enabled funding recipients to permit waste and fossil fuel facilities and infrastructure that exacerbate racially disproportionate pollution burdens, approve transportation projects that split communities of color, and deny equitable participation of people with limited English proficiency in siting and permitting decisions.

Federal agency response to and resolution of complaints have historically been subject to delay, requiring litigation to enforce agency deadlines. Agencies, funding recipients, and the communities they are mandated to protect from discrimination lack comprehensive guidance on civil rights compliance. Complainants with first-hand knowledge have been systematically sidelined from the investigation and resolution of civil rights complaints. Agencies have refused to assert jurisdiction over complaints or make findings of discrimination, much less wield their power to withhold or delay funding, sending a message to funding recipients that compliance is optional.⁵³

The unjust distribution of environmental, health, and climate burdens and benefits constitutes a massive failure of our nation's civil rights enforcement infrastructure. \$1.2 trillion in infrastructure investments is now heading out the door, potentially outpacing a clear directive on how the Justice40 Initiative should shape the equitable distribution of expenditures⁵⁴ and with insufficient mechanisms to ensure accountability in recipient decision-making and implementation.

Sections 4, 5, and 6 of H.R. 2021 would restore the right of individuals to legally challenge discrimination—including environmental discrimination—prohibited under Title VI. This would restore to communities—and the courts—the power to ensure that discrimination does not occur without consequence.

H.R. 2021 directs critical resources to address environmental racism and facilitate a just transition.

Stronger legal tools will create greater accountability and more equitable outcomes by addressing policy, planning, permitting, and enforcement decisions that perpetuate harm to environmental justice communities. These systemic changes are necessary, but not sufficient. H.R. 2021 directs critical resources for capacity building, training, research, programming, and tangible environmental benefits and puts structures in place so that environmental justice communities and fossil-fuel-dependent communities can be in the lead to proactively address conditions on the ground.

The Principles of Environmental Justice, drafted at the First People of Color Environmental Leadership Summit in 1991, responded directly to the conditions of environmental racism. These principles are rooted in holistic vision, self-determination, repair and redress, and a core belief that all people have the right to a healthy environment that enriches life. The Principles reflect the need to center in policymaking decisions the communities most impacted by environmental risks and harms and too long marginalized from the decisions that have shaped their health, welfare, and well-being.

⁵⁰ *S. Camden Citizens in Action v. New Jersey Dep't of Env't Prot.*, 145 F. Supp. 2d 446, 503 (D.N.J.), *opinion modified and supplemented*, 145 F. Supp. 2d 505 (D.N.J. 2001), *rev'd*, 274 F.3d 771 (3d Cir. 2001).

⁵¹ *Alexander v. Sandoval*, 532 U.S. 275, 292 (2001).

⁵² *Id.* at 293.

⁵³ *See supra* n. 38.

⁵⁴ Jean Chemnick, How states could topple Biden's Justice40 goals, E&E News (Feb. 4, 2022) <https://www.eenews.net/articles/how-states-could-topple-bidens-justice40-goals>.

The Environmental Justice for All Act responds to that call—through an inclusive, transparent, and community-driven process and with substantive protections that respond to community needs, fill gaps in our laws, and shift resources to where they are most needed.

QUESTIONS SUBMITTED FOR THE RECORD TO AMY LAURA CAHN, VISITING PROFESSOR AND DIRECTOR, ENVIRONMENTAL JUSTICE CLINIC, VERMONT LAW SCHOOL, SOUTH ROYALTON, VERMONT

Questions Submitted by Representative Cohen

Question 1. We sometimes hear that new policies to address environmental injustice of the type you described in your opening statement are not needed because we have NEPA, the Clean Water Act, Clean Air Act, and other laws. Can you respond to that point of view?

Answer. As stated in written testimony submitted for the February 15, 2022, hearing of the House Committee on Natural Resources regarding H.R. 2021, the Environmental Justice for All Act, in the absence of comprehensive environmental justice laws, environmental justice communities currently rely on a patchwork of statutes, regulations, and executive orders insufficient to address structural inequality. Environmental protections that respond directly to the impact of environmental racism are scant¹ as “the major environmental statutes do not address the prospect that their benefits and burdens might turn out to be unequally distributed in ways that add to cumulative disadvantage[,] nor [do they] provide measures to avert disparate impact[.]”²

The National Environmental Policy Act (NEPA)³ remains essential in the fight against environmental racism, requiring federal agencies to involve potentially affected parties in deliberations about projects with significant environmental effects and to consider potential environmental, economic, and public health impacts on environmental justice communities.⁴ NEPA requires that all federal agencies “study and disclose” the environmental impact of any major federal action that significantly affects the environment.⁵ The NEPA assessment process requires public engagement with “affected communities submitting comments during the NEPA process and seeking judicial review if the agency fails to complete the process correctly[.]”⁶ NEPA additionally mandates consultation with Indigenous Peoples and Tribal Nations—a requirement also subject to judicial review.⁷ Moreover, in implementing NEPA and pursuant to Executive Order 12898, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations* (E.O. 129898), federal agencies conduct environmental justice analyses “to determine whether a project will have a disproportionately adverse effect on minority or low income populations.”⁸ In essence, NEPA ensures that the input of affected communities is evaluated and considered prior to expenditures of public resources—including when no action is the best option. Though often requiring litigation to enforce,⁹ NEPA operates from the principle that, when those most affected are consulted at every stage, better decisions are made.

However, while the requirements of public participation, government-to-government Tribal consultation, and analysis of potential impacts on environmental justice communities may serve a preventative function by elevating key concerns and enhancing analysis, enforcement of NEPA remains limited in scope to

¹See Brenda Mallory & David Neal, *Practicing on Uneven Ground: Raising Environmental Justice Claims under Race Neutral Laws*, 45 Harvard Envt L.R. 295, 299 (2021).

²Jedediah Purdy, The Long Environmental Justice Movement, 44 Ecology L.Q. 809, 825 (2018).

³Pub. L. No. 91-190, 83 Stat. 852 (codified as amended at 42 U.S.C. §§ 4321–4347).

⁴The White House, Memorandum for the Heads of all Departments and Agencies, Re: Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Feb. 11, 1994).

⁵Wyatt G. Sassman, Community Empowerment in Decarbonization: NEPA’s Role, 96 Wash. L. Rev. 1511, 1516 (2021).

⁶Id. at 1517.

⁷NEPA Evaluation of Cultural Resources, Tribal Values, and Environmental Justice: Lessons from Standing Rock Indian Tribe, et al. v. U.S. Army Corps of Engineers and the Dakota Access Pipeline Controversy, 2017 No. 5 RMMLF-INST 13A, 13A-12, 13A-13 (Nov. 2, 2017).

⁸Id. at 13A-25.

⁹See e.g. Ellen M. Gilmer, *Dakota Access Pipeline Loses Appeal, Fueling Shutdown Fight*, Bloomberg Law (Jan. 26, 2021).

procedural violations. Even legal challenges seeking more searching environmental justice analysis have fallen short,¹⁰ much less providing environmental justice communities a tool to address environmental racism head-on. As stated in a recent article co-authored by Brenda Mallory, now chair of the White House Council on Environmental Quality Chair, and David Neal, a senior attorney at the Southern Environmental Law Center

any judicial victory under NEPA would at most require additional analyses or the consideration of alternatives, which can only indirectly lead to substantive relief. Environmental justice claims under NEPA, a race-neutral environmental law, are inherently process-oriented and are not a substitute for claims for substantive protections for communities of color that are threatened with new sources of industrial pollution or who have experienced disproportionate, cumulative pollution from existing sources.¹¹

The Clean Water and Clean Air Acts do not fill the substantive gap left by NEPA. As the EPA's Office of Inspector General stated in 2020, “[t]here is no precise threshold to determine when a community is overburdened[, which] means that it is often easier for a community that has seven facilities to get an eighth facility approved than for a community that has no existing facilities to get one approved.”¹² Limited as they are to establishing standards for and regulating individual pollutants, neither the Clean Air Act¹³ nor the Clean Water Act¹⁴ provide a mechanism to account for the cumulative impacts of multiple sources and uses of pollution on individual bodies and whole communities. These environmental statutes, along with the Resource Conservation and Recovery Act¹⁵ and others, operate under a “cooperative federalism framework”¹⁶ with implementation delegated to states—as with the Clean Air Act, through which federal agencies set “health-based standards, and the states determin[e] how to meet those standards[.]”¹⁷ However, federal delegation to states has not been paired with mechanisms to “compel or even strongly encourage state agencies” to proactively address environmental justice—as evidenced by the implementation of the Safe Drinking Water Act relative to “the circumstances that resulted in the contamination of Flint’s drinking water supply with lead.”¹⁸ Thus, environmental permits are routinely issued that allow regulated entities to increase levels of pollution without evaluating or accommodating adverse, cumulative, or disparate impacts on the surrounding community. Without federal statutory mandates designed to address these inequities, residents of environmental justice communities cannot even rely on citizen suit provisions provided for in many environmental statutes. The lack of air and water quality monitoring to understand baseline pollution levels in environmental justice communities only compounds the problem.¹⁹

The absence of explicit, substantive protections does not mean that federal agencies cannot or should not take affirmative steps to address the inequitable distribution of burdens and benefits that stem from environmental racism. In fact, since 1994, E.O. 12898 has mandated that federal agencies “identif[y] and address[. . .] disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations . . . to the greatest extent practicable and permitted by law.” Dr. Beverly Wright of the Deep South Center for Environmental Justice has described EO 12898 as “groundbreaking” yet “limited”²⁰—and the executive order

¹⁰ Mallory and Neal, *supra* n. 1 at 307.

¹¹ *Id.*

¹² Office of Inspector Gen., U.S. Envtl. Prot. Agency, Fiscal Year 2022 at 28 (Nov. 12, 2021) https://www.epa.gov/system/files/documents/2021-11/certified_epaoig_20211112-22-n-0004.pdf.

¹³ Marie L. Miranda et al., *Making the Environmental Justice Grade: The Relative Burden of Air Pollution Exposure in the United States*, 8 Int. J. Envt. Res. and Public Health, 1755, 1755 (2011).

¹⁴ 33 U.S.C. § 1251(a).

¹⁵ 42 U.S.C. § 6901 et seq.

¹⁶ Rachael E. Salcido, *Retooling Environmental Justice*, 39 UCLA J. Envtl. L. & Pol'y 1, 23–24 (2021).

¹⁷ *Id.*

¹⁸ David Konisky, “Flint, Federalism, and Environmental Justice in the United States,” MIT Press Blog (Feb. 16, 2016).

¹⁹ U.S. GAO, *Air Pollution: Opportunities to Better Sustain and Modernize the National Air Quality Monitoring System* (Nov. 12, 2020), <https://www.gao.gov/products/gao-21-38>.

²⁰ Adam Mahoney, *What Biden Could Learn From Bill Clinton’s Unfinished Work on Environmental Justice*, Grist (Feb. 24, 2021), <https://grist.org/politics/joe-biden-environmental-justice-executive-order-bill-clinton/>.

remains underenforced.²¹ Presidential administrations have made commitments to tackling environmental justice enforcement to varying degrees,²² with actions taken pursuant to executive orders²³ issued at the start of the Biden Administration a notable and holistic example.²⁴ In truth, however, even when administrations lean into every opportunity to address environmental racism, discretionary authority is time-limited.

Environmental justice protections remain easy to roll back²⁵ and even easier to ignore.²⁶ Addressing environmental racism requires legislation to convey to federal agencies, regulated industries, federal funding recipients, and affected communities a consistent understanding of expectations, obligations, and mechanisms for accountability and an unwavering national commitment to environmental justice.

Question 2. Why is it so important to make sure that the disparate environmental impacts experienced by communities of color are addressed through the amendments to the Civil Rights Act proposed by the Environmental Justice For All Act?

Answer. As stated in written testimony submitted for the February 15, 2022, hearing of the House Committee on Natural Resources regarding H.R. 2021, Environmental Justice for All Act, environmental justice communities have not been able to depend on civil rights enforcement by federal agencies to fill the gap in environmental law.²⁷

Title VI of the Civil Rights Act of 1964²⁸ prohibits recipients of federal funding from discrimination based on race, color, or national origin, either through intentional discrimination or through actions that, while neutral on their face, have a disproportionate and adverse impact. Title VI applies broadly to recipients of funding from the family of environmental, agricultural, natural resource, land management, energy, and disaster recovery agencies. As such, Title VI should be one of the most salient tools to remedy the harms created by racial segregation and prevent future injustice as we respond to the impacts of the climate crisis. However, the U.S. Supreme Court's decision in *Alexander v. Sandoval*²⁹ has barred any non-federal parties from bringing disparate impact lawsuits and placed enforcement against disparate impact discrimination solely in the hands of federal agencies.³⁰

²¹ See e.g. William C.C. Kemp-Neal J.D., Environmental Racism: Using Environmental Planning to Lift People Out of Poverty, and Re-Shape the Effects of Climate Change & Pollution in Communities of Color, 32 Fordham Envtl. L. Rev. 295, 320 (2021)(citing Sandra G. O'Neil, Superfund: Evaluating the Impact of Executive Order 12898, 115.7 Envtl. Health Perspectives 1087, 1089 (July 2007), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1913562>).

²² See e.g. Plan EJ 2014: Legal Tools, U.S. EPA (Sep. 2011), <https://www.epa.gov/sites/default/files/2015-02/documents/ej-legal-tools.pdf>; Technical Guidance for Assessing Environmental Justice in Regulatory Analysis, EPA (June 2016), https://www.epa.gov/sites/production/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.

²³ Exec. Order No. 13,985, 86 Fed. Reg. 7,009 (Jan. 20, 2021); Exec. Order No. 13990, 86 FR 7037 (Jan. 20, 2021); Exec. Order No. 14008, 86 FR 7619 (Jan. 20, 2021).

²⁴ See generally Federal Environmental Justice Tracker, Harvard Environmental & Energy Law Program (n.d.) (designed to provide up-to-date information on the Biden administration's environmental justice commitments, and progress made on those commitment).

²⁵ Amy Patronella & Saharra Griffin, *Communities of Color Bear the Brunt of Trump's Anti-Environmental Agenda*, Ctr. for Am. Progress (Feb. 27, 2020), <https://www.americanprogress.org/issues/green/news/2020/02/27/480820/communities-color-bear-brunt-trumps-anti-environmental-agenda/>.

²⁶ See e.g., José Toscano Bravo, Amy Laura Cahn, Jeannie Economos, and Rachel Stevens, Federal Dereliction of Duty: Environmental Racism Under Covid-19 (Sept. 2021), <https://www.vermontlaw.edu/sites/default/files/2021-08/Federal-Dereliction-of-Duty-Full-Report.pdf>.

²⁷ See, e.g., Deloitte Consulting LLP, Final Report: Evaluation of the EPA Office of Civil Rights (Order #EP10H002058) 1-2 (noting EPA's failure to "adequately adjudicate[] Title VI complaints . . . has exposed EPA's Civil Rights programs to significant consequences which have damaged its reputation internally and externally."); Kristen Lombardi et al., Environmental Justice Denied: Environmental Racism Persists, and the EPA is One Reason Why, Ctr. for Pub. Integrity, (2015) (noting EPA "the civil-rights office rarely closes investigations with formal sanctions or remedies," so EPA's Office of Civil Rights "appeared more ceremonial than meaningful, with communities left in the lurch."); U.S. Comm'n on Civil Rights, Environmental Justice: Examining the Environmental Protection Agency's Compliance and Enforcement of Title VI and Executive Order 12,898, at 2 (2016) ("U.S. Comm'n on Civil Rights Environmental Justice Report") ("The [United States Commission on Civil Rights], academics, environmental justice organizations, and news outlets have extensively criticized EPA's management and handling of its Title VI external compliance program."); see also Marianne Engelman Lado, *No More Excuses: Building A New Vision of Civil Rights Enforcement in the Context of Environmental Justice*, 29 U. Pa. J.L. & Soc. Change 281, 295-300 (2019).

²⁸ 42 U.S.C. § 2000d (1964) et seq.

²⁹ *Alexander v. Sandoval*, 532 U.S. 275, 292 (2001).

³⁰ *Id.* at 293.

Title VI mandates that every federal agency ensure compliance by its funding recipients and investigate complaints of discrimination, authorizing agencies to effectuate compliance by terminating or refusing grant funding or “any other means authorized by law.” In the absence of a private right of action, severe and long-standing deficiencies in civil rights enforcement and oversight have enabled funding recipients to permit the siting of waste and fossil fuel facilities and infrastructure that exacerbate racially disproportionate pollution burdens, approve transportation projects that split communities of color, and deny equitable participation of people with limited English proficiency in siting and permitting decisions.

Federal agency response to and resolution of complaints have historically been subject to delay, requiring litigation to enforce agency deadlines.³¹ Agencies, funding recipients, and the communities they are mandated to protect from discrimination lack comprehensive guidance on civil rights compliance.³² Complainants with first-hand knowledge have been systematically sidelined from the investigation and resolution of civil rights complaints.³³ Agencies that refuse to assert jurisdiction over complaints or make findings of discrimination, much less wield their power to withhold or delay funding, send a message to funding recipients that compliance is optional.

A 2019 comment letter to the U.S. Department of Housing and Urban Development (HUD) submitted by Earthjustice (2019 Earthjustice letter) on behalf of residents of Flint, Michigan, and Tallahassee and Uniontown, Alabama, among others, highlights mechanisms by which the U.S. Environmental Protection Agency (EPA) has circumvented Title VI enforcement.³⁴ The 2019 Earthjustice letter called attention to barriers to disparate impact claims brought by communities under Title VI to reveal the danger of an analogous approach promulgated under the Fair Housing Act by HUD under the Trump Administration.³⁵ The resultant lack of oversight over funding recipients, paired with a systematic marginalization of complainants from the investigation and resolution of complaints, has tangible impacts on environmental justice communities. As stated in the 2019 Earthjustice letter:

[T]he U.S. Government and experts have recognized that environmental discrimination is a significant problem in this country and has been for decades.³⁶ In recognition of that problem, EPA enacted regulations in 1973 codifying that discrimination can be proven through a disparate impact analysis. Those regulations provide that a recipient of federal funds may not directly or indirectly use criteria or methods of administering its program, or choose a site or location of a facility, that has “the effect” of excluding individuals, denying them benefits, or otherwise subjecting them to discrimination because of race, color, national origin, or sex.³⁷

Yet, EPA has woefully failed to hold recipients of federal funds accountable for discriminatory acts and policies, which has subjected the agency to repeated criticism from multiple sources.³⁸ For example, EPA’s Office of Civil Rights, now called the External Civil Rights Compliance Office, has rejected or dismissed a majority of the hundreds of Title VI complaints it

³¹ Court Declares that EPA Failed To Protect Civil Rights, Yale Law School (April 3, 2018) <https://law.yale.edu/yls-today/news/court-declares-epa-failed-protect-civil-rights>.

³² See generally Comment Letter: Environmental Justice and Civil Rights with Appendices to Administrator Regan (w/ Appendices) (Title VI Alliance, November 2021) <https://www.prrac.org/letter-to-administrator-regan-et-al-re-enviro-justice-and-civil-rights-with-appendices-11-24-21>.

³³ *Id.* at 15–16.

³⁴ See Attachment A, Letter from Earthjustice et al. to Office of General Counsel, U.S. Department of Housing and Urban Development, Re Docket No. FR-6251-P-01: Notice of Proposed Rulemaking: Reinstatement of HUD’s Discriminatory Effects Standard (Aug. 21, 2021).

³⁵ HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard, 84 Fed. Reg. 42,854 (proposed Aug. 19, 2019) (to be codified at 24 C.F.R. pt. 100).

³⁶ See generally Commission for Racial Justice, United Church of Christ, Toxic Wastes and Race in the United States: A National Report on the Racial and Socio-Economic Characteristics of Communities with Hazardous Waste Sites (1987); U.S. Gov’t Accounting Office, Siting of Hazardous Waste Landfills and Their Correlation with Race and Economic Status of Surrounding Communities (GAO/RCED-83-168), 3–4 (1983), <http://archive.gao.gov/d48t13/121648.pdf>; Mikati et al., *supra* note 22, at 480–85 (concluding that at local, state and national level, non-whites are burdened by environmental harms disproportionately to Whites). For an annotated bibliography of articles documenting environmental discrimination, see Luke W. Cole & Sheila R. Foster, *From The Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement*, 167–83 (2001).

³⁷ See 40 C.F.R. § 7.35(b), (c).

³⁸ See *supra* n. 27.

has received.³⁹ A 2015 Center for Public Integrity investigative study showed that even where there was a reason to believe a recipient of federal funding had a discriminatory policy, the Office of Civil Rights failed to conduct an investigation.⁴⁰

[O]ver time, EPA has informally applied needlessly heightened standards . . . when conducting a disparate impact analysis. As a result, . . . EPA has repeatedly concluded that no discrimination—or “insufficient evidence of discrimination”—exists under a disparate impact analysis in situations where a sensible and unencumbered application of the disparate impact standard would have led to the opposite conclusion. Indeed, in the 46 years since EPA’s Title VI anti-discrimination regulations became effective, EPA has only once concluded that a *prima facie* case of alleged discrimination under the disparate impact framework was established.⁴¹

The 2019 Earthjustice letter details EPA’s repeated failures to enforce the Title VI obligations of the Michigan Department of Environmental Quality [MDEQ], despite long-standing harmful conditions in Flint, Michigan:

As the recent lead-in-water crisis has brought into stark relief, the community of Flint, Michigan has long suffered from environmental and civil rights injustices. Flint is a majority African American community with a poverty rate nearly three times the national average, ranking near last in various public health metrics compared to other areas of Michigan.⁴² Decades of redlining, racially restrictive covenants, and harassment have led to the racially segregated Flint of today—the city has been labeled the most segregated non-Southern city in the country.⁴³

For decades, community activists have fought back against the disproportionate burdens that state permitting agencies have placed on the people of Flint.⁴⁴ In 1992, the St. Francis Prayer Center submitted a complaint to EPA, alleging that [MDEQ] violated the civil rights of the people of Flint in the permitting of a wood-burning incinerator in their community.⁴⁵ Just four years later, when MDEQ permitted another polluting facility in Flint—the *Select Steel* steel mill—the Prayer Center submitted another civil rights complaint to EPA contesting the disproportionate burdens faced by Flint residents.⁴⁶ While it took EPA just a few months to issue the findings of its investigation into the Select Steel complaint, EPA did not issue findings on the 1992 complaint until 2017—a quarter-century later. In both cases, EPA discounted allegations of disparate impacts under arbitrary standards . . .⁴⁷

³⁹ See U.S. Comm’n on Civil Rights Environmental Justice Report, *supra* note 27, at 40; see also Yue Qiu & Talia Buford, *Decades of Inaction*, Ctr. for Pub. Integrity (Aug. 3, 2015), <https://publicintegrity.org/environment/decades-of-inaction/>.

⁴⁰ U.S. Comm’n on Civil Rights Environmental Justice Report, *supra* note 27, at 40 (citing Kristen Lombardi et al., *Environmental Justice Denied: Environmental Racism Persists, and the EPA is One Reason Why*, Ctr for Pub. Integrity (2015), <http://www.publicintegrity.org/2015/08/03/17668/environmental-racism-persists-and-epa-one-reason-why>).

⁴¹ See Marianne Engelman Lado, *supra* note 27, at 303–05; Agreement between the California Department of Pesticide and Regulation & the U.S. EPA, Aug. 24, 2011, <https://www.epa.gov/sites/production/files/2016-04/documents/title6-settlement-agreement-signed.pdf>.

⁴² Flint Water Advisory Task Force, Final Report at 15 (Mar. 2016), https://www.michigan.gov/documents/snyder/FWATF_FINAL_REPORT_21March2016_517805_7.pdf (“Flint Water Advisory Task Force Final Report”).

⁴³ Peter J. Hammer, The Flint Water Crisis: History, Housing and Spatial-Structural Racism, Testimony Before Michigan Civil Rights Commission Hearing on Flint Water Crisis (July 14, 2016), https://www.michigan.gov/documents/mdcr/Hammer_PPt_for_MCRC_Flint_07-14-16_552224_7.pdf.

⁴⁴ See Emily L. Dawson, *Lessons Learned from Flint, Michigan: Managing Multiple Source Pollution in Urban Communities*, 26 Wm. & Mary Envtl. L. & Pol’y Rev. 367, 367 (2001).

⁴⁵ Letter from Father Phil Schmitter and Sister Joanne Chiaverini, St. Francis Prayer Center, to Mr. Valdas Adamkus, Regional Administrator, Region 5, U.S. EPA (Dec. 15, 1992) enclosing letters dated Dec. 15, 1992, to Mr. Herb Tate, Environmental Equity, US EPA and Mr. William Rosenberg, U.S. EPA.

⁴⁶ Letter from Father Phil Schmitter and Sister Joanne Chiaverini, St. Francis Prayer Center, to Ms. Diane E. Goode, Director, Office of Civil Rights, U.S. EPA (June 9, 1998).

⁴⁷ Letter from Lilian S. Dorka, Dir., External Civil Rights Compliance Office, U.S. EPA, to Heidi Grether, Dir., Michigan Department of Environmental Quality (Jan. 19, 2017), <https://www.epa.gov/sites/production/files/2017-01/documents/final-genesee-complaint-letter-to-director-grether-1-19-2017.pdf>; EPA, Office of Civil Rights, Investigative Report for Title VI Administrative Complaint File No. 5R-98-R5 (1998) (“Select Steel Investigative Report”).

[In *Select Steel*,] EPA recognized that the facility would emit pollutants such as lead and volatile organic compounds into the air, but nevertheless closed the complaint on the basis that the alleged harms were not sufficiently “adverse” because modeling showed that the airshed would remain in attainment with National Ambient Air Quality Standards.⁴⁸ Thus, EPA concluded, it need not review whether the effect of the siting was disparate because, in EPA’s eyes, the effect was insignificant—even though there is no safe level of lead exposure, and volatile organic compounds are also harmful. In essence, EPA determined that harm from pollution that was deemed “acceptable” under environmental laws categorically could not result in a violation of civil rights law.⁴⁹

Indeed, EPA’s injection of undefined “significance” into a disparate impact assessment can lead and has led to disastrous consequences. EPA’s *Select Steel* investigation found that in Genesee County, the county where Flint is located, 8% of children already had elevated blood lead levels (above the then-CDC level of 10 microg/dL) and that African-American children there were four times more likely to have very high blood lead levels (over 15 microg/dL) than white children,⁵⁰ making the addition of a known lead-emitting facility a source of dangerous impacts disparately suffered by the community. Yet EPA shrugged off the facility’s impact on blood lead levels as “de minimis.”⁵¹ So too did EPA disregard the lead emissions from the Genesee power plant, about which the community had complained starting in 1992. Decades later, the Flint Water Advisory Task Force found that MDEQ bore “primary responsibility” for the Flint Water Crisis that began in 2014 due, in part, to its “cultural shortcomings that prevent it from adequately serving and protecting the public health of Michigan residents.”⁵² Had EPA scrutinized—and potentially rectified—these “cultural shortcomings” of MDEQ in the 1990s, instead of letting them fester for decades, the Flint water crisis may have been abated or avoided.

[With respect to the 1992 permit hearings, EPA eventually found] that MDEQ had engaged in intentional discrimination in its handling of the 1992 permit hearings. But by the time EPA made this finding in 2017, it was too little too late, and EPA had long lost the opportunity to address the policies and practices of MDEQ that would eventually help cause the disastrous Flint water crisis.⁵³

EPA’s 2017 determination remains the agency’s only formal finding of discrimination to date. With this finding, EPA ordered MDEQ to (1) improve its public participation program to reduce risk of future disparate treatment, (2) improve its foundational non-discrimination program, and (3) establish an appropriate process to address environmental complaints.⁵⁴ Two additional Title VI complaints regarding public participation for permitting in Genesee County resulted in EPA entering into resolution agreements with both MDEQ—now the Michigan Department of Environment, Great Lakes, and Energy (“EGLE”)—and the county to ensure non-discriminatory public participation.⁵⁵

As evidenced in the context of a 2021 draft air permit for a hot mixed asphalt plant in Flint, Michigan, EGLE’s permitting processes still lack adequate public participation processes and remain deficient in the analysis of the permitting decision’s adverse impact on classes protected by Title VI.⁵⁶ Despite having the authority to undertake a cumulative risk assessment, and despite calls by the public and EPA

⁴⁸ See *Select Steel Investigative Report*, at 16.

⁴⁹ *Id.* at 27.

⁵⁰ *Select Steel Investigative Report*, at 32.

⁵¹ *Id.* at 31.

⁵² *Flint Water Advisory Task Force Final Report*, supra note 42, at 28.

⁵³ See Marianne Engelman Lado, *supra* n. 27 at 292.

⁵⁴ Talia Buford, *Rare Discrimination Finding by EPA Civil Rights Office*, The Center for Public Integrity (Jan. 25, 2017), <https://publicintegrity.org/environment/rare-discrimination-finding-by-epa-civil-rights-office/>.

⁵⁵ External Civil Rights Compliance Office., U.S. Envtl. Prot. Agency, In Reply to: Complaint No. 17RD-16-R5 (2019), https://www.epa.gov/sites/default/files/2019-12/documents/resolution_letter_and_agreement_for_complaint_17rd-16-r5.pdf.

⁵⁶ Mich. Dep’t of Env’t, Great Lakes, and Energy, *Proposed Project Summary: AJAX Materials Corporation—Flint, Genesee County, Michigan*, 1 (July 2021). <http://www.deq.state.mi.us/aps/downloads/permits/PubNotice/APP-2021-0019/APP-2021-0019PPS.pdf>.

Region 5 for such a study, EGLE has to date refused to do so.⁵⁷ This is not simply EGLE's failing; it is symptomatic of EPA's civil rights enforcement program.⁵⁸

The Earthjustice letter also profiles the impact of an "arbitrarily imposed[,] onerous[,] and ill-defined 'causality' requirement"⁵⁹ to disparate impact claims that has led the EPA to disregard legitimate allegations of the disproportionate impacts born by predominately Black communities in Uniontown and Tallassee, Alabama.

The 2019 Earthjustice letter illustrates the situation in Uniontown, Alabama, as follows:

Uniontown, Alabama, is a city of fewer than 3,000, where 88% of its residents are African American, and residents have a median household income of \$13,800.⁶⁰ Once thriving with local businesses, it is now known for its environmental contamination. A cheese plant, a catfish mill, and a sewage lagoon are all located nearby, but those sites are dwarfed by Arrowhead Landfill, a municipal solid waste landfill. Arrowhead, which sits on what was once a plantation, is authorized to receive up to 15,000 tons of commercial and industrial waste per day from 33 states. After the largest coal ash spill to date occurred in majority white Roane County, Tennessee in 2008, the coal ash was dredged up and shipped more than 300 miles and dumped at the Arrowhead Landfill. As a result, today the landfill site holds 4 million tons of this coal ash, whose contents contain toxins such as mercury and arsenic that are known to cause cancer, neurological damage, and other detrimental health effects . . .⁶¹

In 2013, dozens of residents of Uniontown, Alabama filed a complaint with EPA, alleging that the renewal of the permit [by the Alabama Department of Environmental Management (ADEM)] for the Arrowhead Landfill and the permit modification, allowing an increase of its size by two-thirds, adversely and disproportionately impacted the surrounding, primarily African American, community. Even before the expansion, the permit authorized 15,000 tons of waste per day, twice the amount permitted at the next largest landfill in Alabama at the time.⁶² And the landfill had already received and held 4 million tons of coal ash. The Complaint alleged impacts related to odors, increased population of flies and birds, increased noise from heavy machinery, increased emission of fugitive dust, illnesses, contaminated water, believed degradation of a community cemetery, and decline of property values, about which many community members had previously complained.⁶³

Residents had submitted a study showing health impacts, and the record contained evidence that there had been an increase in flies and birds. Even without such evidence, straightforward logic compels a conclusion that renewing (the equivalent of granting) a permit for an enormous landfill, containing toxic coal ash and other industrial waste, causes adverse harms to the surrounding community. And once a finding of disproportionate adverse impact is made, the question shifts to the justification for the action and whether there is a less discriminatory alternative for achieving the objective.

Yet EPA used the cloak of "causality" in 2018 to find no *prima facie* case of discrimination. EPA ignored record evidence by residents that there had been an increase in pests and a decrease in quality of life—which should

⁵⁷ U.S. Envtl. Prot. Agency, Detailed Permit Comments Ajax Materials Corporation PTI APP-2021-0019 (2021); Ron Fonger, EPA Recommends Further Study Before Genesee Township Asphalt Plant Gets Permit, Michigan Live (Sept. 16, 2021), <https://www.mlive.com/news/flint/2021/09/epa-recommends-further-study-before-genesee-township-asphalt-plant-gets-permit.html>.

⁵⁸ Office of Inspector Gen., U.S. Envtl. Prot. Agency, Report No. 20-E-0333, Improved EPA Oversight of Funding Recipients' Title VI Programs Could Prevent Discrimination (2020).

⁵⁹ 2019 Earthjustice Letter at 11.

⁶⁰ American Community Survey 5-year estimates from Census Reporter Profile Page for Uniontown, AL, U.S. Census Bureau (2017), <https://censusreporter.org/profiles/16000US0177904-uniontown-al/>.

⁶¹ See, e.g., Environmental Integrity Project, Coal's Poisonous Legacy: Groundwater Contaminated by Coal Ash Across the U.S., 9-11, (Mar. 4, 2019), <https://earthjustice.org/sites/default/files/files/National%20Coal%20Ash%20Report%203.4.19.pdf>; Kristen Lombardi, *Thirty Miles from Selma, a Different Kind of Civil Rights Struggle*, Ctr. for Public Integrity (Aug. 5, 2015), <https://publicintegrity.org/environment/thirty-miles-from-selma-a-different-kind-of-civil-rights-struggle/>.

⁶² Uniontown Complaint, at 7-8.

⁶³ Uniontown Complaint; Uniontown Closure Letter.

have been sufficient evidence of adverse harm on its own. And even though ADEM allowed Arrowhead to use “alternates” for daily cover of the landfill, such as coal ash, in violation of state law requiring soil cover, EPA concluded it was “unable to identify any functions” related to that decision that could result in the alleged increased populations of flies and birds . . .⁶⁴

At bottom, EPA indicated that the absence of “scientific proof of a direct link” compelled it to conclude that there was no evidence that [ADEM’s] permitting decisions caused any impact to the community. But the action of ADEM—approving the renewal and modification of the permit—clearly caused the adverse impacts; absent the permit, the facility would not be operating, or absent the permit terms ADEM had set, the facility would be operating with different conditions and requirements.

EPA’s determinations that causation could not be established with respect to other parts of the Uniontown complaint were similarly far-fetched. The complainants alleged that they believed the permits interfered with the ability of community members to visit the cemetery because of loud nearby equipment and an acrid odor.⁶⁵ EPA nonsensically determined that causation could not be established because the cemetery was not within the operational boundaries of the landfill. But sound and odor do not stop at operational boundaries. EPA further stated that it decided that “it would not investigate substantively the alleged harm of diminution of property values” and, as a result, concluded that there “is insufficient evidence in the record to suggest that ADEM’s permitting actions themselves resulted in a sufficiently significant harm with regard to property values.”⁶⁶ Of course, if an agency not only fails to recognize that the decision to permit the facility directly causes adverse impacts, but also refuses to investigate or consider evidence of an obvious harm, it can and will find no causation.

As outlined in the 2019 Earthjustice letter, EPA employed a similar approach in response to civil rights complaints filed by residents of Tallassee, Alabama:

Located just north of the civil rights landmarks of Tuskegee University, the majority African-American community members of Ashurst Bar/Smith outside of Tallassee, Alabama have lived off their land for generations, some owning property in the area since the end of the Civil War. This unbroken lineage of Black landownership makes Ashurst Bar/Smith unusual in the State, since many Black communities could not own land in Alabama until the passage of [Title VI].⁶⁷ But the ever-expanding Stone’s Throw Landfill immediately next to the community continues to displace community members and threatens to turn this historical community into yet another unfortunate example of black land loss.⁶⁸ The Ashurst Bar/Smith Community Organization (“ABSCO”) has fought against the expansion and negative impacts from the landfill at the local, county, and federal level. They submitted a civil rights complaint to EPA in 2003 concerning a permit modification that allowed further expansion of the landfill, but when EPA finally issued findings on its investigation in 2017, it disregarded the community’s disparate impact allegations . . .⁶⁹

In its closure letter, as it did with Uniontown, EPA systematically discounted the various harms alleged in the complaint under the assertion that there was “insufficient evidence in the record to show a causal link”

⁶⁴ Letter from Lilian S. Dorka, Dir., U.S. EPA, External Civil Rights Compliance Office, Office of Gen. Counsel, to Marianne Engelmann Lado, Yale Law Sch., Envtl. Justice Clinic 15 (Mar. 1, 2018).

⁶⁵ *Id.* at 16.

⁶⁶ *Id.* at 18.

⁶⁷ See, e.g., Roy W. Copeland, *In the Beginning: Origins of African American Real Property Ownership in the United States*, 44 J. Black Studies, 646, 646–47 (Oct. 2013).

⁶⁸ See Ctr. for Social Inclusion, *Regaining Ground: Cultivating Community Assets & Preserving Black Land* at 6 (2011), <http://www.centerforsocialinclusion.org/wp-content/uploads/2014/07/Regaining-Ground-Cultivating-Community-Assets-and-Preserving-Black-Land.pdf>.

⁶⁹ Letter, Tallassee Waste Disposal Center Expansion/Impact on the Ashurst Bar/Smith Community (Sept. 3, 2003) (sender and recipient redacted) (“Tallassee Complaint”) (attached to this letter as Attachment 3); Letter to Karen D. Higginbotham, Dir., U.S. EPA Office of Civil Rights (Dec. 8, 2003) (sender redacted); Letter from Lilian S. Dorka, Dir., External Civil Rights Compliance Office, U.S. EPA Office of Gen. Counsel, to Marianne Engelmann Lado et al., Visiting Clinical Professor of Law, Yale Law Sch. at 2–3 (Apr. 28, 2017), <https://www.epa.gov/sites/production/files/2017-05/documents/06r-03-r4closure recipient redacted.pdf> (“2017 Tallassee Closure Letter”).

between the permit modification and the alleged harm.⁷⁰ For example, the 2003 ABSCO complaint raised the “alternate” daily cover issue also raised in the Uniontown complaint: ABSCO alleged that ADEM’s grant of a waiver from the statutory requirement to use daily soil cover caused harm to the community by increasing exposure to rodents, wild dogs, and other pests, and the record contained evidence that community members had observed increases in these pests since the 2003 modification.⁷¹ EPA acknowledged that it was “possible” that the permit modification increased these pests, but, despite the record evidence and without further investigation, inexplicably concluded that it “could not establish a causal link between the 2003 permit modification and any changes in animal population numbers.”⁷² Yet after ABSCO filed a new Title VI complaint regarding ADEM’s renewal of the landfill’s permit in 2017, EPA did a more searching review and found that the evidence did “establish a causal connection” between the alleged harms stemming from the landfill’s failure to use proper daily soil cover, but EPA steadfastly refused to make a finding of disparate impact . . .⁷³

Residents of Uniontown and the Ashurst Bar/Smith community outside of Tallahassee continue to contend with the impacts of the Arrowhead and Stone’s Throw landfills, in combination with other challenges. A recent article co-authored by myself, Jan-Michael Archer, and Benjamin Eaton describes current conditions in Uniontown.

Residents worry daily about exposures to carcinogenic air pollutants such as particulate matter, nitrogen dioxide and lead, plus ammonia, hydrogen sulfide, volatile organic compounds and other hazardous air pollutants. They know that if the air smells bad, likely it is also bad for them to breathe. The water is bad, too. Studies have found lead and arsenic in Uniontown’s drinking water. It carries a foul aroma and causes rashes on peoples’ skin. Improperly treated sewage . . . enters nearby creeks from an outdated wastewater treatment system, as it has for decades. Community members endure a litany of health issues, and health care is hard to find from the few rural clinics available.⁷⁴

ABSCO President Ron Smith details current conditions for communities adjacent to the Stone’s Throw landfill in Tallahassee. Like Uniontown residents, residents of the Ashurst Bar-Smith community continue to experience cumulative impacts on health and welfare and a lack of enforcement by ADEM.

There is constant industrial traffic, day and night, and the school bus driver has for years had to take extra precautions for students entering the bus because the drivers ignore the bus stop signs. Nuisance animal populations are thriving and are a concern for safety, especially packs of wild dogs and coyotes, while vultures encircle resident homes and yards. Residents near the landfill complain of foul-smelling and ill-colored tap water and water from the tap is contaminated to the point that in one case it failed the test for use in home dialysis. Surface and ground waters have been contaminated and are currently impacting and threatening the health and welfare of 50,000 citizens in three counties. The air is unbearably foul, especially during adverse atmospheric conditions, causing respiratory problems and forcing families who can afford it to move off their land. Those who remain cannot enjoy their property. Overall, there is no monitoring of the community’s health or provisions for health care. Yet, when the community opposed the siting and/or expansion of the landfill in public

⁷⁰ Letter from Lilian S. Dorka, Dir. External Civil Rights Compliance Office, Office of Gen. Counsel, U.S. EPA, to Marianne Engelman Lado et al., Visiting Clinical Professor of Law, Yale Law Sch. (Apr. 28, 2017).

⁷¹ 2017 Tallahassee Closure Letter, *supra* note 35, at 11.

⁷² *Id.* at 11–12.

⁷³ Letter from Lilian S. Dorka, Dir., External Civil Rights Compliance Office, U.S. EPA Office of Gen. Counsel, to Marianne Engelman Lado et al., (Dec. 10, 2018) at 20. In its second analysis, EPA found that ADEM’s failure to adequately enforce daily cover requirements of the permit did cause harm, but nevertheless failed to find disproportionality based on a faulty analysis of only 3 of the state’s 32 municipal solid waste landfills. *Id.*

⁷⁴ Amy Laura Cahn, Jan-Michael Archer, and Benjamin Eaton, *Alabama Landfill Fight Tests EPA’s Enviro Justice Promises*, Law 360 (Feb. 15, 2020) <https://www.law360.com/articles/1465095/alabama-landfill-fight-tests-epa-s-enviro-justice-promises>.

hearings, responses from EPA funding recipient ADEM are sarcastically degrading.⁷⁵

The conditions described flow from a systematic failure to enforce Title VI. The impacts of the heightened standards imposed by EPA are exacerbated by the lack of rights of complainants from affected communities who are at best consulted and at worst sidelined to the point that investigations, resolution agreements, and remedies ignore community needs and lived realities—or there is no remedy at all. Sections 4, 5, and 6 of H.R. 2021 would restore the right of individuals to legally challenge discrimination—including environmental discrimination—prohibited under Title VI. This would restore to communities—and the courts—the power to ensure that discrimination does not occur without consequence.

The CHAIRMAN. Thank you. Let me thank all the witnesses for their thoughtful and informed testimony.

Let me begin the questioning. The Members are limited to 5 minutes, and we will begin with myself. I will turn to Mr. Stauber for his questions. Then we will alternate back and forth. Let me begin.

Dr. Sheats, one of the pushbacks in discussing the Environmental Justice For All Act or the topic in general is that this is not the time, that we should leave things as is because of the economy, jobs, national security, energy independence, economic growth; that all these supersede and need to be protected, so we leave things as is for EJ communities and frontline communities or we do nothing at all. That seems to be the tone.

Can you, Dr. Sheats, give some examples of economic consequences of continuing to burden environmental justice communities with the disproportionate share of our nation's pollution?

Those economic consequences don't get talked about, but please, if you don't mind, sir.

Dr. SHEATS. Well, I think you are right, Chair Grijalva. Those economic consequences are not discussed enough, and the consequences are the health consequences to the residents of people in communities of color and low-income communities.

And I think that being able to breathe without developing some life-threatening disease probably trumps everything else because if you are not around, if you are dead, or if you are ill all the time, nothing else matters too much.

So, what we have done so far, and you are talking about the associated economic consequences, is think about the pressure that ill people put on our health system and the cost of caring for these people.

Even though in our communities they tend not to have as much health care as in other communities, this is still imposing costs on our society.

Now, the ultimate costs are being borne by folks in these communities because they are the ones getting ill, and what we are saying is that these people should not be sacrificed anymore. It is not fair and it is unconscionable.

And I have to say I don't think there is a contradiction between trying to make people healthy and trying to improve our environment and economic growth. I think if you make communities

⁷⁵Email from Ron Smith to Amy Laura Cahn (Feb. 22, 2022).

healthier, you will find people and industry want to be in these communities more because they are good places to be.

Nobody wants to be somewhere where it is hard to breathe or where the water is contaminated, and we have clean industry now that can come into these communities and not increase pollution but that can improve the economic outlook of these communities and improve the economic outlook of our country.

The CHAIRMAN. Thank you.

Ms. Cahn, let me ask you about the ability to take legal action for communities, particularly around the issue of environmental justice that was lost to the *Alexander v. Sandoval* Supreme Court decision back in 2001.

Why is it important to restore the right to challenge disparate impact discrimination in court?

How effective have Federal agencies been in enforcing the prohibition against disparate impact relative to the issue of environmental justice and what the legislation attempts to address?

If you could, Ms. Cahn, if you could maybe speak to that point.

Ms. CAHN. Of course, and thank you so much.

In short, Federal agencies have not been responsive and not been effective in enforcing civil rights in the environmental justice context, and the barriers to that are numerous.

The response time and the resolution time—these complaints have been subject historically to delay and even requiring litigation to enforce agencies' own deadlines. Agencies and the funding recipients themselves in the communities they are mandated to protect lack guidance on civil rights compliance, and complainants, often the ones with the firsthand knowledge about the harms created by environmental discrimination, have been systemically sidelined from investigation and resolutions.

And then the resolutions themselves are often not enforced by the agencies who are funding recipients perpetuating discrimination.

So, barriers upon barriers stand in the way of communities seeking redress from the Federal agencies who are mandated to enforce Title VI.

The CHAIRMAN. Thank you very much.

And my time has expired.

Let me now recognize Mr. Stauber for 5 minutes, sir.

Mr. STAUBER. Thank you, Chair Grijalva, and thank you for the witnesses testifying today.

First, I want to yield 30 seconds back to the Chairman. I have a question.

Did you or your office send a letter to Secretary Haaland, urging her to suspend work on the master development plan for the Willow Project?

Mr. Chair?

The CHAIRMAN. I believe it was in discussion state, but if we did, it was in the context of—I believe that letter was either being developed or was already sent.

Mr. STAUBER. OK. My question then will be to Mayor Brower.

Mayor Brower, in the spirit of environmental justice and consultation, were you consulted on drafting that letter?

Mr. Brower, are you still with us, Mayor?

[No response.]

The CHAIRMAN. Can we move on to another witness? We can return as soon as the good Mayor is on.

Mr. STAUBER. My questions are to Mr. Brower. Is he on?

The CHAIRMAN. Mr. Brower?

Mr. Brower is available for your questions, Mr. Stauber.

Mr. STAUBER. Oh, he is. OK, good.

The CHAIRMAN. Mayor, you need to unmute your equipment there so that you can respond to Mr. Stauber's questions.

Mr. STAUBER. Boy, I cannot wait until we can meet in person.

Mr. Mayor, are you on?

The CHAIRMAN. He continues to be muted.

Mr. Mayor, you need to unmute so that we can continue.

Mr. STAUBER. Mr. Chair, do you have any Jeopardy music?

The CHAIRMAN. No. I mean, you just said earlier you are dying to see us in person. I don't know if I am ready for the full warm fuzzies, but you know, we will start to—

Mr. STAUBER. I always enjoy full meetings with you, Mr. Chair.

The CHAIRMAN. Mr. Stauber, I think the Mayor is available now if you would like to direct your question.

Mr. STAUBER. Great. Thank you.

Mayor Brower, I just want to say in the spirit of environmental justice and consultation, were you consulted on a drafting of a letter that requested the suspension of work on the master development plan for the Willow Project?

Mr. BROWER. No, we were not. North Slope Borough was not consulted.

Mr. STAUBER. So, you were not consulted on a project in your community.

Mayor Brower, you sent a letter to my colleague at the end of January calling on him to meet with you and the Indigenous Peoples of the North Slope of Alaska before taking the position.

Did that meeting take place?

Mr. BROWER. No.

Mr. STAUBER. Have you heard anything in response to your letter?

Mr. BROWER. Not at this time.

Mr. STAUBER. OK. Can you describe how the Willow Project will build on the economic development in your district?

Mr. BROWER. The benefits would be numerous to the income that would be generated from this project, and the items that I mentioned earlier in my comments in regard to the health communities, the fire departments, and the search and rescue that are within the North Slope Borough. Those kinds of benefits would be identified through the needs of the North Slope Borough.

Mr. STAUBER. In your testimony, would it be correct that you said 95 percent of your investments in your community are paid through the taxes of the oil and gas industry?

Mr. BROWER. Yes, you are right.

Mr. STAUBER. OK. And what would you say to those who claim to support Native consultation but pick and choose which projects to consult on and which people to be consulted?

Mr. BROWER. In regard to consultation, we made our attempts to invite the leaders of the Administration, the Biden administration,

to no results. We made attempts to identify that the potential processes that need to be identified were not.

Mr. STAUBER. Right. So, I want to be clear. You are the mayor of the community, the community in which the Willow Project will be put forward, and in the spirit of environmental justice and consultation, you as the community leader were never consulted on the project, on the master development plan for the Willow Project.

Mr. Chair, this is very concerning when we have folks coming up talking about environmental justice and consultation and you have a community that was never consulted on the master development plan for the Willow Project. It is very concerning.

I think it is kind of hypocritical that you can pick and choose who you consult with, and it is disappointing.

Mr. Chair, I yield back.

The CHAIRMAN. Thank you, Mr. Stauber.

There is no inconsistency in that letter and the Members who signed it, none whatsoever with this hearing. What reinforcement there is to re-enforce the National Environmental Policy Act, NEPA, and the Endangered Species Act, and the public process attended to that.

This was flawed from the beginning. To disclose the true impacts we were asking the Interior Department to do is a legitimate thing.

Mr. STAUBER. Mr. Chair, would you yield?

The CHAIRMAN. The community that you are referencing, sir, under NEPA has a full opportunity to be involved in that. So, this right of disclosure, this right of everybody knowing, this right of taking a flawed process, and saying this is the opportunity to correct that.

Mr. MCCLINTOCK. A point of order, Mr. Chairman.

The CHAIRMAN. There is no inconsistency.

Mr. STAUBER. On whose time is the Chairman speaking?

The CHAIRMAN. And the approval of a flawed process by anybody still does not take the importance of having full disclosure in the NEPA process. That is only fair.

Mr. STAUBER. Mr. Chair. May I respond, Mr. Chair?

The CHAIRMAN. Of course.

Mr. SABLAR. Chairman Grijalva, can we move on please?

Mr. STAUBER. The mayor of the community has said he was not consulted. The mayor of community in question, which is where the Willow Project will be taking place, and the investments in the community, was never consulted.

Mr. HUFFMAN. It was a letter.

Mr. STAUBER. That was my point of questioning. Never consulted.

And I yield back.

The CHAIRMAN. Thank you very much for that back-and-forth.

Let me now recognize Mrs. Napolitano for 5 minutes.

Representative, you are recognized.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

To Ms. Laura Cortez, I am close to east L.A., but can you speak more to the drinking water studies that your organization has led with members of the community?

Ms. CORTEZ. Sure. Thank you.

With our community, one of the big issues, I think, that I have learned with water quality—because I am also a community member who was completely unaware of some of the water issues happening in our hood—education is a big, big issue starting with the idea of understanding where your water comes from, how water is exploited from other areas and taken, a lot of times those are Indigenous communities whose water we are taking.

So, those are things that we learned together, and then understanding our water reports in terms of our water quality. I am not sure if any of you all look at your water reports, but they are very technical, very complex, and that is something that we learned as a community, want to understand the pollutants, the thresholds, how our notice is given.

Every city, every water company is completely different which creates a lot of complication in terms of being able to understand when there are issues and, therefore, advocate for improved water quality.

How can we advocate for something where the system is created so we do not understand them.

So, with that, we have been able to make collaborations with universities to be able to take community members to understand the process of what contaminants are in water, how they have health impacts, and how we can start advocating to that.

Is that the jurisdiction of a water company? Is that the jurisdiction that is a regional municipality?

We need to understand these different agencies, these different pollutants, these different health impacts, so that is something that we continue to work on with our community members from east L.A. down.

I know there was a recent policy that passed on PFAS, looking at some of our contaminants there, but there are so many, including lead, mercury, nickel, that are in our water that we need to continue to address.

Mrs. NAPOLITANO. Thank you very much.

I think you are doing well, but I think really we need to talk, Ms. Cortez. I am much versed on water, and I am sure that the water companies maybe need to have more information disseminated to the general public they serve because it behooves them.

Dr. Sheats, today too many environmental justice communities, especially tribal, live without safe and reliable water supplies and basic water infrastructure.

One of the barriers that has led to this historic inequity is the Federal funding. Can recent investments passed maybe remedy or try to remedy some of these issues?

Dr. SHEATS. Thank you for the question. I am not expert on water issues, but let me say this. I think that the Biden administration's initiative, Justice40 Initiative, really holds out some hope that benefits and investments leading to benefits will flow to communities to address all types of issues, including the water issue that you bring up.

So, hopefully, when this initiative is fully implemented, developed and implemented, communities that are suffering from lack of water quality or access to water will be helped through it.

Mrs. NAPOLITANO. Well, there are too many things that have bothered all of us that in the past we have ignored, such as all the illnesses that are borne in water and the air, and I think the environmental justice community has the right to bring them to court so that we can try to prevent them or remedy them with the pollutants and make sure that our communities are safe and safeguarded.

Mr. Chair, I yield back.

The CHAIRMAN. The gentlelady yields.

Let me now turn to the Dean of the House, Mr. Young. You are recognized, sir.

Mr. YOUNG. Mr. Chairman, thank you, and I hope you understand it is awfully early in the morning for the Mayor and myself. You guys have a nice, leisure morning. We have to be up at 4 a.m. to have this hearing. I just want to remind you of that. There is a little bit of a difference when we have these Zoom meetings.

But thank you for having the hearing and, Mr. Mayor, thank you for being here and for your testimony. I think it is crucially important to recognize that there is a pick and choose by certain people within the Congress when you take a listen to the one side and won't listen to the other side. Yet, you say you have consultation.

And for that, my opposite side of this, there is no consultation, the people in the area, especially the Willow Project and the North Slope. There is no consultation, Mr. Chairman, with all due respect.

Sent a letter? Big deal. You haven't sat down and talked to anybody. You haven't had a meeting with anybody. They have asked for a meeting, and I suggest respectfully if we are going to do this correctly, make sure you consult with everyone that are Indigenous people who are directly affected by actions of the Congress. I think that is very important.

Mr. Mayor, just out of curiosity, how much money do you think you have received?

And what have you used it for from the industry itself?

How has it affected your society up there?

Mr. BROWER. Thank you, Congressman Young.

It is near the \$400 million, and that is what we are banking on, the taxes that we receive from the industry. It is subject to the Borough's operations.

Mr. YOUNG. You have used it for water. We just heard about water, drinking potable water.

Mr. BROWER. Yes.

Mr. YOUNG. You have used it for waste.

Mr. BROWER. Yes, sir.

Mr. YOUNG. You have used it for education. You have done everything right with the money, and yet people say, "Oh, we are going to help the poor, the Indigenous people." Yet, they don't want you to receive the money. This is what I don't understand.

There is such hypocrisy here. There is no justice in this, and I do believe you have used the money correctly.

I go there. I know what I am talking about. I have seen the improvement over when I first went there back in the early 1960s. You didn't have a whole lot. You did have natural gas, which was good, but I do believe you handled this well.

You are still going half way on a subsistence livelihood. You are a whaling captain, are you not, Mr. Mayor?

Mr. BROWER. Yes, I am, Congressman. Thank you.

Mr. YOUNG. Did you have a strike this year?

Mr. BROWER. Yes, we landed a whale.

Mr. YOUNG. Good. That sounds good.

Well, anyway, Mr. Chairman, I understand these hearings. I just wish everybody would play on a level playing field. If we are going to talk about consultation and justice, even though you may disagree with them, you have to consult with them. That is the fairness doctrine. That goes for the whole Congress.

And if we are going to deal with people of Indigenous rank, do not pat them on the head and say we are going to take care of you and then take it away. That is wrong.

With that, I yield back.

The CHAIRMAN. Thank you, Mr. Young.

And we will have that opportunity, sir, and I take your recommendation seriously. We will have that opportunity when we talk about the RESPECT Act and all its ramifications and to the topic that we are talking about today.

So, I appreciate your comments and look forward to that discussion in the very near future.

Let me now turn to Mr. Cohen, Representative. You are recognized for 5 minutes.

Mr. COHEN. Thank you very much, Mr. Chairman and any members of the Committee that yielded to me because I have a packed day, and I am sure everybody else does, too, but it is a packed day, including a funeral. So, it is a busy, busy, packed day.

I want to thank you for having this hearing on this important subject. It is something that strikes close to my heart and to my community's. We have several African American inner-city communities that have been the site of much industrial pollution and industrial development over the years.

Recently, there was an attempt to put a pipeline from an oil company—

Mr. STAUBER. Mr. Chair, excuse me. Somebody has to mute. Somebody is interrupting our speaker.

The CHAIRMAN. I think it is the Mayor. If somebody would communicate that. I had to ask him to unmute this time. So, if somebody would advise the Mayor to mute, I would appreciate that.

Mr. Cohen, please continue. I am sorry.

Mr. COHEN. Thank you, Mr. Chair.

And thank you, Mr. Stauber for making note of that.

They tried to put a pipeline through a minority community, and they had the nerve to say it was the path of least resistance, the least resistance because the poor community, which happens to be African American, which had been used for so many years as places where industrial sites located that put off lots of pollutants, and that community or those communities had four times the cancer rates of anyplace else in the city.

They had not had the voices to stand up. This year, in what was an historic moment with the grassroots support plus Vice President Gore who got involved and my office and others, this pipeline did not go through. It was stopped, and that was wonderful.

But normally that doesn't happen, and industrial pollutants go to places of least resistance, just like was said in that situation.

There was a Senator I served with, a Republican Senator in Tennessee, a State Senator named Donovan, a fine gentleman, and he told me, which was nothing unique, the NIMBY statement, "not in my backyard." And that is where I learned it.

Every place, they don't want it in their back yard, and the powerful people, the wealthy people, the people that have voices because of political contributions or other powers that they might have to extend benefits on elected officials either during or after office, they don't get the pollutants in those areas in their neighborhoods because they have a stronger voice. And it has gone on forever.

So, we need to have this environmental justice for the future and to make up somewhat for the past, so I appreciate this hearing.

Let me ask first—Dr. Sheats, and I appreciate your testimony, the Byhalia Pipeline was a prime example of cumulative impact. Were this to be built, communities that were already at greater health risk would have had one more potential source of pollutants. How would this bill have affected the cumulative impact of projects?

Dr. SHEATS. Well, I think it would be subjected to a cumulative impacts review, application for the permit, and if that review showed that the cumulative impact, standard and the EJ For All Act, that if due to cumulative impacts there is not a reasonable certainty of no harm to the community in which a facility or pipeline would go through, if there is not a reasonable certainty of no harm, then the application would be denied. So, there is a level of protection there through cumulative impact analysis.

Mr. COHEN. And have you seen a history of pollutant plants that emit pollutants, oil or other industrial types, being put in minority communities, both White and Black, throughout this country?

Dr. SHEATS. Well, there is, and those are the studies I referred to, yes, there is a history of all types of polluting facilities being disproportionately sited in communities of color, and not just poor communities of color, in communities of color and low-income communities of all colors, so including low-income White communities. There is a history of that.

Mr. COHEN. Thank you, sir.

Ms. Cahn, you are an expert on environmental justice in the context of civil rights law. Can you provide a real-world example of how the current application of the Civil Rights Act of 1964 under the Supreme Court *Sandoval* decision does not fully protect the rights of communities suffering from discrimination?

Ms. CAHN. Yes. Thank you for this opportunity in 43 seconds.

I spoke of the communities in Uniontown and Tallassee, Alabama in particular, both of whom have gone on more than one occasion to the EPA filing civil rights complaints about the disproportionate impact of the siting of those landfills on those historically Black communities.

In particular, the Uniontown landfill holds 4 billion tons of coal ash that actually were carted in from a disaster outside of the state and is now impacting that community in a negative way, along

with a cheese plant, a catfish plant, and a whole host of issues related to insufficient water and sanitation services.

So, the community itself is dealing with its own set of cumulative impacts and has failed to get redress from EPA by filing complaints.

Mr. COHEN. Thank you, Ms. Cahn.

Thank you to all of the members of the Committee that allowed me to go a little early. We will submit the remainder of our questions in writing.

Thank you, Mr. Chairman, and I yield back.

The CHAIRMAN. I appreciate it, Mr. Cohen. Thank you.

Let me now recognize Representative McClintock.

Sir, you are recognized for 5 minutes.

Mr. MCCLINTOCK. Thank you, Chairman.

I have to admit that I joined this hearing largely out of curiosity over how the leftist Majority can turn anything, even natural resources policy, into a racial issue.

The fact is the American people of all races, ethnicities, religions, and origins have suffered severely over the last year because of leftist policies that are driving the most alarming increase in crime and homelessness wherever they have taken control, reckless spending that is driving the worst inflation Americans have suffered in 40 years, mass migration across our borders that threatens the prosperity, the social services, and the safety of every community in our country.

And when it comes to the subject matter of this Committee, their foolish policies have also done enormous damage to the quality of life of Americans when it comes to resources policy.

Think about this. The first day the left took control of the White House, Mr. Biden canceled the Keystone Pipeline, sending thousands of workers into unemployment. It denied the American economy some 600,000 barrels of crude oil a day coming into American energy markets. He ordered a halt to oil and gas leases on Federal land. He suspended oil drilling leases in Alaska.

In the last years of the Trump administration, we had achieved something that all of us thought was impossible during most of our lifetimes. We had achieved American energy independence, including some of the lowest energy prices in decades.

The Democrats managed to reverse that achievement in a matter of months. Oil prices increased 69 percent last year, gasoline prices up nearly 40 percent, and this bill would add still more cost to American energy production, ultimately paid by Americans at the gas pump and in their skyrocketing utility bills.

In his opening statement, Mr. Stauber complained that local gasoline is going for, I believe he said \$3.66 a gallon. I would invite him to come here to California where leftist policies have already pushed the average gasoline price across California today to \$4.70 a gallon.

I might also touch on the tolls on our forests here in the Sierra Nevada. It has been taken by years of leftist environmental prohibitions of forest management, prohibitions that have resulted in catastrophic overgrowth of our forests.

The price of lumber hit an all-time high in May of last year. That drives higher housing costs, while our Federal forests are effectively abandoned to neglect and catastrophic fire.

Meanwhile, America has become the second largest importer of lumber in the world, including \$4.5 billion of imported lumber from Canada, while our forests sit idle.

These conditions are the stark and unmistakable effect of the resources policies that the left has imposed on our economy. The suffering they impose affect every race, every community, and every family in our country, but none suffer the resulting increases in energy prices, housing prices, and transport prices more than the poor, regardless of their race or where they happen to live.

I would suggest that maybe, just maybe, we ought to be focusing on these policies before they do more harm to every American of every race.

As this hearing makes crystal clear, the Democrats seem to be incapable of doing so because they are unable to see beyond a person's race. How sad, how sad for them and how sad for our country.

I yield back.

The CHAIRMAN. The gentleman yields.

I would agree with Mr. McClintock. I think that the issue of race and economic status should not be a criterion for having to legislate, but when it is a factor in how decisions are made, then we need to correct that imbalance and make it not about race.

Again, that is where I think legislation like the one before us, Mr. McClintock, has to play a role because powerful decisions involve race and the corrective action involves a protection so that it is not about race.

But having said that, let me yield to you, sir, because I took time and that is not fair. Mr. McClintock?

Mr. MCCLINTOCK. Well, I have nothing more to say, Mr. Chairman. The facts speak for themselves very clearly. The American people can see that very clearly. They are feeling it every day as they go to the gas station, as they pay their utility bills, as they search for affordable housing.

These policies are driving terrible suffering across the land. Please stop it.

The CHAIRMAN. Thank you, Mr. McClintock.

On that note, let me now turn to the gentleman from California, Mr. Costa. You are recognized for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman, and thank you for holding this hearing. I think it is important.

I would like to focus on two areas, on water in rural areas in America, and I will draw on some examples, my home where I have lived all my life and grown up out on a farm and depended on well water for our supply.

Senator Padilla and I worked very hard on the bipartisan infrastructure package to ensure that we had money for clean drinking water. We have communities like Alpaugh and Fairmead. They aren't towns, but they don't have the wherewithal, the resources to implement the level of clean drinking water that they need and deserve.

There are others, many communities that make up the valley that have similar situations. Small towns like Dos Palos, we are helping them with USDA and the State and they have a little better situation.

But how do you see communities throughout rural America benefiting with the great social and economic disparities from this \$52 billion for clean drinking water?

I don't know if, Laura Cortez, you would like to speak to that or Laura Cahn.

Ms. CORTEZ. Yes, I can share briefly. Thank you for that question, Representative.

I do not live in a rural area. So, I will start there, and I do not know where you are living, so I am learning a lot, and I appreciate that.

I think one of the opportunities that I see that I think does not get highlighted enough during this hearing so far is the idea of we are opening doors for alternative and sustainable energy.

That is the idea when we are talking about a just and fair transition. So, when we talk about the rural areas, I hope, we can look at different areas of exploring more sustainable, healthier ways to do this work.

I think although this is not directly related to water—

Mr. COSTA. Right, and you are talking about energy, and I appreciate that, but I am talking about water here.

I want to defer to the Chairman, but let me just make a personal comment. Just as important as clean drinking water is to these rural communities so is a water supply for these rural communities that produce food. I have had significant drought conditions right now and in the past, but we have had 30, 40 percent, as much as half the communities unemployed because of a zero water allocation.

And water is critical to our production of food. It is a national security issue, and I think that needs to be taken into account, the same in terms of the economic and social disparities that occur.

Mr. Chairman, I will defer and allow you the balance of my 2 minutes.

The CHAIRMAN. Thank you very much.

Dr. Sheats, to just follow up on some things. Do you think EJ communities might benefit if the Federal agencies did NEPA reviews for federally permitted or funded projects that are currently right now exempt from that NEPA review?

Would that be a benefit to include those for EJ communities?

And I think the corollary question is, if Federal agents were directed to choose a course of action under NEPA that avoids further harm to overburdened EJ communities. Those are currently not part of that process, and I just want to ask you your reaction to that.

Dr. SHEATS. I think communities would benefit if they could weigh in on infrastructure decisions that currently they cannot weigh in on. After all, you are talking about structures or activities that will be in their communities for decades and have an impact on their communities.

So, certainly they should be allowed to voice their opinion on these types of projects.

And I think the whole process would be better, the projects would be better, if they are allowed to weigh in because they know their communities best. They know what will impact their communities the most so they can make the best suggestions on how to mitigate any harms that the project might cause.

The CHAIRMAN. And the question, Ms. Cortez, one of the things that you have heard at the hearing, and we hear all the time, is that we hear the refrain that stronger environmental protections for all communities are going to kill jobs, they are going to inflict economic harm.

Is that a choice we have, the choice being economic prosperity and continuing to burden EJ communities with a higher share of our nation's pollution and the damaging public health effects by that?

How do you respond to that refrain?

Ms. CORTEZ. Yes, I think it is really narrow-minded to think about jobs only, particularly when we are working those jobs also, right? So, it is really important to know that in my community, as an example, we have folks who are truck drivers, who are port workers, who do work in these refineries, who are our families and our neighbors, who are having the health issues.

Most of them understand that, but risk that because of a job. And in talking to these folks, it is very clearly understood that if there was an alternative, that we would love to transition to that alternative.

The CHAIRMAN. Thank you very much.

Ms. CORTEZ. Yes, thank you.

The CHAIRMAN. I have run out of time, and I apologize, but I don't know if we are going to have a second round or not. It depends on the will of the Committee.

But let me now turn to the gentleman from Louisiana, Mr. Graves, whom I recognize for 5 minutes.

Mr. GRAVES. Thank you, Mr. Chairman.

I want to thank the witnesses for joining today.

Ms. Cortez, I appreciate your testimony about the NEPA process and the documents being 5,000 pages in some cases and that just not being helpful because nobody has the time or expertise to sit around and read that type of documentation.

Do you think that that results in a better outcome for the environment when you have documents that like that effectively serve as an impediment for public participation or understanding?

Ms. CORTEZ. Yes, thank you for that question.

One of the big issues is not that the document is so big, because we think the studies are needed, but that they are difficult to understand, that there is no support to be able to analyze these things with community.

And, oftentimes, in my community they are done as a check box. It is done, put it out, 30 days, close it up, with no expectation or outreach to community to be able to really understand and weigh in on that analysis.

Mr. GRAVES. Thank you.

And look, I agree with you that I think that the NEPA process is very difficult to participate in and digest, and we actually have legislation trying to help to fix that.

Ms. Cahn, your testimony points to a NAACP document, "Fumes Across the Fence Line," and it says that more than a million people live within a half mile of natural gas facilities.

Can you provide a little more context for this statistic?

And what is that, sort of in relation to the overall population living within that radius?

Ms. CAHN. Thank you for that question. I appreciate it.

I would say as a starting point, I think that the study stands for itself. But I'm happy to supply a written response that puts that—

Mr. GRAVES. OK. I would appreciate that, Ms. Cahn, and I would like to put a little bit more detail in there because I think that it potentially was a bit misleading.

Nationally, about 2 percent of the population living within a half mile of all the gas facilities are African American. In my home state of Louisiana, it is about 5 percent.

So, I think it is important to put that in context because—and, Mr. Chairman, I have to tell you this is, once again, incredibly disappointing by sort of the disposition of this hearing, that everything is being done because folks are intentionally trying to discriminate against a certain population.

I don't buy it. I haven't done the math. I am going to take a quick guess that I am in the top three of every single person on this Zoom right now or Webex right now that have a higher number or percentage of African Americans living within a mile away.

From where I live, I will bet you that I have more oil and gas and chemical facilities within a few miles from my house than anybody else here.

I don't believe that I am being discriminated against.

Somebody was talking earlier about Virginia and six to seven facilities that are easier to permit than another one. Let me tell you why there are so many facilities where I live. I am at the bottom of the Mississippi River. It is one of the easiest ways, the safest ways to transport goods, so people want to be by the river. That is why they are here.

We also have a lot of the raw materials, resources, and energy supplies. That is why they are here. It is not an intent to discriminate against certain people.

If you want to talk about discrimination, let's do that, Mr. Chairman. My home state of Louisiana, we have lost 2,000 square miles of our coast, and as the last hearing I participated in, you had somebody try to come in and say that offshore oil and gas production was discriminatory when the facts showed that the closest community, Grand Isle, was .9 percent African American, .9.

People come and make up all of this stuff about racism. Yes, we have lost 2,000 square miles of our coast, and this Committee, in fact, Mr. Chairman, you yourself along with all of the other Democrats on the Committee have opposed efforts to try to protect these communities.

Is that discrimination because we are Cajun? I don't understand.

And I think it is a total disservice for all of you to be here suggesting that all of this is being done intentionally because folks are racist. I don't believe that. I don't, and I don't think it is good for our country to keep driving this wedge.

There are problems, yes. There are environmental problems, absolutely. There are racial problems. There are economic problems. Let's just be candid and address those and stop all of this driving divisiveness in this country and in this Committee and trying to force people to believe that they are discriminated against.

Like I said, I have more chemical, oil, and gas plants within a few miles of my house than any of you, and I am not out here yelling about discrimination. There is a fit there. I chose to live here.

Mr. Chairman, I am going to follow up with a number of questions for the record, but I think it is just dangerous trajectory for us to continue to force this conspiracy of racism on all of these decisions. It is not going to yield results.

Let's work on things that will actually solve problems for communities of color, for economically distressed communities and others and stop voting against trying to protect and sustain the people that we represent in South Louisiana like you have all done.

It is just disingenuous to hear you sit here and act like there are suddenly problems for other communities.

I yield back.

The CHAIRMAN. The gentleman yields.

Let me now turn to the original co-sponsor of this legislation and a partner for about 2 years-plus in bringing this legislation together through a long process.

With the indulgence of others and to be fair, I am going to extend Mr. McEachin's time as I recognize him so that if there is a concern, we can balance that extension to the other side at any point.

Let me now recognize Mr. McEachin. Representative, you are recognized for I will not give you a magic minute, but at least 10 minutes, I guess.

Mr. McEACHIN. I will try not to use all the time. Thank you, Mr. Chairman. I appreciate the Committee's indulgence, and I appreciate the opportunity to work with you these past few years on this very important legislation.

I will say to the previous speaker that he hit the nail right on the head. He chooses to live where he lives. He has the resources to move or not move. In many cases, individuals who are in EJ communities don't have those resources, don't have those opportunities, don't have those choices, and that is the concern we have.

And look. Whether he wants to believe it is intentional or not intentional, we don't have to delve into that debate. What is, is. These communities exist. They are uniform in that they are discriminated against from the standpoint that they are disenfranchised, poor, Indigenous, brown, or African American.

Now, again, whether it is intentional or not is not the point. The point is what are we going to do as a country, as a nation, to lift these communities up, to empower them to fix their problems and to move our country forward.

So, with that, Mr. Chairman, again, I thank you for the opportunity to have worked with you. I have to tell you that when I was listening to the Ranking Member say all the bad things about our legislation, I kept waiting for him to introduce his legislation that would help this problem.

He seems to acknowledge the problem, but yet he does not seem to want to put forth an amendment or his own piece of legislation to fix this problem, and I find that discouraging, to say the least.

Mr. Chairman, I would like to start off with—I hope I am pronouncing her last name correctly—Ms. Cahn at the Vermont Law School.

You have a clinic, I believe, and you have a case in that clinic called CARE v. EPA. Can you just briefly tell us about that? Because I have a question about that case. Just tell us a little bit about what that case is about, please.

Ms. CAHN. Absolutely. That case was brought by Earthjustice and first the Yale Law Clinic and then the Vermont Law School Environmental Justice Clinic on behalf of communities in Flint, Michigan, in Tallahassee, Alabama, and in New Mexico, California, Texas, and also on behalf of the National Sierra Club.

And that case was a case of the undue delay by EPA in responding to Title VI complaints, complaints filed with EPA asking them to enforce the civil rights obligations of their funding recipients, and these complaints languished all for over a decade in spite of EPA's own regulations setting strict timelines for response and resolution of those complaints.

Mr. McEACHIN. Let me ask you this. One of the great complaints that the other side seems to have about this legislation is that it will encourage litigation, you know, the same old song and dance.

I want to ask you how could greater enforcement of the civil rights provisions under the EJ For All Act have prevented this court case?

Ms. CAHN. Well, this was actually the second case raising this question of undue delay. So, in terms of the judicial inefficiency and drawing this out and the cost, had EPA followed its own regulations from the outset and been responsive and continued to address its backlog of complaints and address them directly in collaboration with the complainants themselves responding to community needs, litigation and two lawsuits would not have been necessary.

Mr. McEACHIN. Interesting. I thank you for that.

Dr. Sheats, let me turn to you now, sir. And first of all, thank you for the honor of having worked with you over these past couple of years on this legislation. Your expertise has been foundational to this bill.

The COVID-19 pandemic has highlighted so many health disparities in the United States. Can you explain how cumulative pollution, the burden of cumulative pollution may have led to some of the health care disparities that we have seen throughout the pandemic?

Dr. SHEATS. Yes. Thanks for the question, Representative McEachin. Good to see you again.

I think, if I have time to say it fully, but I think COVID-19 is an example of what we are talking about with cumulative impacts.

The EJ community has said for a while that our communities, the EJ communities, are vulnerable to environmental and health threats that are coming to our country, and with COVID-19, we see that air pollution increases the death rate and we see that it has

been tied to race, that there are higher death rates in communities of color and low-income communities due to COVID.

So, when I gave the definition of cumulative impacts, you see here both parts of it, the connection to air pollution and connection to social vulnerabilities in our society. COVID-19 unfortunately demonstrates both of those and demonstrates cumulative impacts.

Mr. MCEACHIN. Thank you for your answer.

Can you take a moment if you can and illustrate how taking into account the cumulative impacts in permitting decisions would impact our communities, that is, our EJ communities?

Dr. SHEATS. Well, I think right now one of the main problems is you don't take into account pollution. You don't take into account pollution across different types of pollutants. You have the individual standard, and if that standard is not violated, then the permit goes forward.

But it is not taking into account the mixture of pollution in our communities, and when you breathe in air, you don't just breathe in one pollutant and it goes through a partition in your lungs. It all mixes in your lungs and can have detrimental health impacts.

But the laws and regulations don't take into account that total super pollution that exists in the neighborhood. So, cumulative impact analysis would and should take that into account.

Mr. MCEACHIN. Thank you, sir.

And, finally, I will turn to Ms. Cortez and just ask you, ma'am, in thinking about NEPA, how would the EJ For All Act help shift and enhance public engagement?

Ms. CORTEZ. Yes, being able to have longer periods for community engagement and intentional community engagement, which is what this policy outlines is critical and will be critical to making sure it is not just a check off on the list, making sure that community is fully aware of what is happening.

The rest of the work we learn how to do. Fortunately and unfortunately, we are super adaptable. For example, at East Yard, we have community committees who do not have technical expertise who learn to read EIRs, who learn how to put public comments, who learn how to put written comments together for the record.

We can do that work. It is very possible. It is just very difficult to do within a very short timeline and without ensuring that everything is also included in these impacts, because when we are just looking at one impact or another, it also does not benefit us when we are experiencing a very different reality than what is stated in this document.

So, there are a few ways in terms of outreach, engagement, timing that NEPA would support or this policy would support with NEPA.

Mr. MCEACHIN. Thank you, ma'am.

Mr. Chairman, I appreciate your indulgence as well as the indulgence of the Committee. I apologize for trespassing on your time, and I yield back.

The CHAIRMAN. Always a gentleman, Mr. McEachin, but this is your work as well, and I want to thank you for that.

Let me now recognize the gentlelady. Mrs. Radewagen, you are recognized for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. Talofa lava. I want to thank you, Mr. Chairman, and the Ranking Member for holding this important hearing on this very important legislation.

At this time, I would like to yield to Ranking Member Stauber. Thank you, Mr. Chairman.

Mr. STAUBER. Thank you very much.

I just want to, if I may, I want to talk a little bit about what Congressman Young had spoken about earlier about the importance of getting all people involved, whether you agree with our position or not.

The Willow Project, Mr. Mayor stated he was not consulted, and I think he was not consulted as Congressman Young rightfully said. The position was not in line with some of my colleagues on the other side of the aisle.

The hypocrisy here on this particular project is astounding because of not having consultation, suspend the management plan put forward on the Willow Project.

Ninety-five percent of the monies going into this community come from revenues from oil and gas. Where else are they going to get that?

And these are able bodied workers wanting to work, wanting to live where they live, and there is no consultation because the folks that are intending to do it don't support the project or rather don't support the community.

The community has stated they want this project to go forward the right way, but if there is no consultation. Mr. Chair, it is hypocrisy.

For me, we talk about economic justice. What will face communities and the good paying jobs that are going to come there with the best environmental standards?

What about the investment that these levies and taxes bring to the community? Ninety-five percent of this community's revenues are because of the oil and gas industry, and the Mayor has stated to all of us they want to be a part, they want this project to go forward.

Yet, they are not consulted. I think the hypocrisy here, we have brought it up enough. I think it is shown outright, and it is unacceptable.

Economic justice as my good friend from Louisiana just said, what about his constituents? What about allowing them to have good paying jobs?

And, yes, I will bring it right back to mining. You talk about economic justice in breathing air. We mine in Minnesota to the cleanest, best environmental standards and the best labor standards.

Yet, members of this Committee will not let us mine in Northern Minnesota. The biggest copper-nickel find in North America, yet they are OK with buying Chinese minerals mined by child slave labor to this country.

Where is the economic justice there? Where is the economic justice for my constituents in northeastern Minnesota to mine these products, strategic national security minerals?

Yet, many of my colleagues on the other side of the aisle on this Committee refuse to acknowledge we have an opportunity to do it

right, and one of the witnesses, the gentleman, said we all breathe this air. Absolutely. So, is it OK to allow China to pollute our air and then still buy these critical minerals from them?

The answer is no.

The gentleman is right. The jet stream carries that stuff across the world, yet we are allowing it to happen.

Every single member of this Committee when it had a resolution that said the United States will not buy minerals from foreign countries where the critical minerals have been mined by child slave labor, every single Member on the Democratic side of this Committee voted against it. I never thought child slave labor was a partisan issue.

I think we have an opportunity here to do what is right, and economic justice means justice for those members who live in the community, and they ought to be consulted.

I yield back.

The CHAIRMAN. The gentleman yields.

Let me recognize Mr. Sablan. Sir, you are recognized for 5 minutes.

Mr. SABLAM. Yes, thank you. Thank you, Mr. Chairman, for holding this hearing, and I would like to say welcome to our witnesses.

I know that the Dean of the House told the Committee earlier that it was a little early in Alaska where he was, and I think it was, but this hearing started at 1 a.m., Mr. Chairman, and I have another hearing following.

But let me ask a question, and this may get me in trouble, but let me just think aloud and ask Ms. Cortez and Ms. Cahn to please tell me if the commodity, water, is part of the environmental justice agenda, I guess, since water over time has been taken.

It is a public commodity. You know, it is water. It is ground-water. It is a public commodity, and yet water continues to be converted into a private commodity. They take water out from the ground and put it in a bottle and sell it to us.

So, Ms. Cortez, in as short a time as you can, please give me some ideas of your thoughts. Give me some of your thoughts on this issue.

Ms. CORTEZ. Yes, thank you for that. At East Yard, we definitely are working on water from an education and policy beginning perspective. We fully believe that appropriating water is not sustainable. We cannot continue to steal water, so it is really important that we learn to conserve water.

Some of the things that we are doing is making sure that we are investing in education and also support letters and anything else we can do to make sure that we are retaining as much water that we can from different sources, including like rainwater.

We have a big project actually that is less than a block from my house. It is like a 200,000 gallon, a huge gallon situation, under a park to conserve water. So, these are the types of efforts that we know that we need to be able to not focus on stealing water from other areas.

Mr. SABLAM. All right. Thank you.

Ms. Cahn, can you tell me what is the situation where we give people permission to go out, dig a well, suck up all the water that

a whole community needs and uses, then package that into these kinds of bottles, then sell it right back to the community, and then they leave poison out there.

Is this an issue that we should all be looking at?

Ms. CAHN. This is absolutely the issue of water rights and clean drinking water, and access to clean drinking water is absolutely an issue of environmental justice and environmental racism.

I would say I think about water as part of the public trust that we need to be conserving and ensuring that communities have equitable access to.

And the privatization causes enormous concern, and then if you layer on top of that the denial of access to clean drinking water for communities like Flint, or of the one intentional discrimination case we know, the Holt case in Tennessee, where a White community was given access to clean water and the Black community was explicitly denied.

Those are situations in which the only option becomes buying water and relying on private resources, and the cost of that is insurmountable.

Mr. SABLAR. Yes, thank you.

Ms. CAHN. So, I think it absolutely is an issue of environmental justice.

Mr. SABLAR. My time is up.

Ms. Cahn, just one question again. The Insular Areas, the United States Insular Areas, sometimes called outlying areas, territories, including my district, the Northern Mariana Islands, have long borne the brunt of the most damaging effects of climate change, and yet our natural resources have been underfunded, over-exploited for a long time.

How does chronic underfunding in the Insular Areas and environmental justice communities make these commodities more susceptible to climate change impacts?

Ms. CAHN. Well, I think this is all rooted in historic disinvestment which layers burdens on top of burdens, and I think about, in particular, maybe a slightly different community, but a community that I know quite well in Eastwick in Philadelphia, which took Federal resources to displace about 8,000 people from 2,300 acres of land and built in an urban renewal community on top of the floodplain.

That community is now dealing with chronic stormwater issues, catastrophic flooding, and is adjacent to a Superfund site, while over many, many years that community was both disinvested and disenfranchised from the decisions that affected residents' lives.

So, all of these can come together to make communities more vulnerable.

Mr. SABLAR. All right. Thank you, Ms. Cahn.

Chairman Grijalva, thank you for this hearing. I need to run off to another hearing, but I appreciate that you——

The CHAIRMAN. 1 a.m., Mr. Sablan?

Mr. SABLAR. Yes. This is how loyal I am to the Chairman of the Natural Resources Committee.

The CHAIRMAN. Please allow me to thank you. I do not feel anywhere the guilt that I should feel now for my good friend from

Alaska, given the torture that we put you through. Thank you very much, Mr. Sablan.

Mr. SABLAR. Oh, see, I enjoy this Committee. Thank you very much, and everyone have a good morning.

The CHAIRMAN. Let me now recognize Representative Tiffany for 5 minutes.

Sir.

Mr. TIFFANY. Thank you, Chair Grijalva. I appreciate it very much.

Mayor Brower, I am going to have a question for you in about 2 minutes.

But first, Mr. Sheats, I have a couple of quick questions. Have there been improvements in emissions that have been done over the last few decades into the environment into America?

Dr. SHEATS. There have been improvements, but there are also areas where there are multiple sources of pollution where we need to improve further.

Mr. TIFFANY. So, do you think, just for the record, sulphur dioxide, nitrous oxide, many of those pollutants like that are down like 80, 90 percent. We really should also recognize the improvements. There is further to go, but we should recognize those improvements.

Should we recognize cumulative impacts? The life expectancy of an American back at the turn of the century in 1900 was about in the low 50s, and 1 in 10 children died as babies.

Should we consider the improvements that we have made when discussing cumulative impacts?

Dr. SHEATS. Well, I think you have to consider the disparities, and I think even though we have made improvements, I think all of us would say that it is still unfair that some people don't live as long as other people.

Mr. TIFFANY. Do you personally have an objection to North Slope drilling for oil, that local community we have been hearing from, Mayor Brower?

Dr. SHEATS. I don't know that case at all, so I am not going to comment on that.

Mr. TIFFANY. Ms. Cahn, we have been hearing about how a number of the very rich environmental NGOs have been taking foreign money. Does your organization take any money from foreign interests?

Ms. CAHN. I work for the Vermont Law School, and to be perfectly honest, I would have to consult with the administration to understand the larger funding landscape. But I am happily able to supply a written response.

Mr. TIFFANY. Oh, that would be terrific. So, that is all publicly available information, I take it. Is that right?

Ms. CAHN. I actually would have to consult with the administration and supply you with a written response.

Mr. TIFFANY. That would be terrific.

Mayor Brower, I hope we have you aboard here. You commented earlier about outside groups speaking for your tribe in Northern Alaska. Could you expound on that a little bit more?

What was going on there?

Mr. BROWER. Thank you. An important question. This is Mayor Brower. I hope you can hear me.

In my comments, I indicated we have not had any consultation, but there have been other groups of people trying to speak for us, our region, to indicate that they were in opposition to the activity in regard to Willow and oil and gas operations on the North Slope.

Mr. TIFFANY. And, Mayor, do you believe that they received or that their voices were heard, and yours was not, by the Federal Government?

Mr. BROWER. It really reflects that. There has been very little consultation, if any at all. There were comments and staff folks that came to Alaska to discuss subject matter, but then there was no real determination one way or the other.

Mr. TIFFANY. Mayor, thank you so much for joining us today. I appreciate those answers.

So, let's sum this up here. Here we have an effort to take away local control, and we have wealthy environmental groups that want to advance the green fantasy on America where we are only going to run on windmills and solar panels, when we should have an all of the above approach in terms of producing energy.

We are taking away local control here from this tribe in Northern Alaska. We are not considering cumulative impacts, including improvements that we have made as Americans.

Do we have or can we do better? Can there be improvements? Absolutely, but we should also recognize where we came from and those things that we are doing better.

And, to me, there are no boutique slices of justice. Calling it environmental justice, I mean, should we have economic justice, food justice, recreational justice? What other types of justice should we have?

In America there is only justice, and it is really unfortunate that we see this trying to divide Americans based on something like this rather than us all working together.

Finally, I would say here in Northern Wisconsin people of all socioeconomic backgrounds, including the poor, they are paying twice as much for their energy this year. They are paying twice as much to fill their propane tank. They are paying significantly more for their natural gas bill if that is what they are heating with.

That is what is happening, and this Committee is taking us down that road. How can there be justice, including if you subscribe to this notion of environmental justice, if poor people have to pay more for their energy costs and they cannot spend it on other things that are more important to them, like their children, their health care, or whatever the case may be?

I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields. Let me now turn to, I believe it is Ms. DeGette; no, Ms. McCollum, sorry. You are recognized for 5 minutes.

Thank you.

Ms. MCCOLLUM. Thank you, Mr. Chair. I look forward to hearing from the gentlewoman from Colorado as well.

Thank you for holding this hearing. Representative McEachin, thank you for your work on this issue. The Environmental Justice For All Act will take critical steps to address disproportionate

environmental and public health issues in low-income communities and communities of color.

Environmental justice for me though doesn't mean just correcting those exposures to toxic pollution that the communities face. EJ communities also lack equitable resources to positively change their conditions and improve opportunities to invest in their future. Nationwide, the poorest communities have 41 percent less tree cover—yes, I am going to talk about trees for a minute—than the wealthiest neighborhoods do because that is important to air quality. Neighborhoods with the majority of people of color have 33 percent less tree canopy than the majority White communities, and in Minnesota, tree canopy also helps with energy costs.

Frogtown is a neighborhood in St. Paul. I am going to bring it on home as many of the others have done it. It is a historically red-line community, and like many communities, it experienced higher rates of pollution in part because of a freeway that was forced into this community that brought pollution along with it.

So, this community experiences higher rates of health issues that are negative. One example would be asthma.

So, Frogtown, the neighborhood I am going to talk about, has a neighborhood campaign, and it is working to change the tree canopy issue. I am proud to have supported their work in the Frogtown Park and Farm, a group that has planted over 500 trees in this neighborhood.

So, equal access to an urban canopy, equal access to green space, equal access to community gardens makes EJ communities more resilient to rising temperatures and improves overall community health.

There are so many opportunities to get this right. I gave one example, increasing an urban canopy. Facilitating new green jobs is also another thing we can do. Working toward a green infrastructure is another opportunity.

I believe we can use the model of EJ For All to act to build on equitable access and to support new legislative efforts as well. An example I have is the Mississippi River Restoration and the Resilience Initiative Act. I incorporated and put in set-asides dedicated to support and ensure environmental justice communities have equal access to changing their future.

The Bipartisan Infrastructure Law that we just passed is also making important investments to remove lead lines and clean up PFAS in EJ communities.

Progress is the result of listening and working with advocates, such as many of the people who have testified to this Committee and the people who are testifying today, and listening to community members who are directly impacted by the harm that has been caused in the past.

So, I want to thank our witnesses today, and I have two questions, but I am going to ask you to submit them in writing to the Committee.

Ms. Cortez, could you please tell us more about some of the EJ communities and how they are typically challenged in getting access to Federal funding to improve their own environmental conditions and build green infrastructure, and how the EJ For All Act will help us in that effort, if you would do that?

And then, Dr. Sheats, I am going to turn to a different topic and ask you to respond, and we will get to these questions in writing to both of you.

Your testimony notes that there has been a cumulative impact of pollutants which has been a difficult problem to solve, especially when it is associated with race and income.

So, I would like you to maybe help us understand a little more by answering the question in full later on to the Committee. With the research that you have done to highlight this issue, what can we do at a Federal level to help combat these disproportionate exposures to all of these multiple different types of pollution found in low-income communities and communities of color?

Because the disparity issue is also an issue of accumulative pollutants and exposure over generations.

Thank you all for your testimony, and I look forward to the Committee receiving the response to my written questions that will be submitted through the Committee.

Thank you.

The CHAIRMAN. Thank you very much.

The gentlelady yields back.

Let me recognize Mr. Rosendale. You are recognized for 5 minutes.

Mr. ROSENDALE. Thank you, Mr. Chair.

And, Mayor Brower, just to get you on the batter's deck, I am going to be going to you as soon as I complete this short statement.

There has been a lot of talk today about environmental justice, but I don't think my colleagues on the other side of the aisle realize the extent of the economic injustice these policies will have.

Many of the provisions of this bill will create new and burdensome regulations causing more litigation, longer permitting times, and less economic development.

In Montana, traditional energy and coal is crucial to many of our small communities. Take the Crow Tribe, for example. For 46 years, they have leased their coal reserves, the Westmoreland Mining, which operates the Absaloka Mine in southeastern Montana.

In the last two decades, this partnership has generated more than \$325 million in taxes and royalties which play a vital role for the Crow Tribe funding the tribal government, providing essential services, and supporting tribal members with per capita royalty payments.

The Absaloka Mine also generates opportunity. It employs dozens of tribal members providing good paying jobs to workers and economic stability for their families. In fact, in 2021, 59 percent of Absaloka Mine employees were Crow Tribe members.

This partnership between the Crow Tribe and Westmoreland Mining empowers tribal members to provide brighter futures for themselves and for their families.

Mr. Brower, partnerships like these are not just unique to Montana. Can you describe the economic benefits that the Northern Petroleum Reserve Alaska provided and what subsequently happened in the North Slope due to Federal intervention?

Mr. BROWER. Thanks for the question, and I think it is very important to reflect on the positive outcomes that time, but in

terms of the loss of services that that generates from the reduction of production and taxation to the North Slope Borough, we as a Borough start thinking of going through budget cuts, as we are doing right now.

We are just getting into our budget cycle, and it impacts the whole North Slope Borough. It is not just one community. It is all eight communities across the North Slope that are impacted from determinations of this type.

We have to think of what is happening for the next 2 to 3 years in terms of our operations and revenues that continue to decline.

When thoughts of higher costs for expenses of resources, we pay \$5.75 a gallon, \$5.95 a gallon for gas, and then a 100-pound bottle of propane is nearly \$500 and that only lasts a month.

And these kinds of jobs that were being provided by Westmoreland Fee and Gas Industry Operations now are diminishing because of the actions that this Administration has taken.

I hope it will help me identify the questions you are posing.

Mr. ROSENDALE. Sure, and I want to go a little bit farther. We have seen time and time again this Administration has ignored the voices of those who they claim to represent, whether it is the communities of North Slope or the hundreds of thousands of Montanans who would have greatly benefited from the Keystone XL Pipeline.

So, I want to reiterate a quote that we heard earlier in the hearing of last year, and that is, "no decisions about us, without us."

In regard to the Willow Project, did anyone consult you or your community members before making these decisions? And do you feel like justice has been served?

Mr. BROWER. I would say no. What was out there, determinations were made that we were provided information just the fact that this Administration has taken. So, the immediate answer is no, there was no real consultation.

Mr. ROSENDALE. In your opinion, was there adequate safeguards in place to develop these resources safely and in a manner to have a positive impact on your community?

Mr. BROWER. I think it took several years of communication through the NEPA process interactions with several of our villages hosting meetings in villages, reviewing the documents of the environmental impact statements and such to the Willow Project. It took several years. It just didn't happen overnight.

So, yes, there was interaction between the industry, the Federal Government representatives, and the North Slope Borough in making these determinations.

Mr. ROSENDALE. Thank you very much for joining us, Mayor Brower.

Mr. Chair, I see that my time has expired. I would yield back.

The CHAIRMAN. Thank you. The gentleman yields.

And let me recognize Mr. Huffman. Mr. Chairman, you are recognized.

Mr. HUFFMAN. Thank you, Mr. Chairman.

Several of our GOP colleagues are incredulous that Democrats see racial impacts in the way our environmental policy has worked

for most of our history and they want us to stop talking so much about race and disparate impacts and environmental justice and just keep doing the same old things the same old way.

I could not disagree more, Mr. Chairman. How can we not see the racism even if some of it is not overt or intentional? The disproportionate impacts are so obvious. How can we not talk honestly about that and work to do more to end it?

That is what you and Mr. McEachin are doing with this bill and, Mr. Chairman, I am proud to support you.

The story of economic development for most of our country's history is that people with money and power who were always White did what they wanted, and the impacts were born by people without money and power who were generally Black, Brown, and Indigenous.

And a great example is in my district. We are rich in Indigenous culture in the 2nd District in California, and tribes and other partners have been working for decades to remove four obsolete hydro dams on the Lower Klamath River.

When these dams were built, nobody bothered to talk to downstream tribes or fishing communities. The bedrock environmental laws that our Republican friends continually mock and deride as creating litigation, well, they would have given tribes in downstream communities a voice, but they didn't exist when these dams were built.

So, for decades the Yurok, Karuk, and Hoopa Tribes along downstream fishing communities suffered terrible impacts, lost salmon habitat, badly degraded water quality that causes parasites and disease to ravage the salmon population, closing entire fisheries, devastating their economies and way of life.

The environmental laws that we began passing in the 1970s finally gave people like this a voice. But as we have heard from the Ranking Member and so many other colleagues across the aisle, when minority communities use environmental laws to challenge projects that would harm them with pollution and other impacts, they are derided as litigious.

I have to admire the clarity of what seems to be the Republican EJ policy. Whenever tribal or minority voices conflict with something the fossil fuel or mining industries want to do, like the many tribes who opposed Keystone XL, the Dakota Access Pipeline, other destructive fossil fuel projects, the policy is to just ignore them, steamroll them, ridicule them as litigious.

But when they can find a tribal or minority voice that supports a drilling or a mining project, they temporarily become interested in environmental justice.

Now, Mr. Chairman, the Gwich'in people and other Indigenous people in the North Slope would tell you a very different story about oil and gas development in Arctic Alaska than what we have heard today from the Republican side. There is no question the voices of fossil fuel advocates were heard by the Trump administration when they fast tracked drilling projects.

But other voices were not heard, and that is the problem. I agree with my colleague Don Young. We should not pick and choose, but that means EJ voices should be heard and considered even when they conflict with powerful polluting industries, even when they

don't get piles of money from the fossil fuel industry, even when they struggle to find the resources to engage in something like a NEPA process.

And that is why your bill, Mr. Chairman, is so important, as well as the Biden administration's Justice40 Initiative. With a whole bunch of Federal infrastructure funding we have an opportunity right now to get this right, in the context of building the infrastructure of the 21st century.

So, Dr. Sheats, I just want to ask you how can the Justice40 Initiative ensure a fair distribution of Federal resources to communities that have been historically left behind.

Dr. SHEATS. Well, I think we are going to have to—and you have been talking about it, you have all been talking about it—ensure the local communities have a say in where the benefits from Justice40 activities we are talking about, where the benefits and the funding go.

I think in each case we are going to have to set up some system where local residents, local community groups, local EJ groups, local citizens have a say in that and actually provide guidance.

Mr. HUFFMAN. Anything more the Federal Government can do to ensure that tribes and other EJ communities have the resources and support they need to take advantage of these opportunities?

Dr. SHEATS. Well, just what you said. I know you want more details, but even that and what you said is kind of a novel idea, that the Federal Government should take steps to ensure that the groups on the ground, including Indigenous groups and tribes, have the capacity to be part of the implementation and the decision making in these instances.

So, we have to find ways to do that through grants and other mechanisms to do that.

Mr. HUFFMAN. It is an important part of the Chairman's bill.

With that, I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir.

The gentleman yields.

Let me recognize Mr. Obernolte. Sir, you are recognized for 5 minutes.

Mr. OBERNOLTE. Thank you, Mr. Chairman.

And thank you to our witnesses for what has been a fascinating hearing.

Mayor Brower, I found your testimony very poignant. The bill that we are considering today would make projects like the energy exploration that is permitted in your community substantially more difficult, more costly, and would lead to fewer of them.

You had testified that about 95 percent of the Borough's revenue comes from the royalties on these kinds of projects. Can you talk to us just a little bit about the impacts on your community if you didn't have that revenue?

Mr. BROWER. Thank you. Yes, in regard to the 95 percent tax revenue that supports the Borough, Congressman, taxation of oil and gas companies within our region. The revenue supports health clinics, schools, tribal college, water and sewer infrastructure, and fire department, search and rescue. These are essential services that we identify with that are needed within our communities within the North Slope region.

It is something that we have to hold high standards for to provide services and the need and we welcome the taxation to the oil industry for the services it provides across the North Slope.

Without it, we would be in a world of hurt today.

Mr. OBERNOLTE. Right.

Mr. BROWER. You know, we are very fortunate we have two communities that are on natural gas. The rest are utilizing the diesel fuel that serves these smaller communities.

Mr. OBERNOLTE. Right.

Mr. BROWER. And that is something that we need to continue to communicate.

Thank you.

Mr. OBERNOLTE. Thank you, Mayor Brower.

Ms. Cortez, I had a question for you. In your testimony, you called the effects of the pollution in your community environmental racism, and we just heard Mayor Brower talk about the disastrous impacts that denying that community the ability to profit from the resources adjacent to their community would have on things like their drinking water and their health care.

And, of course, the Mayor represents one of the most marginalized communities in the country.

How would denying them the ability to do that not also be environmental racism?

Ms. CORTEZ. Yes, thank you for that question because I think, I don't know too much about Alaska, but in hearing a lot of how investing in fossil fuels is a leading driver of our economy, these are some of the issues of what we have here in Los Angeles. We are an urban economy. We are driven by these fossil fuel investments. And for us, it is very marked, and we stand very firmly that this is not sustainable. It doesn't matter if you can extract these fossil fuels. It doesn't matter if we can get jobs off of them if we are going to die, if my lungs are being actively impacted daily.

So, does it matter at the end of the day? Yes. Does money matter? Yes. We live in a capitalist society. I understand that. We are not foolish to think that this is an overnight response.

What is important to know is that we need investments now to transition to alternative jobs, to alternative energy sources so that Alaska, Los Angeles, and across the nation we don't have to rely on these things. And that starts through Federal policy, that starts through Federal investment.

Mr. OBERNOLTE. Right. I think that is highlighting something that we are all in furious agreement in here, and we have kind of had a fascinating discussion this morning about this term "environmental racism." I think Congressman Graves pointed out the fact that to have racism you have to have intentionality because it is discrimination against a marginalized community.

And then Congressman McEachin was talking about, well, it really doesn't matter if it is intentional, what matters is the effects on these communities.

And I strongly agree with both of those gentlemen, and I wish that we could have a more frank discussion about that term "racism" when we use it because I think it distracts from our shared goal of solving these problems for these communities. That is the important thing.

And when we use words like "racism" I think it distracts away from that goal, but I want to thank all of our witnesses for what has been a fascinating discussion, and I hope this kind of moves the conversation further.

I yield back, Mr. Chair.

The CHAIRMAN. The gentleman yields. Thank you.

Mr. Lowenthal is recognized for 5 minutes. Chairman.

Dr. LOWENTHAL. Thank you, Mr. Chair.

And I am glad also that we have come together to discuss this critically important issue.

I remembered as I was beginning to prepare for this when I first ran for office 30 years ago for City Council in the city of Long Beach. And I walked my district, and as I got close to the district that encompasses the southern part of the 710 freeway and the Port of Long Beach and adjacent, also did not include but it was obviously the adjacent Port of L.A. was backed up right to my district.

And as I walked and I got closer and closer to the port area and to the 710, more and more people said as I was coming to tell them why I was running for office, more and more people said, "Alan, that is really interesting why you are doing that. But can you tell me what is this black soot in the window?"

And as I got closer to the port they would talk more about that black soot, and they would ask me, "Does it really have an effect? My kids have asthma. What is all of this all about?"

So, I had become more and more aware as I studied what that black soot was that certain communities in Long Beach that were near this tremendous industrial complex of our ports and freeways suffered much greater from black soot than more suburban communities.

And I know there is no quick fix to fixing this, but it has been 30 years and these communities are still suffering even though we have made some giant steps and taken some steps.

I want to thank the Chair and also Mr. McEachin for their leadership on the Environmental Justice For All Act, and I appreciate the dedication of everyone on this Committee to talking about solutions because I think whatever terminology you want to use, I think both sides of the aisle have agreed that there are some communities that are paying a much greater price for the economic development in this country than other communities, and those communities tend to be low-income communities, frequently first generation communities, immigrant communities, and also people who have not been allowed or have not historically engaged in the economic development of this country.

My first question is to Ms. Cortez. Over the years, I have been very impressed and grateful to the leadership of East Yard Communities for Environmental Justice. But I would like you, who have been out there in the field, on the streets, to tell me more about the environmental injustice that my community suffers on the West Side of Long Beach.

Can you talk more about the very specifics that people who grow up near the ports, near the 710 freeway, like yourself?

What is that experience like?

Ms. CORTEZ. Yes, I appreciate that question because it allows folks to visualize what we may or may not see. I think it is really important to know that specifically, although Long Beach is huge, but specifically the West Side of Long Beach is actually divided. It is on the other side of the 710 freeway. And that is a marker, folks hear, "the other side of the train tracks." These are things that are systemic, but they have huge impacts in terms of place relations to pollution and race.

And I understand folks not wanting to bring race into this conversation, but folks who live in the West Side of Long Beach, it is not the same demographics that live in East Long Beach. It is not the same demographic that lives in other areas.

So, with West Long Beach it is primarily immigrant. It is primarily Black, Indigenous, people of color. There are a range of folks. There are also White folks there, but a majority of folks are Black, Indigenous, people of color. In West Side specifically, we have a small terminus freeway that is specifically created for trucks. There is the 710 freeway, which I mentioned sees 40,000 to 60,000 truck trips daily because it is very close to the port complex, which is a port complex that sees 40 percent of all goods that come into this country come through those ports, right off the 710 freeway to get to the railyards.

There is also right now a proposed new railyard development, a new intermodal facility being proposed right next to West Long Beach, so it is really important to look at these are the cumulative impacts that we are talking about that are not being addressed in any policy right now, but that could be addressed with this new policy.

Dr. LOWENTHAL. Thank you.

My time is up, and just before I leave, I also want to talk about—I remember having a community meeting in one of the homes on the West Side, and the health director of Long Beach said, "If you were born on the west side of Long Beach, your life expectancy is 10 to 15 years less than the life expectancy of someone who is born out on the east side."

I yield back.

The CHAIRMAN. Let me recognize Mr. Bentz.

Representative, you are recognized for 5 minutes, sir.

Mr. BENTZ. Thank you, Mr. Chair, and thanks everyone for a most interesting conversation. I have some questions for Professor Cahn.

And I want to start by asking if the Constitution as currently written contains a right for those important things such as clean air, clean water, so forth that are found in this bill.

Does our Constitution contain a specific right to enjoy those benefits?

Ms. CAHN. Our Federal Constitution does not. There are actually increasing numbers of state constitutions who have established a right to a healthy environment or a right to clean air and water, including New York being the most recent.

Mr. BENTZ. Thank you.

And as I understood it, it was about three states, but I am sorry, I just looked at it this morning. There could be more.

The second question, does, in your opinion, this bill create those rights specifically in the findings and then in the second portion of the bill?

So, does this bill create those rights?

Ms. CAHN. This bill creates very clear environmental justice protections and that demand action on the part of the Federal Government through amendments to NEPA, through amendments to the Clean Air Act and the Clean Water Act, as well as by restoring the private cause of action under Title VI of the Civil Rights Act of 1964.

Mr. BENTZ. I am just looking at page 4, Subsection 9. It reads, "All people have the right to breathe clean air, drink clean water, live free of dangerous levels of toxic pollution, and share the benefits of a prosperous and vibrant pollution-free economy."

And then later on, there are instructions to agencies, even more direct than that. So, it would appear to me that there is something being created. It is not a right. It certainly is a basis for a lawsuit, would you not agree?

Ms. CAHN. I would have to really think through the strategy on that, but I do see the bill as really strengthening the rights of the communities who have historically been disproportionately impacted by environmental and climate burdens and creating opportunities for environmental benefits and climate solutions.

Mr. BENTZ. All right. Well, I don't think I would have gotten away with that answer when I was going to law school, but of course, I was going to Lewis and Clark in Portland, not to Vermont.

And, by the way, you guys have a great environmental program there. So, I think we are constantly trading places with you as to who is ranked No. 1 in the nation.

Ms. CAHN. I can answer that question, yes.

Mr. BENTZ. In any event, I read it as giving rights to folks and thus lawyers will be ecstatic should this bill pass, and particularly with the last right that is suggested here, which is to "share in the benefits of a prosperous and vibrant pollution-free economy."

Well, that sounds pretty broad. What happens if I go in and say, "Hey, I don't have as much value. I don't have the economic benefit."

Does this bill give us, the lawyers, the right to argue that if someone doesn't have as much money as somebody else, we can use this bill to suggest that we should be equal on that basis too? We should all have the same amount of economic benefit. Is that what this bill does?

Ms. CAHN. Well, I think this bill is intended to provide benefits to communities who have been historically disinvested, and there is actually an economic benefit for our country at large when we do that, when we support and improve health outcomes in communities where those outcomes have been disproportionately burdened. Then there is actually going to be an economic benefit to everyone.

Mr. BENTZ. It seems to me that what this does is throw to the courts the definition of extent and scope of whatever it is this bill says it is doing, which I think is wrong, and the bill should be far more clear in that which it is trying to achieve.

The environmental injustice, although this bill appears to be directed toward communities of color and other minorities, I would suggest it is broader than that, and those in Oregon along the West Coast suffering from smoke inhalation from the fires that in large part are created by the failure to allow us to go in and try to reduce fuel loads.

It looks to me like this bill gives all kinds of folks the right to bring action against whoever it is that is preventing us from getting in and protecting ourselves from that type of future.

Mr. Chair, this is an extraordinarily interesting bill, I think one that deserves a lot more work before we turn the trial lawyers of America loose utilizing it to do God knows what.

With that, Mr. Chair, I yield back.

The CHAIRMAN. The gentleman yields. Thank you.

Let me recognize the Chair of the Subcommittee, Ms. Leger Fernández. Representative, you are recognized.

Ms. LEGER FERNÁNDEZ. Thank you so much, Chair Grijalva.

And I want to begin my comments focusing on the fact that this bill is called the Environmental Justice, right? That we are focused on making sure that everybody has justice in the same sense of access to that clean air, access to economic opportunities that don't come at the expense of somebody else's health.

And I wanted to ask a bit of questioning on the concept of the disparate impact and what *Sandoval* did to our ability to have communities say, "This is negatively impacting my health," and it is simply the impact that we are focusing on.

So, we are moving away from saying we don't need to, and I don't think there is anything in this bill that is talking about that we have to prove racism. We simply are asking that everybody have the same ability to live in a community where they are not subject to an environment that is toxic to their health, especially when they don't have the resources to move somewhere else.

So, Ms. Cahn, can you explain why reinserting the ability of bringing a cause of action that focuses on disparate impact gives an important tool to the communities that are living under a burden of, like in New Mexico, high methane emissions.

We exploded an atomic bomb here, and the people who were exposed to that have not been able to get compensation.

We have high levels of methane. We have one of the biggest methane clouds in the sky over part of our state.

Why is the use of disparate impact important?

Ms. CAHN. Thank you so much for that question.

And I have been pondering this throughout the whole hearing because there has been some dialogue around whether intent is necessary to prove discrimination, and intentional discrimination is real, and we see intentional discrimination cases all the time.

But disparate impact is also prohibited under Title VI of the Civil Rights Act of 1964, and that was part of the intent of the legislation. It was part of the intent, and it is documented, the legislative history and statements by President John F. Kennedy about the need to prevent actions, programs, and activities with the discriminatory impact on communities, that we need to ensure that this bill covers those as well.

And there are countless examples of how that plays out. It is failing to account for how emissions from a facility would disproportionately expose communities of color to high levels of air pollution; failing to account for how rerouting a roadway would have a disparate impact on the air quality, the safety, or the quality of life for residents in a community of color; or refusing to offer simultaneous interpretation as disruptive or providing a Spanish language translation of permitting decision a week later than English language version but keeping the comment period the same.

Ms. LEGER FERNÁNDEZ. Ms. Cahn, thank you so very much. I wanted to get to a couple of other questions.

So, I am going to move on to the issue of the cumulative impacts. Two things, one, the cumulative impact and the importance of not looking—I keep thinking of how we are going to look at this project through a keyhole, and as long as we see that there is a bit of blue sky from that keyhole, we are fine.

Whereas, if we open up our vista and we can see the communities adjacent to that project and how there are lots of other impacts, that is so key.

And, Ms. Cortez, I really appreciated the fact that you pointed out the importance that you didn't have to eliminate jobs and economic growth while you were looking to solve these issues, and I appreciate that in this bill, that it is putting more funds and resources into those communities that have energized, though fossil fuel and other things are in our economy.

I have several bills that seek to do that, that seek to invest in that.

So, if you could describe to me a bit why you think it is important that your community, as organized as you have become, has the tools that you need that this bill gives you so that you can protect your ability to thrive and to live in this environment that is cleaner than what you do now.

Ms. CORTEZ. Yes, thank you, and I will make it really quick.

The reality is that we already have so much education and tools that we have already implemented locally, that we have already implemented regionally, and either we have succeeded and have proven it, either we have failed and learned and gone back and done it, or we have realized that agencies, municipalities, state legislation is not going to move until the Federal Government can set an example by passing policies like EJ For All to, one, invest by giving us the tools to be able to do this work or pass policy that shows them that we are just as important and that they should also pass these more local, more smaller policies with us.

Ms. LEGER FERNÁNDEZ. Thank you.

My time has expired. I yield back, Mr. Chairman.

The CHAIRMAN. The gentlelady yields back.

Let me now recognize Representative Tlaib. Representative, you are recognized for 5 minutes.

Ms. TLAIB. Thank you so much, Chairman. I cannot thank you enough for your leadership on this and, of course, our colleague, Congressman McEachin, on just really leading us and trying to make sure that we have a good quality life for many of our residents that have to take the brunt of environmental pollution.

There has been so much discussion, and first of all to Director Cortez, the center you co-direct and the work that you are doing in your community reminds me of growing up in southwest Detroit.

What must be distressing to all of you, as you all are listening to this, is language saying, quote, "you people."

So, I want to apologize for that kind of rhetoric of "you people." You are our people, including our Indigenous brothers and sisters across our nation. You are our people. You are not "you people."

So, I just want to really set that tone because it is so critically important that as folks are talking about this, and, Director Cahn, I want to ask you this. Do jobs fix cancer?

Ms. CAHN. Do jobs?

Ms. TLAIB. Does having a job, does that fix cancer?

Ms. CAHN. Having a job does not fix cancer, and also it is a false choice.

Ms. TLAIB. Does it fix the asthma? Does it fix the asthma rate? How about you, Director Cortez? Do jobs fix asthma?

Ms. CORTEZ. No, it does not.

Ms. TLAIB. Let me also ask. Dr. Sheats, one of the things I keep stressing, everybody keeps talking about the high cost of natural gas, the high cost of this.

Do you know that it has been increased? Did you know this, that it increased by like 30 percent or so, the cost of asthma inhalers?

Just yesterday, one of the mothers in my community was testifying about an asphalt plant coming into her neighborhood and how she had to put \$300 aside to pay for asthma inhalers for her children, for her boys.

Dr. Sheats, do you ever monitor the cost of public health in essence of where people are living with the environmental pollution?

Has anybody ever looked at it, Ms. Cortez, Dr. Sheats, or Director Cahn?

Have any of you looked at the cost of public health living in this highly polluted neighborhood?

Ms. CORTEZ. Yes, I will just share very quickly that I remember there being an EPA statistic a long time ago that said if we fix this industrial thing, we would actually be saving this much money in health impacts. That statistic was from about 20 years ago, and I have not seen another statistic since on how to quantify and really focus on public health as a real investment, as something that is monetary and just as valuable or more valuable than these other economic impacts that folks talk about.

Ms. TLAIB. How about you, Director Cahn?

Ms. CAHN. I just keep thinking about the situation under the COVID-19 pandemic and the costs right now. Think about the cost of preventing particulate matter pollution 5 years ago, 10 years ago, 30 years ago, and the economic and health benefits that communities that have been overburdened for that long would feel in this moment who are otherwise disproportionately affected by infection rates, severity, and death from COVID-19.

Ms. TLAIB. Well, Dr. Sheats, I do want to put this in the Congressional Record for the Chairman and for my colleagues.

More of my Black neighbors die from COVID because of pre-existing conditions, even though they make up less than 14 percent of the total population in the state of Michigan.

And I really believe if you look at the statistics around Flint, around Detroit, around other communities that are predominantly people of color, my Black neighbors, they died at a higher rate of COVID.

Dr. Sheats, do you believe that is because most of them are bearing the brunt of environmental pollution, corporate pollution?

Dr. SHEATS. I think, of course, we don't know of their personal circumstance, but I believe that is a part of it.

I think one thing that always strikes me about the COVID-19 pandemic is that—and we have talked a lot about race today, so I will go ahead and say it even—

Ms. TLAIB. No, go. This is your Congress, not just "some people's." You can say it.

Dr. SHEATS. I think COVID-19 in some ways showed how the city is racist because I would not have predicted that one reason that people of color die higher from COVID-19 is because a higher percentage of us—it doesn't include me—but a higher percentage of us have to actually go out and be in the world and work and cannot stay home and work remotely.

Ms. TLAIB. Yes.

Dr. SHEATS. And I think it shows the racial impacts are very hard to predict and that we have to take every opportunity that we can to address those issues.

Ms. TLAIB. And I know I have a little bit of time but, Chairman, if I may, can I please submit for the record? I think it is very, very important because cumulative impact analysis and the Environmental Justice For All is so important to my community.

But for the record, please can I submit an article by the Detroit Free Press that said "\$175 million tax break for Marathon refinery buys Detroiters only 15 jobs," and I will explain this later in future jobs, but we gave \$175 million at the time when we were struggling in Detroit in exchange for jobs, and they only gave us 15.

And do you know that is the most polluted zip code in the state of Michigan.

So, if I may, can I submit that for the record?

The CHAIRMAN. Without objection, so ordered.

[The information follows:]

Detroit Free Press

\$175M tax break for Marathon refinery buys Detroiters only 15 jobs

Joe Guillen

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Marathon Petroleum, which received a \$175-million tax break from the City of Detroit in a mammoth expansion project, is coming under fire from City Council for failing to hire enough Detroiters.

When Marathon asked the city for the tax break as part of the company's plan to expand its operations in southwest Detroit in 2007, with the appeal came a pledge to recruit Detroiters for new jobs at the refinery.

The City Council granted the company the personal property tax abatement, forgoing millions in tax revenue. Even with the tax break, a city analysis estimated the expansion would generate \$181 million in income taxes, real property taxes and other fees for the city over two decades.

"As we discuss job creation, please understand that we will do what we can to hire qualified Detroit residents," then-Marathon Senior Vice President Garry Peiffer wrote to City Council in 2007. "It is our intention to work closely with the Detroit Workforce Development Department and a local institution of higher education to develop curriculum and offer training for interested Detroit residents."

But the vision to hire more Detroiters never materialized. Now city officials will more closely monitor Marathon's hiring practices to ensure the company is making an effort to hire Detroit residents.

"In a city with double-digit unemployment, any company that's receiving a tax abatement of nearly \$180 million should be giving more back, including hiring residents," Councilwoman Saunteel Jenkins said in an interview.

Marathon employs 514 full-time workers at its refinery, thanks to the \$2.2-billion expansion. That's up from about 320 employees in 2007, when the city approved the personal property tax abatement, the largest of its kind in Detroit history.

Of the 514 employees, 30 are listed as Detroit residents as of January. In 2007, before the expansion, the company employed 15 Detroit residents. That means fewer than 6% of Marathon's workers at the refinery live in the city, according to the company's employment records, which must be submitted to the city annually under terms of its abatement agreement.

Several City Council members briefed on the company's hiring practices said the figures are unacceptable. Marathon's poor track record of hiring residents, they said, coupled with the high number of Detroiters looking for work, highlights the need to secure hiring guarantees when companies ask for tax breaks or other incentives. Representatives of Marathon said the company has had difficulty finding qualified Detroiters, even though it funds a scholarship program at Henry Ford Community College designed to promote local hiring. Some of the available scholarships have gone unfilled, the company said.

"We would like nothing better than to have a higher percentage of Detroit residents in our workforce," refinery general manager Tracy Case told council members

during a discussion on the company's hiring practices at a Feb. 13 planning and economic development committee meeting.

"We are aligned in that desire, but there are certain difficulties and challenges and obligations we have to our company to find the best people to work for us," Case said, adding that Detroit residency would be a tie-breaker in a hiring choice between two similarly qualified candidates.

Marathon bears a greater responsibility to hire Detroiters because the refinery's expansion has raised environmental concerns, Jenkins said. The expansion has allowed the company to process an extra 14,000 barrels of oil per day.

Portia Roberson, Mayor Mike Duggan's group executive for ethics and civil rights, has been charged with further reviewing Marathon's hiring of Detroit residents. She will report back to the council in six months.

"I want to give everybody the benefit of the doubt, but also I want Detroit residents to see where their tax dollars are going when you're talking about tax abatements," council President Brenda Jones said. "I want them to have the same fair chance that anybody else has, and I want you to live up to the agreement that you came to this table and said you would live up to. And the agreement was that you would hire Detroit residents."

The city's cost-benefit analysis, done before the abatement was granted, estimated the refinery expansion would generate a net benefit of more than \$181 million over 20 years—despite the \$175-million tax break. The analysis assumed an increase of 60 full-time jobs at the refinery.

The city has agreed to 23 personal property tax abatements for various companies since 1998. The state treasurer has final approval of the exemptions, which are granted for a specific period, not for a specific dollar amount. However, the City of Detroit generally projects how much revenue the city and the county would be forgoing for each abatement.

In 2008, General Motors received a personal property tax abatement worth about \$38 million from the city for its expansion at the Detroit-Hamtramck plant. The company estimated it would add about 550 jobs, and first preference would be to hire laid-off union workers.

Gov. Rick Snyder signed a package of bills in late 2012 to phase out the state's personal property tax over 10 years. The new taxing policy, which supporters say will boost the state's economy, is subject to a voter referendum in August.

Marathon executives said the Detroit tax break was crucial to the company's decision to expand here rather than in neighboring states without such tax burdens on new industrial equipment. The Marathon abatement carries a cost to the city of about \$146 million in forgone tax revenue over 23 years and about \$29 million to Wayne County.

Marathon workers perform a variety of jobs at the refinery, including engineers, refinery operators, maintenance workers and safety representatives. Job openings at the refinery typically pay an annual salary between \$60,000 and \$80,000, company representatives told the City Council.

Marathon's corporate website, to which a company spokesman directed the Free Press on Monday, showed the company has seven job openings in Detroit, including a welder, pump mechanic and an engineer.

Although Marathon has exceeded the projection and added about 200 full-time jobs, the company's scholarship program at Henry Ford has not created many employment opportunities at Marathon for Detroiters. Company representatives attend career fairs at Henry Ford to promote the training program.

Marathon has contributed about \$154,000 toward 37 scholarships since 2008. Of those scholarships, five students have interned at the refinery. One graduate of the Henry Ford program applied for a job but did not meet pre-employment testing requirements, according to the company's written responses to the City Council's legislative policy division, which produced a report on Marathon's hiring practices in February.

The scholarship at Henry Ford fulfills the company's responsibility under the abatement contract to develop a training program. The contract, however, does not require the company to hire a certain number of Detroit residents. Marathon stated that hiring Detroiters would be a priority when it sought the tax break.

Marathon's results have been an eye-opener for new council members, who appear poised to demand more from corporations seeking tax breaks in the future.

In early February, veteran council members Jones and James Tate sought but failed to get a guarantee to hire Detroiters in post-construction jobs at the new Red Wings

arena. Without the guarantee, they each cast a “no” vote on legislation related to the arena project, but the measure passed.

“I know that Madam President (Jones) beat the arena about the head and shoulders about” a post-construction job guarantee, said first-term Councilman Scott Benson, who voted in favor of the hockey arena legislation. “Now I see why it’s so important that we put language into these contracts about post-construction jobs.”

Councilwoman Raquel Castaneda-Lopez, whose district includes the refinery, said her office will work with Marathon to inform the community about scholarship opportunities.

“Moving forward, we need to negotiate stronger employment requirements when granting tax abatements or other incentives,” she said in an e-mail. “A company’s track record of hiring Detroiters and working with the surrounding community should be factored into this process.”

Ms. TLAIB. Thank you, and I yield.

The CHAIRMAN. Thank you very much.

Let me now recognize the gentlelady from New Mexico, Ms. Stansbury. You are recognized, Representative, for 5 minutes.

Ms. STANSBURY. Thank you, Mr. Chair.

A thank you, Chairman Grijalva, for introducing this bill and for convening this hearing.

And I, too, want to extend my thanks to all of the witnesses for joining us today from all over the country and sharing your experiences, your feedback, your expertise, and helping to shape this legislation and to be educators to the public and to our communities about what we are trying to accomplish with this bill.

I, too, am a proud co-sponsor of the Environmental Justice For All bill, and I am deeply proud of the process that the Chairman and Chairman McEachin and others engaged in to create this bill, it was a community-led process that included engagement with organizations and communities across the United States and incorporated the feedback of hundreds of people across the United States.

So, let me be clear. Our communities must be at the table in making decisions that affect their quality of life, their health, and their futures, and that is what this bill is fundamentally about.

It is about putting the power, the tools, and the resources back into our communities that have experienced the disproportionate impacts and legacies of pollution and the disproportionate impacts of economic development that have harmed our communities, so that they have the power to control their own destinies going forward.

I am so grateful for this bill and all of the incredible work that has gone into it. Obviously, the goals of this bill are to strengthen the NEPA process, to provide data and tools to prevent harmful environmental impacts, to account for those impacts holistically across our environmental laws when we are doing permitting and allowing activities on the landscape.

It is to ensure that our Federal agencies are coordinating with each other, and that there are people at those agencies that are not just looking out for the economic impacts and benefits for our communities, but are looking out for our communities themselves and making sure that their voices are heard in the process as we are undertaking to permit and allow activities and invest Federal resources, and to put those tools and resources into our commu-

nities themselves so that they have the power to shape their own destinies.

And nowhere is this more important than in New Mexico where our state and our communities have faced this historical legacy in disproportionate impacts. I have heard a lot of discussion today questioning the history and the reality of what we know to be the truth inside of our communities.

So, let me just say this is not hypothetical in New Mexico. Our history and our landscape are peppered with the examples of how the historical legacy has impacted our communities.

In Western New Mexico, we have communities that are still living with the impacts of uranium mining. We have Pueblo and Diné and Chicano communities that are still dealing with mines that have been left unremediated and contaminated groundwater that is undrinkable.

In the north, we have Pueblo and Hispano communities that have lived in valleys for countless generations that now have groundwater contamination caused by our government's nuclear experiments.

In the east, we have dairies and ranchers and farmers whose entire operations have been destroyed by PFAS contamination because of Federal activities.

And in the south, as Representative Leger Fernández talked about, we have downwind communities in the Tularosa Basin who were exposed to radiation in 1945 and that for generations have experienced cancer and health impacts that are still killing people today in those communities.

So, this is not a hypothetical. This is something that has affected our communities for generations. We need tools. We have to modernize our Federal Government. We need to ensure that there are people and processes and opportunities and resources for our communities to have their voices heard as decisions are being made, and that they can help to reimagine the futures that they want to see for themselves and their communities.

I want to thank everybody who was involved in shaping this legislation and thank you especially, Mr. Chairman, for your vision and your ability to bring people together to help shape and create an opportunity for this bill.

And I want to just turn very quickly to Dr. Sheats, Ms. Cortez, and others here, can you please just reiterate? We have been talking about this all morning, but why is it so important that our communities have a seat at the table? Starting with you, Dr. Sheats?

Dr. SHEATS. I think it gives our communities a fighting chance to address the elevated levels of pollution often found in environmental justice communities. It gives them some hope and the fighting chance to do so.

Ms. STANSBURY. Thank you.

And Ms. Cortez?

Ms. CORTEZ. Yes, I think for us we have nothing to lose, literally. Like this is our lives, and we will continue fighting for it.

And this policy and any policy that is truly focused on EJ, we will continue fighting for it, and we will continue fighting for a seat at this table.

Ms. STANSBURY. Thank you very much.

And thank you all so much for being here this morning and for lending your voices and your expertise to this very important bill.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentlelady yields.

Let me recognize Representative Porter. Madam Chair, you are recognized for 5 minutes.

Ms. PORTER. Thank you very much, Mr. Chair.

Dr. Sheats, this is a map of abandoned and active oil wells in Southern California, and as you can see, there are a lot of them, and this is true in many parts of our country.

Under current Federal law, if an oil company wants to open another oil well on Federal land in a place where there already are lots and lots of oil wells, would they have to consider other facilities in the area during the permitting process and limit new pollution based on the cumulative effects?

Dr. SHEATS. Let me say this, and I hope I don't get this wrong. The way I understand it now, is that within a certain category of pollution they have to consider other sources, but across pollutants they would not.

Ms. PORTER. OK. So, they don't necessarily have to mitigate or account for air pollution, for example, if their facility would create water pollution and even if they were adding another polluting facility.

My understanding is that there are no limits on pollution under current law based on cumulative impacts.

Ms. Cortez, do you or anyone else have a thought on that?

Ms. CORTEZ. I do not. I will defer to my colleagues.

Dr. SHEATS. The total amount of pollution does not have to be taken into account in the neighborhood.

Ms. PORTER. OK. Because of that, in your experience do oil and gas companies deliberately pick low-income and frontline communities for their facilities?

Ms. CORTEZ. Yes.

Ms. PORTER. Why, Ms. Cortez?

Ms. CORTEZ. Because the processes are so complex, these companies are able to come into our communities with things like an EIR, a negative declaration in which community members who are already struggling to make ends meet, are working two jobs, cannot find child care, are having health impacts, are having to go to the emergency room, are not able to fully participate in challenging these projects.

A lot of times, like I said, there is even a negative declaration. So, it doesn't even undergo a process which allows for the continued systemic placing of these facilities near our homes.

Ms. PORTER. And my understanding is that the Environmental Justice For All Act, one of the ways it would address that is to amend the Civil Rights Act of 1964 to prohibit discrimination based on disparate impact, and it would effectively allow these low-income communities when they are harmed, and it is disproportionate to them, to be able to raise discrimination claims on that basis.

Are companies right now currently cleaning up their pollution in these communities, Ms. Cortez?

Ms. CORTEZ. They are not, so many of them are allowed to leave. A lot of them just abandon ship and these are what we now call brownfields in our communities.

And because Los Angeles is such an urban area, what we see is that the only sites that are open, that there is nothing developed on is because they are brownfields that continue to pollute our communities through gas emissions.

Ms. PORTER. And we have abandoned oil and gas wells, and that is part of what this map shows. There are purple dots and blue dots, and a lot of these are abandoned and they are sitting there leaving taxpayers with the bill.

I want to enter into the record a story from MarketWatch last week that said, "Oil is the hottest sector, and Wall Street analysts see upside of up to 48% for favored stocks."

And those companies include some of the biggest oil and gas producers on public land, like Chevron and Phillips. Instead of covering the cost of their pollution, they are giving out dividends to their investors. We are all getting cheated as a result because we all have an interest in our public lands, but frontline communities are literally paying with their health, as you point out.

Ms. Cahn, I want to turn to climate change quickly. How do national policies help local communities increase their resilience to climate change?

Ms. CAHN. I think that the EJ For All Act provides a whole set of resources that could help local communities really invest in climate resilience and climate adaptation and do so in a way that puts communities at the lead.

So, there are a host of funds, I think particularly the open space funds that are dedicated in the EJ For All Act. One of the legacies of disinvestment has been the lack of green garden and open spaces and tree cover, which has an impact on air quality, on health, and also on stormwater management.

And communities have responded by creating green garden open spaces in the face of disinvestment, but those spaces are largely land insecure. So, the open space funds in the EJ For All Act actually could provide for land acquisition, also technical assistance, and provide ways to either create new or preserve existing spaces that would increase climate resilience.

Ms. PORTER. Thank you very much.

Mr. Chair, I yield back.

The CHAIRMAN. Thank you very much. The gentlelady yields.

I recognize the gentleman from Florida, Mr. Soto. You are recognized for 5 minutes.

Mr. SOTO. Thank you, Chairman.

Colleagues, America is finally emerging from crisis. We passed the American Rescue Plan, shots in arms, money in pockets, and we avoided another great recession. And 77 percent of Americans are now vaccinated and cases are dropping.

Unemployment is below 4 percent. We avoided a key foreclosure crisis in Florida and across the nation. Pensions and 401(k)s were saved, and now we are turning to combat inflation, supply chain, price gouging, managing the pandemic, and possibly even a gas tax holiday are all in the works.

Thanks to my colleagues on the Democratic side, sadly all Republicans voted no.

Then we passed the infrastructure plan. Roads and bridges, airports and ports, water and electric reforms, \$21 billion for environmental remediation of brownfields, which I will get to in a moment, rural broadband, and infrastructure equity, like what we are talking about here today, breaking down those barriers, reconnecting communities.

Thanks to Representative Don Young for voting yes. Sadly, the rest of you voted no. A couple of you even tried to take credit back home, but were quickly rebuffed by your local press.

And now we are going to work on the America COMPETES Act, domestic manufacturing, microchips, biotech, aerospace, telecom, medical supplies. We are making microchips back in the district now, and this is going to be huge for us.

Again, all of you voted no. I am hoping that you will change your mind as we get to a final vote after the Senate. We need to come together.

In our area in Florida, we have seen coal plants closing and coal ash storage is an issue in Orange County and Osceola County. We have boosted solar, wind, and natural gas. We may even extend or expand our nuclear capacity, but highly toxic coal ash is an issue. Some was even trucked in recently to Osceola County, but we put a stop to that.

Dr. Sheats, have you seen similar issues in communities where toxic pollution has compounded from multiple sources?

And what are the health implications for all those living in those communities?

Dr. SHEATS. Yes, well, we certainly see that in New Jersey. Actually in Newark, New Jersey, the DEP, Department of Environmental Protection, has actually acknowledged it is a place that suffers from cumulative impacts.

And I think we see partially the results in the number of kids in school, asthma attacks associated with air pollution.

And in the health disparities that exist in our nation, again, part of the reason we believe is because of the disparate amount of pollution in our communities.

Mr. SOTO. And Dr. Sheats, how would the Environmental Justice For All Act help address these issues of cumulative pollution impacts?

Dr. SHEATS. Well, finally a gap in our laws and regulations will begin to be filled because it would mandate that the cumulative impact analysis take into account all the pollution in a neighborhood and not just look at pollution as individual pollutants and ask if those individual standards are violated.

It would take a more holistic approach and say, hey, this super pollution in the neighborhood has to be taken into account.

Mr. SOTO. Ms. Cortez, we passed \$21 billion for environmental remediation in the Build Back Better infrastructure package. What do you think would be one or two areas to focus on that we should work on to remediate past environmental justice issues?

Ms. CORTEZ. Yes, I think remediation of brownfields, as I was mentioning earlier, is super important because these areas are toxic. A lot of these areas are dirt. They are uncovered.

Some of us, if we don't know how to find the tools, we don't even know what toxins we are being exposed to, but a lot of them are adjacent to homes.

We have seen that happen here where brownfields are active polluting sites, have caused numerous metal types of cancers, where folks are actively dying even after the facility is shut down.

Mr. SOTO. Ms. Cahn, what would be your recommendation for us to focus on for the \$21 billion in environmental remediation that has passed?

Ms. CAHN. I would actually have to say let's start by consulting with communities about where the needs are greatest and the spaces that have been left unremediated for the longest.

I will say that there have been recent studies, actually I think 2 years ago by the EPA, looking at the intersection of climate risk and brownfields and Superfund risk, so I would also say let's look at the spaces that are at risk of flooding and have the potential to spread toxins throughout a neighborhood exacerbating the health impacts.

Mr. SOTO. Thanks.

I yield back.

The CHAIRMAN. Thank you. The gentleman yields.

Let me now turn to the gentleman from Chicago, Mr. García. Sir, you are recognized for 5 minutes.

Mr. GARCIA. Thank you, Chairman Grijalva, and of course, all of our outstanding witnesses and, of course, thank you to Congressman McEachin for the environmental justice bill.

Look, everyone deserves a safe and healthy place in which to work, live, play, and learn, and we all have the right to pure air, clean water, and an environment that enriches our lives.

But the reality is that for too many people of color and low-income communities, including the ones I represent, they lack access to these basic fundamental rights.

In 2022, Chicago still has an uneven and inequitable exposure to pollution and toxins across its neighborhoods.

A question for Dr. Sheats. I know you have done crucial work in New Jersey to push back against the disproportionate siting of toxic and hazardous facilities in communities of color and low-income communities.

In my district, we are dealing with similar issues. Recently, two companies, with abysmal track records when it comes to the environment and with issues of safety of the communities that they enter, have indicated intentions to establish plants in locations in Chicago on the South and West Side.

We called on city officials to reject those applications in order to protect the health of our neighbors who are already overburdened by pollution.

My question is, how would the robust cumulative impact assessments proposed in the Environmental Justice For All Act help prevent this type of injustice?

Dr. SHEATS. I think that the cumulative impact provision in the EJ For All Act would very nicely address this issue because, again, it says that if, due to cumulative impacts there is not a reasonable certainty of no harm, and in doing the cumulative impact analysis, you would have to take into account existing pollution and the

pollution that would be added by the facilities that want to come into that community.

And if that standard is violated, if it would cause harm to the community, then the permit will not be issued. But I think it could play a role, a major role, in protecting those communities.

Mr. GARCÍA. So, incorporating what we have learned and new technology is essential to making places safe and healthy for everyone.

Dr. Sheats, you helped pass groundbreaking legislation in the state of New Jersey that requires an assessment of cumulative impacts and sets a limit on cumulative impact pollution in overburdened areas.

You also helped craft a municipal ordinance for the city of Newark on environmental justice and cumulative impacts. You have seen these cumulative impact policies be implemented at the local and state level.

Can you speak to why the Federal Government should also be required to consider cumulative impacts?

Dr. SHEATS. Yes. And I should say, we are waiting for the state regulations to be issued any day now. We have high anticipation that they will help our communities, and it is not enough to do this though on a state-by-state basis because currently New Jersey is the only state that has passed a law that says you should deny permits under certain circumstances based on cumulative impacts.

Some other states are interested, but that doesn't replace national legislation. How about all of the vast majority of states that are not contemplating passing such cumulative impact legislation? All those other communities in those states should be protected, and the EJ For All Act would help to protect them.

Mr. GARCÍA. Last week, this Committee held a hearing to examine the lack of justice, equity, diversity, and inclusion within environmental non-government organizations and grantmaking foundations and how this creates a barrier to robust public participation in the decision-making process, particularly for those in marginalized communities.

But as we know, this problem is broader and beyond NGOs and foundations. So, Dr. Sheats, communities of color have always been at the forefront of the environmental justice movement, but perhaps don't get as much recognition as other leaders in this space.

How do we ensure that communities of color continue leading the conversation and movement, in 30 seconds?

Dr. SHEATS. You have to give them the resources so they have the capacity to do so, and we ask that allies who work with us, work with those communities, let those communities lead.

Mr. GARCÍA. To the point. You have time to spare.

Thank you so much, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you, Mr. Vice Chairman, and the gentleman yields.

Let me now turn to the gentlelady from Massachusetts, Representative Trahan. You have 5 minutes.

Mrs. TRAHAN. Thank you, Mr. Chairman. Thank you for your leadership on this issue. And thank you to the witnesses for joining us today to consider this important legislation.

As part of today's conversation about environmental justice, I would like to highlight the important efforts we must take to clean up brownfield sites that litter our communities.

In fact, the other Committee I sit on, Energy and Commerce, is holding a separate hearing on them today as well.

Brownfields, as well as Superfund sites, are disproportionately found in low-income communities, like Lowell where I grew up. They make it hard for businesses to open in these areas, stalling economic development.

Last May, the EPA awarded the city of Lawrence a \$500,000 brownfield clean-up grant to clean up the Merrimac Paper site. Between 1866 and 2005, this site operated as a paper processing and finishing plant. Unfortunately, despite its location in the center of Lawrence along the Merrimac River, the factory produced toxic chemicals, which have contaminated the site with polynuclear, aromatic hydrocarbons, petroleum, heavy metals, and other contaminants that stem from transformers, underground storage tanks, and previous fires within the building.

Cleaning up the Merrimac Paper site will free up nearly 5 acres for redevelopment and make it possible to create a future connection between the Lawrence River Trail and the Merrimac River Trail.

Lawrence is not the only community in my district that is coping with brownfields. The city of Lowell has a long history of redeveloping several brownfields into signature projects: the Paul Tsongas Arena, the Lasha Park, the GM Garage, the Hamilton Canal District.

And these projects demonstrate the incredible potential we have to leverage these contaminated locations from hazardous properties to economic opportunities. Cleaning them up creates jobs as well as room for small businesses to grow, and for communities like Lowell and Lawrence, which have limited green space and vacant land available for redevelopment, converting these spaces into usable land, for example, parks, river walks, and economic opportunity is just critical.

Federal investment in brownfield sites is key to revitalizing communities in Massachusetts and across our country. Fortunately, the Bipartisan Infrastructure Law included \$1.5 billion for brownfield remediation and revitalization, and communities like Lawrence and Lowell will be able to use these types of investments to transform contaminated sites into community assets like public parks and green spaces that can help communities thrive and prosper.

Ms. Cortez, I know you have already spoken extensively on the importance of brownfields, but can you speak more to the work you do to revitalize brownfields locally and the opportunity we have in these areas to provide healthy outdoor recreation spaces and environmental amenities in environmental justice communities that lack access to such amenities now.

Ms. CORTEZ. Yes, thank you. I think similar to what you mention in Lowell and I'm sure in other areas as well, our communities, most of the brownfields that I know of were either paint manufacturers, metal manufacturers, chrome platers, and landfills.

So, as they leave, they leave this behind and leave behind the compound gases, metals on the floor, and other such things that continue to harm the community.

One of the big issues and why funding is so important is because what is happening is that private developers purchase these brownfields and they want to turn over their profit. So, what happens is that the only thing that can be redeveloped—because when you redevelop you have to clean, so these developers end up doing a cleanup, but because they have to pay for the cleanup, they make sure that they have a business that is going to yield them a significant amount of profit.

So, what we see is that they get cleaned up to put other polluters there. That is literally what we see, is they are cleaning up to put more polluters there, and that does not allow for greenspaces.

So, Federal funding that has already come through our hoods is super important to allow for green spaces that so desperately need to be created.

And in addition to that, these sites are so big that what we see is right now in our urban neighborhoods, all we have access to are pocket parks. That is a great start. That is not enough. That is not enough for substantial recreation, so these types of investments into brownfields are very important.

Mrs. TRAHAN. Yes, if you could just like bring it home for us, how will the Environmental Justice For All Act help support the more equitable access to parks and recreational opportunities for these underserved and economically disadvantaged communities?

Ms. CORTEZ. Yes. EJ For All will be able to provide funding so that we can have these spaces cleaned and have green spaces accessible to the communities that are most impacted and do not have access currently to these types of facilities.

Mrs. TRAHAN. Thank you so much for that and for all the work that you do.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you very much.

Let me introduce—not a member of the Committee, but part of it today for Committee action. Madam Chair, Ms. Maloney, are you joining us or have you joined us?

Ms. MALONEY. Yes, I am here. We are trying to get the Zoom going. But I am on it.

The CHAIRMAN. OK. You are recognized.

Ms. MALONEY. Thank you so much, Chairman Grijalva, and thanks to you and Congressman McEachin for writing this terrific bill.

Communities like mine need the Environmental Justice For All Act to become law. My constituents in western Queens live in an area that has become and is called “Asthma Alley.” Across the street from Queensbridge Houses, the largest public housing development in the country, is the Ravenswood Generating Station, the dirtiest fossil fuel plant in the state.

If you can believe it, there are 3 more peakers that burn fossil fuels on the Ravenswood site, 2 more peakers just two blocks away, and 10 within a mile, 24 just in that neighborhood, and 91 across the city.

That is too many and that is why we have environmental health challenges and problems.

Millions of people in New York live within a mile of these plants, and if you live near one, you probably live near many.

Enough is enough. We need to stop polluting and harming front-line communities. We need to pass your Environmental Justice For All Act, and we need all Members of Congress to go home to their districts, meet with local environmental justice communities and ask how they can best fight for relief from toxic pollution for constituents that get the short end of the stick every time a polluter comes to town.

For some reason in New York, they put all of the pollution in one area, and it is really a justice neighborhood usually.

The Oversight Committee worked with the environmental justice leaders in New York's PEAK Coalition. We found that while each of the city's 91 peakers and baseload plants may stay under emissions' thresholds individually, the amount of pollution they spew together is just too much, especially when added to the thousands of gas and diesel boilers and generators in buildings across our city.

It is more than our bodies can handle. It is too much for our children. To a child's lungs, it makes no difference if soot comes from 1 of the smokestacks or from 10. It should not make a difference in the eyes of the law, and with the Environmental Justice For All Act it will not.

In collaboration with Chairman Grijalva, members of this Environmental Justice Working Group, frontline communities across the country, and the authors of the Environmental Justice National Climate Platform, I wrote the Justice and Power Plant Permitting Act to complement his efforts.

My bill, H.R. 6548, builds on Environmental Justice For All by inserting the cumulative impacts model into the permitting of fossil fuel powered plants and other sources of air pollution as prohibiting these sources if they cause harm.

With one of the country's leading practitioners in developing this bill, and he is here today, Dr. Sheats, I would like to submit a list to the panel, your panel and to you, Mr. Chairman, of groups across the country that are supporting my bill, for the record, and they should be supporting yours.

Dr. Sheats, the cumulative impacts framework has been a profound success in state law, in state permitting decisions. It is long past time that Congress put in place a national framework.

What is your message to Members of Congress who may be unfamiliar with this concept or unsure whether to support cumulative impact bills like Chairman Grijalva's and Congressman McEachin's and mine?

Dr. Sheats?

Dr. SHEATS. I think that you pretty much said it, but let me add that environmental justice communities, low-income communities, communities of color have been working toward this for years, saying that this gap in our laws has to be plugged. There has to be some way to take into account the total amount of pollution in the neighborhood.

It is just so unfair that these multiple sources keep going into the same neighborhoods. The time is now, and we are glad so many people are at least starting to listen and taking this seriously.

And we really thank you and your colleagues in Congress for paying attention to this issue.

Ms. MALONEY. I think another item that is troubling is they took the permitting process and gave it to the states. Yet, it is the Federal Government that wrote the Clean Air and Clean Water Acts.

And yet, they are looking at one source of pollution and adding more and more peaker plants to the same neighborhoods.

Could you comment on the permitting process? It is not working because they are continuing to pollute communities, particularly communities of color, with polluting plants over and over and over again, and they put so many of them in one area.

Dr. SHEATS. And the hard reality is that at some point the permitting process has to say enough is enough, and at some point, due to cumulative impacts and environmental justice, the permitting process has to say we are not going to put more polluting facilities in these neighborhoods that already have more than their fair share of facilities.

Ms. MALONEY. Well, that is the main point I want to make, that we have to change our permitting process, and we have to pass the Environmental Justice For All Act.

I congratulate Congressmen Grijalva and McEachin for their leadership on this. We should pass it out of Committee and to the Floor for a vote.

And I thank you for allowing me to share with you my support for your bill, Mr. Chairman, and I yield back.

The CHAIRMAN. Thank you very much, Madam Chair.

Let me now invite any Committee member who had not had the opportunity to comment or to question our witnesses to ask for time and I will be more than happy to do that or else I will move into closing the meeting.

Mr. STAUBER. Mr. Chair.

The CHAIRMAN. Who seeks recognition?

Mr. STAUBER. It's Stauber, Mr. Chair.

The CHAIRMAN. Stauber.

Mr. STAUBER. Mr. Chair, because in my opening statement we had some technical difficulties, I am going to ask that my opening statement be put into the record.

And then I would ask that Mayor Brower's Op-Ed dated January 24, 2020, be also placed in the record.

And then the last request of you, Mr. Chair, would you please share the letter to Secretary Haaland regarding the Willow Project? Can you share that with the entire Committee?

The CHAIRMAN. Absolutely, and also all of the signatories on the letter as well. Every office will receive it.

Thank you for requesting that.

So ordered.

[The information follows:]

OPINION — COMMENTARY

Goldman Sachs to Native Alaskans: Drop Dead

The bank claims to value 'stakeholder engagement' but dropped Arctic drilling without consulting us.

By Harry Brower Jr.

Jan. 24, 2020 6:33 pm ET



Pipelines in Prudhoe Bay, Alaska, Feb. 16, 2017.

Photo: Daniel Acker/Bloomberg News

Utqiagvik, Alaska

As the mayor of Alaska's North Slope Borough, I represent about 10,000 people in an area larger than most states. Beneath our lands are some of the largest oil and gas reserves in the world, including Prudhoe Bay and the coastal plain of the Alaska National Wildlife Refuge.

Since the 19th century, when our Inupiat ancestors made initial contact with the West, we have worked to maintain a balance between the modern world and our rich cultural inheritance. Largely because of the oil and gas under our lands, which are developed using the highest environmental standards, we have come far. My biggest fear is that we will be set back in our quest—this time by those who claim to care about us but are using my lands and my people as symbols for a larger political goal.

Last month, Goldman Sachs announced it will no longer fund oil and gas development in the Arctic region. The announcement came as a shock to me and my constituents, particularly because the New York-based investment bank claims "stakeholder engagement" and "consultation" with Indigenous peoples are core business principles. No one will be more affected by Goldman Sachs's decision than the people of Alaska's North Slope, yet we learned about it in the media.

By ignoring the concerns of Alaska Natives and basking in positive publicity, Goldman Sachs demonstrated the condescending, subtly racist attitude that too often has been the hallmark of the way Westerners deal with Indigenous people. Had anyone at Goldman Sachs bothered to ask us what we thought about funding energy plays on the North Slope, here's what we would have said:

From the time of Western contact until we were able to claim the rights to our lands, the people of the North Slope and other Indigenous Alaskan communities suffered and lived under horrific conditions. In 1953, researchers from the University of Pittsburgh traveled throughout rural Alaska conducting a health survey. The visitors were shocked by what they found.

"The Indigenous peoples of Native Alaska are the victims of sickness, crippling conditions and premature death to a degree exceeded in very few parts of the world," the team wrote. "Among them, health problems are nearly out of hand." They documented "the large numbers of the tuberculosis [sufferers], the crippled, the blind, the deaf, the malnourished and the desperately ill."

These were my direct forbears—including my mother—and the ancestors of many who still live on the North Slope. In the face of such desperate poverty, our ancestors—some still alive—organized to get access to our lands and resources. Elders, including my father, helped organize Alaska Natives throughout the state. They formed associations. They started a newspaper.

They traveled to Washington in large numbers, some even sleeping in tents outside, to lobby Congress for the Alaska Native Claims Settlement Act of 1971, the largest lands claim act in history. The act transferred ownership of what had been federal land to the Indigenous people who lived there and paved the way for North Slope oil production as well as logging, mining and fishing rights in other areas of the state.

I'm proud that Prudhoe Bay has produced 18 billion barrels of oil since 1977, contributing billions of dollars to state coffers and funding development in Native Alaskan communities. Today I see fellow residents becoming doctors, lawyers, teachers and engineers. Some, like me, have become whaling captains.

We have a long way to go to enjoy the amenities that most people in the "lower 48" take for granted. But thanks to oil production, our children are no longer forced to live hundreds of miles away from their families simply to attend high school. We are able to eat our native foods, practice our native ceremonies and speak in our native tongues. Many of us now live near a cutting-edge medical clinic. We can heat our homes, turn on our lights with a flick of the switch, and in some cases we even have indoor plumbing. We are no longer one whaling hunt from starvation.

We are able to have all this because we treasure and protect our land and wildlife—the resources that executives and environmental groups in cities thousands of miles away claim to care about. The way we see it, caring about the land and wildlife should also mean caring about the Indigenous people who inhabit the land—and that means knowing us, which Goldman Sachs hasn't bothered to do. We aren't hungry for oil, we are hungry for progress and understanding from those on the East Coast and beyond. We don't need your protection or judgment. We need your respect. We need to be treated like fellow Americans.

Goldman Sachs says its decision to forgo participation in Arctic drilling projects was born of a desire to fight climate change. But given its business interests in oil-producing states around the world, including involvement in last year's initial public offering of Saudi Arabia's oil company, Aramco, that can't be true.

Goldman executives are simply looking to curry political favor with powerful green interests. The cost of Goldman Sachs's hypocrisy will be paid by my people, who may soon be on a path back to the deprivation and hardship our ancestors worked so hard to leave behind.

Mr. Brower, a whaling captain, was elected mayor of Alaska's North Slope Borough in 2016.

The CHAIRMAN. Let me thank the witnesses and the Members for their questions.

Achieving environmental justice for all is a major priority, and Congress, I really believe needs to act with the level of urgency that it deserves.

And without objection, I would like to enter into the record the many letters of support the Committee has received from hundreds of organizations for H.R. 2021, from grassroot community organizations and public health advocates.

So ordered.

[The information follows:]

Alliance of Nurses for Healthy Environments
Mount Rainier, Maryland

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

The Alliance of Nurses for Healthy Environments (ANHE) writes to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities of color, low-income communities, and Native/Indigenous nations and communities, across the country.

This legislation is directly in line with ANHE's core mission and vision, which the organization bases on both the Nursing Code of Ethics and the Nursing Scope and Standards of Practice. ANHE upholds the rights of all individuals to have access to healthy and safe environments free from toxic pollutants, access to food and products free from toxic chemicals, and most importantly the right and opportunities to determine the needs of one's own community and its future.

Decades of research and evidence, and the many testimonies of impacted people and communities themselves, have documented a history of cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities. These affected peoples and communities have themselves developed and demanded solutions to these injustices and harms for some time. The extensive public input process that informed the Act's creation reflects this history and evidence, and has produced legislation uniquely influenced by the people and communities it seeks to help.

We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. This Act has the potential to be immeasurably beneficial to the health and advancement of communities that have been marginalized and overlooked for far too long. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices

and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by,

KATIE HUFFLING, DNP, RN, CNM, FAAN
Executive Director

**Anna Julia Cooper Center
Winston-Salem, North Carolina**

February 14, 2022

Hon. Raúl M. Grijalva, Chairman,
Hon. Bruce Westerman, Ranking Member,
Natural Resources Committee,
U.S. House of Representatives,
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

The undersigned organizations write to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities across the country.

The undersigned organizations work together as members and allies of the Coming Clean collaborative network to reform the industrial chemical and fossil fuel industries so they are no longer a source of harm and to secure systemic changes that allow a safe chemical and clean energy economy to flourish. We are working toward a world where no community's health, safety, or well-being is considered an 'acceptable' sacrifice to develop energy or to create and dispose of products. We know we can build a world where our climate and economy are nontoxic, sustainable, and just for all—and we're working to make this vision a reality.

Our work together is guided by the Louisville Charter for Safer Chemicals: A Platform for Creating a Safe and Healthy Environment Through Innovation, a vision and set of principles to guide transformation of the chemical industry, backed by policy recommendations. The very beginning of the Charter recognizes that: Justice is overdue for people of color, low-income people, Tribes and Native/Indigenous communities, women, children and farmworkers, who experience disproportionate impacts from cumulative sources. This chemical burden is unprecedented in human history and represents a major failure of the current chemical management system.

The urgent need to address disproportionate and cumulative impacts is a central tenet of the Louisville Charter (endorsed by over 100 diverse organizations across the country). One of the ten foundational principles of the Charter reads:

Prevent Disproportionate Exposures and Hazards, and Reduce Cumulative Impacts on Environmental Justice Communities.

Adopt policies and practices that remedy the disproportionate chemical hazards and exposures faced by communities of color, Tribes and Native/Indigenous communities, and low-income communities, and that address combined burdens of multiple pollutants, multiple sources, and accumulation over time with vulnerabilities that exist in a community. Break down and end discriminatory practices and policies that result in disproportionate and cumulative impacts in these communities. To this end, grassroots, fenceline and environmental justice communities must be at the table when developing and advancing chemical policies at all levels.

Other core Charter principles include the need to act with foresight to protect health and prevent pollution; take immediate action to protect, restore, and strengthen communities; and ensure the public and workers fully have the right to know, participate, and decide. The full Louisville Charter for Safer Chemicals, and a list of endorsing organizations, can be found at www.louisvillecharter.org.

As the Committee likely knows well, given the extensive process of research and public input that supported development of the Act, the history of cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities is very well

documented. Decades of research and evidence were supplemented by a year-long public input process through which disproportionately impacted communities and constituencies detailed the harms and impacts that they experience, and the solutions and remedies that would be most beneficial to them, producing legislation uniquely influenced by the people and communities it seeks to help.

Research supporting by Coming Clean network members and allies which supports the need for the Act, and the policy solutions it contains, include:

Who's in Danger? Race, Poverty, and Chemical Disasters: A Demographic Analysis of Chemical Disaster Vulnerability Zones (published by the Environmental Justice Health Alliance for Chemical Policy Reform, or EJHA) documented that the percentage of Blacks living in fenceline zones near 3,433 high-risk chemical facilities is 75% greater than for the U.S. as a whole, and the percentage of Latinos is 60% greater. The poverty rate in these areas is 50% higher than for the U.S. as a whole.

Life at the Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities (EJHA, Coming Clean, Campaign for Healthier Solutions) found that in several communities that host clusters of hazardous facilities, the fenceline zones near these facilities are disproportionately Black, Latino, and low income, and face multiple health hazards and risks. In addition, the most vulnerable neighborhoods near these facilities (those that are both low income and have low access to healthy foods) are even more heavily and disproportionately impacted.

Watered Down Justice (Natural Resources Defense Council, Coming Clean, and EJHA) found that the rate of violations of the Safe Drinking Water Act increased in communities of color, low-income communities, and areas with more non-native English speakers. The analysis also found that water systems that serve these communities also stayed in violation for longer periods of time, for more violations, for more contaminants.

Environmental Justice for Delaware (EJHA, Delaware Concerned Residents for Environmental Justice, Coming Clean, et al) found that people in seven communities along the industrial corridor in the northern portion of Delaware's New Castle County face a substantial potential cumulative health risk from (1) exposure to toxic air pollution, (2) their proximity to polluting industrial facilities and hazardous chemical facilities, and (3) proximity to contaminated waste sites. These health risks are substantially greater than those of residents of a wealthier and predominantly White community in Delaware, and for Delaware as a whole.

Our organizations strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits will not be issued if projects cannot demonstrate a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Center for Earth Energy & Democracy

February 14, 2022

The Hon. Raul Grijalva,
Chairman
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

The Hon. Bruce Westerman,
Ranking Member
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

We write to offer our strong support for the Environmental Justice for All Act (H.R. 2021) and urge committee members to address environmental injustices by advancing this important legislation. We support this legislation as aligned with our mission centered on creating a just, pollution free energy economy; and grounded in our values of self-determination in Indigenous, low income communities and communities of color.

We strongly support the following central elements in the Act:

- Providing research, education and outreach grants to support community-based projects that address environmental and public health issues in environmental justice communities.
- Addressing cumulative impacts of pollution in permitting decisions and ensuring that permits to facilities demonstrate a reasonable certainty of no harm to human health.
- Directing the federal government and federal agencies to develop environmental justice strategies and regularly report on implementation and progress.
- Supporting communities and workers as they transition away from fossil fuel dependent economies.

We commend all of the environmental justice advocates who contributed to this legislation. We hope committee members engage environmental justice communities as the Environmental Justice for All Act continues its journey through Congress.

Respectfully submitted by,

ANSHA ZAMAN,
Federal Policy Director

CENTER FOR FOOD SAFETY
Washington, DC

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

Our organization writes to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities of color, low-income communities, and Native/Indigenous nations and communities, across the country.

We support this legislation as aligned with our mission and values, which are supportive of environmental justice. We have established our own Ethnic Diversity and Inclusiveness Team and hold monthly training sessions with our staff.

Decades of research and evidence, and the many, many testimonies of the impacted people and communities themselves, have documented a history of cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities. These affected peoples and communities have themselves developed and demanded solutions to these injustices and harms for some time. The extensive public input process that informed the Act's creation reflects this history and evidence, and has produced legislation uniquely influenced by the people and communities it seeks to help.

We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully yours,

JAYDEE HANSON,
Policy Director

Children's Environmental Health Network

February 10, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

Our organization writes to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities of color, low-income communities, and Native/Indigenous nations and communities, across the country.

The Children's Environmental Health Network (CEHN) supports this legislation because it is aligned with our mission and values—to protect the developing child from environmental health hazards and promote a healthier environment.

Decades of research and evidence, and the many, many testimonies of the impacted people and communities themselves, have documented a history of cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities. These affected peoples and communities have themselves developed and demanded solutions to these injustices and harms for some time. The extensive public input process that informed the Act's creation reflects this history and evidence and has produced legislation uniquely influenced by the people and communities it seeks to help.

We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies.

These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health.
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities.
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies.
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas, and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies.
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We have a moral imperative to protect our most vulnerable, our children—children of today as well future generations. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly

passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by,

NSEDU OBOT WITHERSPOON, MPH,
Executive Director

CleanAirNow KC

February 8, 2022

The Hon. Raul Grijalva,
Chairman
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

The Hon. Bruce Westerman,
Ranking Member
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

Our organization writes to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities of color, low-income communities, and Native/Indigenous nations and communities, across the country.

We support this legislation as aligned with our mission and values, which are to work with and uplift communities most threatened by air pollution; particularly those with vulnerable populations affected by multiple, disproportionate environmental health burdens. CleanAirNow aims to support and amplify the voices of these communities to increase their organizational capacity for effective participation in local, state, and federal policy in order to achieve environmental justice, health equity, and climate justice for their communities. CleanAirNow is devoted to help facilitate and maximize opportunities for cross-disciplinary and community-based participatory research (CBPR), bridging organizational and geographic boundaries to improve the health and lives of citizens across our service area.

CleanAirNow recently released this report “Environment Racism in the Heartland” which highlights the environmental racism communities endure while we are trying to fight for equity, and health and being exposed to cumulative impacts from government inaction and polluters. Lugo-Martinez, *Environmental Racism in the Heartland, Fighting for Equity and Health in Kansas City*, November 2021, Union of Concerned Scientists and CleanAirNow, <https://doi.org/10.47923/2021.14322>.

Decades of research and evidence, and the many, many testimonies of the impacted people and communities themselves, have documented a history of cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities. These affected peoples and communities have themselves developed and demanded solutions to these injustices and harms for some time. The extensive public input process that informed the Act’s creation reflects this history and evidence, and has produced legislation uniquely influenced by the people and communities it seeks to help.

We strongly support the Act’s central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health;

- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by,

Atenas I. Mena,
Co-Executive Director

Beto Lugo Martinez,
Executive Director

CLEAN WATER ACTION
Washington, DC

February 14, 2022

The Hon. Raul Grijalva,
Chairman
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

The Hon. Bruce Westerman,
Ranking Member
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

Clean Water Action strongly supports the Environmental Justice for All Act (H.R. 2021). This bill will help begin remedying the long history of environmental racism and injustice in our communities. It will also begin to remedy cumulative and disproportionate health and environmental impacts that affect communities of color, low-income communities, and Native/Indigenous nations and communities across the country.

The legislation is aligned with our mission and values, which are to protect our environment, health, economic well-being and community quality of life. Clean Water Action organizes strong grassroots groups and coalitions, to solve environmental and community problems such as those included in the Environmental Justice for All Act. Comprehensive environmental justice solutions serve not only to benefit directly impacted communities, but also to improve social and environmental livelihoods for all. We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions.
- Codifying and bolstering President Clinton's 1994 Executive Order by directing federal agencies to develop environmental justice strategies and regularly report on implementation and progress.

- Ensuring that federal agencies consequentially include diverse communities in public health research, data collection, and analysis.
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies.
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies.;

The Environmental Justice for All Act is a long overdue correction to the disproportionate harms that have been experienced by communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction, to begin to correct these injustices and address this legacy of harm by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully,

Lynn Thorp,
National Campaigns Director

Jennifer Peters,
National Water Programs Director

Kim Gaddy,
National Environmental Justice
Director

Sean Jackson,
National Campaigns Coordinator

Thea Louis,
National Water Projects Coordinator

Coalition for the Delaware River Watershed

February 11, 2022

Hon. Raúl M. Grijalva, Chairman,
Committee on Natural Resources,
U.S. House of Representatives,
1324 Longworth House Office Building,
Washington, DC 20515

Dear Chairman Grijalva:

The Coalition for the Delaware River Watershed supports and urges passage of the Environmental Justice for All Act (H.R. 2021). We thank you for your leadership on this issue and pledge our support to move this bill through Congress and to the President's desk to be signed into law. Our coalition represents more than 175 organizations across the Delaware River watershed, which cover more than 13,539 square miles and are home to over 13.3 million residents across 4 states.

It is no coincidence that marginalized communities continue to bear the burden of living in close proximity to hazardous sites, facing higher risk for exposure to toxic chemicals and associated health impacts like asthma and lead poisoning. As our nation grapples with racism, we must recognize that our environmental laws and policies contribute to this never-ending cycle. The Environmental Justice for All Act seeks to break this cycle and would strengthen legal protections to combat environmental injustices. With this bill, people in cities such as Camden, Trenton, Wilmington, and Philadelphia, could bring statutory claims for damages under common law and request injunctive relief for environmentally caused health crisis events that have severe impacts on children and future generations. It would strengthen the Civil Rights Act of 1964 by restoring the ability of individuals to bring actions against entities engaging in discriminatory practices.

All too often, pollution disproportionately impacts Indigenous communities, people of color, and low-income families. This bill would help to protect such communities by requiring the consideration of cumulative impacts in permitting decisions under the Clean Water Act and the Clean Air Act. It would require federal agencies to

provide early and meaningful community involvement, including tribal representation, under the National Environmental Policy Act when proposing an action affecting an environmental justice community. Additionally, this bill would establish a fund to use revenues from fees on oil, gas, and coal industries to support communities and workers as they transition away from greenhouse gas-dependent economies.

Furthermore, this bill emphasizes the need for equitable access to the outdoors and nature, which provides countless benefits to underserved communities. Studies show that a thriving environment is invaluable for emotional, mental, and physical health, and Covid-19 has provided a real-world case study of the importance of getting outdoors in a safe and clean environment. This bill would prioritize projects that create access to parks and recreational opportunities in urban areas. This bill would also authorize \$75 million annually for grants to support research, program development, and implementation of projects to improve environmental and public health issues in environmental justice communities.

This legislation would benefit millions of residents in the Delaware River watershed by ensuring equal protection from harmful and unnecessary exposure to pollutants in the environment. We must act now to undo the burdens that have been placed on marginalized communities suffering from adverse public health impacts. Ignoring the lack of regulation and enforcement of key environmental protections will perpetuate marginalized communities. Thank you again for your leadership on H.R. 2021, the Environmental Justice for All Act, and we pledge our strong support for this legislation.

Please contact Kelly Knutson at Kelly.knutson@njaudubon.org with any questions or concerns.

PRESS RELEASE

Statement for the Record

Equitable and Just National Climate Platform Co-authors Offer Strong Support for the Environmental Justice for All Act

WASHINGTON (Feb. 15, 2022)—In response to the House Natural Resources Committee hearing today on the Environmental Justice for All Act (H.R. 2021), Equitable and Just National Climate Platform, a coalition of environmental justice and national environmental groups, released the following statement:

“We offer our strong support for the Environmental Justice for All Act (H.R. 2021) and urge House Natural Resources Committee members to confront the legacy of environmental racism in the United States by advancing this important legislation. High concentrations of toxic pollution, persistent and systematic racial discrimination and lack of access to economic opportunities, have created disproportionately high environmental and public health risks in communities of color and low-income communities. We must confront environmental racism head-on by prioritizing solutions that reduce pollution in environmental justice communities at a scale needed to significantly improve public health and quality of life. We urge lawmakers to develop equitable policies that reduce toxic pollution in all its forms.

“We commend the environmental justice advocates who contributed to this legislation along with Chair Grijalva and Representative McEachin, who led the community-driven process to incorporate the needs and perspectives of environmental justice communities into this Act.”

Witnesses for the hearing include Dr. Nicky Sheats, Director of the Center for the Urban Environment at Kean University’s John S. Watson Institute for Urban Policy and Research, a founding member of the New Jersey Environmental Justice Alliance, and a co-author and inaugural signatory of the Equitable and Just National Climate Platform. His testimony is here.

The Act contains the following:

- Requires consideration of cumulative impacts in permitting decisions under the Clean Water Act and Clean Air Act.
- Codifies President Clinton’s 1994 Executive Order 12898 by directing federal agencies to develop environmental justice strategies and regularly report on implementation and progress.

- Requires federal agencies to provide community involvement opportunities under the National Environmental Policy Act (NEPA) when proposing an action affecting an environmental justice community.
- Requires Tribal representation throughout the NEPA process for an activity that could impact an Indian Tribe, including activities impacting off-reservation lands and sacred sites.
- Amends Title VI of the Civil Rights Act of 1964.
- Funds research grant programs to investigate personal and childcare products containing chemicals linked to adverse health impacts.
- Supports access to parks and recreational opportunities, prioritizing projects and recreational opportunities that benefit underserved urban communities.
- Authorizes \$75 million annually for grants to support research, education, outreach, development, and implementation of projects to address environmental and public health issues in environmental justice communities.
- Establishes a Federal Energy Transition Economic Development Assistance Fund using revenues from new fees on the oil, gas, and coal industries to support communities and workers as they transition away from greenhouse gas-dependent economies.

The Equitable & Just National Climate Platform celebrated its two-year anniversary on July 17, 2021. In 2019, signatories to the platform achieved consensus on a historic plan calling for national climate action that confronts racial, economic, and environmental injustice as it enacts deep cuts in climate pollution and accelerates a pollution-free energy future that benefits all communities. The co-authors included leaders from a dozen environmental justice organizations and six national environmental groups. [More here.](#)

For more information, please contact Jake Thompson at jthompson@nrdc.org or Anahí Narango at naranjo@ceed.org

Friends Committee on National Legislation
Statement for the Record
on the Environmental Justice for All Act

March 1, 2022

Chair Grijalva, Ranking Member Westerman, and members of the Committee:

The Friends Committee on National Legislation (FCNL) welcomes this opportunity to submit testimony to the House Natural Resources Committee in relation to its February 15, 2022, full Committee hearing on the Environmental Justice for All Act.

FCNL supports legislation to address long-standing environmental injustices in the United States, including the Environmental Justice for All Act of 2021. As a Quaker advocacy organization, FCNL works to advance legislation that support peace, justice, and environmental stewardship. Our vision for the world stems from the Quaker belief in the worth and dignity inherently present in each person.

As long-time advocates, we know that opportunities to pass transformational environmental legislation in the Congress are rare. Chair Grijalva, you and your colleagues are here at one of those rare opportunities. You can vote to pass legislation that extends justice to communities across the U.S. who have long sought relief from environmental racism.

The environmental challenges facing communities—low-income and minority communities—are, at heart, rooted a long history of policies that entrenched segregation, exacerbated economic inequality, and exposed them to multiple environmental hazards. The results of these policies can be seen in 2022 in communities like St. James Parish, Louisiana, where residents of the Diamond neighborhood are subjected to poor air quality due to an industrial facility sited directly across the fence-line from people's homes.

In the past year, FCNL has been heartened to see initiatives by the Biden Administration to address this environmental crisis. The Executive Order on Tackling the Climate Crisis at Home and Abroad, for example, established the White House Environmental Justice Advisory Council and set out the goals of the Justice40 Initiative. We are also grateful to the Congress for passing the Infrastructure Innovation and Jobs Act (IIJA) in November 2021. That bill contains significant funding to remove pollution from the water and soil, take down highways built

through minority communities, and expand public transit options. These are moves in the right direction.

We believe, however, that more remains to be done. That is why FCNL supports the Environmental Justice for All Act of 2021, introduced by Chair Grijalva and Representative McEachin. We see as key this legislation's provisions strengthening Title VI of the 1964 Civil Rights Act to prohibit discrimination based on disparate impact, or actions that appear neutral but have a lopsided impact on people of color. We also support the Environmental Justice for All Act's requirement to consider cumulative impacts over time in permitting decisions under the Clean Water and Clean Air Acts. This will ensure that permits will not be issued if the project fails to show that it will not harm human health. These two provisions provide the legal foundations for a strong response to environmental injustice.

The Quaker civil rights and social justice leader Bayard Rustin said that “one has to fight for justice for all.” The 117th Congress has a moral responsibility to lift the burden of injustice from the shoulders of the communities that have borne the overwhelming burden of pollution. We ask the Chair, members of the Committee, and the Congress to meet this moment, show that the Congress listens to the voices of the people, and pass the Environmental Justice for All Act.

Addendum: Statements from FCNL's Advocacy Corps Members

“Growing up in New Mexico, I have been familiar with adverse and harmful effects of pollution on our communities and ecosystems. My state has been fighting for years for federal water protections. We have a saying in New Mexico “El Aqua Es Vida,” meaning water is life. Like the waterways we have in our state, our communities, families, and friends are all connected. Pollution affects all of us. I am asking that on behalf of your constituents, you protect the place you and they call home by supporting the Environmental Justice for All Act. I am asking for you to preserve the natural beauty of life and our experience with it.”

—John Hoang, New Mexico*

“I want to show people that their voices are loud, and that it’s important to speak on issues that have affected one’s own community. Passing the Environmental Justice for All Act is critical for more environmental legislation and climate change action to gain traction. Our environment has long outlived us, and urgent action must be taken soon to protect it.”

—Taylor Powell-Abbinante, Ohio*

“The current situation in Ukraine and the newly released United Nations Climate Report should serve to remind us how vulnerable we all are to the perils of wartime and climate change. Together we bear witness to our inter-dependency as the World unites to stand against the poison Putin is inflicting because know what happens in Ukraine doesn’t necessarily stay in Ukraine. If any Democracy is threatened, all Democracy is threatened. The same holds true for our natural environment. If one community in our world is suffering the negative impacts of toxic waste or pollution, we will all have to face the consequences. We must unite to protect the planet and pass the Environmental Justice for All Act. If any one of us is not protected, none of us are protected.”

—Marianne Wareham, Florida*

*Statement has been edited for clarity.

GreenLatinos

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

We write in support of the Environmental Justice for All Act (H.R. 2021). While we know that some progress has been made, we must acknowledge the reality of the present: Brown, Black, and Indigenous communities are still disproportionately affected by environmental and climate catastrophes facing our country. This is particularly unjust given that we had the least to do with creating them.

Our communities cannot wait, we need action to achieve our environmental liberation as soon as possible.

We know that the Environmental Justice for All Act is rooted in the moral principle that all people have the right to pure air, clean water, and an environment that enriches life. As participants in providing extensive community feedback on the initial draft, we are proud that this legislation is informed by the belief that federal policy can and should seek to achieve environmental justice, health equity, and climate justice for all communities.

We are heartened to see that the Environmental Justice for All Act amends and strengthens Title VI of the Civil Rights Act of 1964. We are enthused that this will prohibit discrimination based on disparate impact and will permit private citizens, residents, and organizations to seek legal remedy when faced with discrimination.

The core mission of GreenLatinos is to bring about racial and social justice for all communities through environmental liberation. We advocate for an equitable world that delivers clean, reliable, and affordable water; clean air that doesn't choke the lungs of the most vulnerable; and access to the beauty of our parks and coastlines and ocean for all to enjoy equitably. It is evident that the climate crisis and environmental degradation are causing a rapidly escalating breakdown in civil and human rights, threatening our basic life-sustaining needs, including access to fresh air, clean water, healthy food, adequate health care, and shelter in our communities. Any real solution to addressing this crisis will demand the unprecedented transformation of every sector of the global economy over the next decade.

Water Equity

GreenLatinos supports the provisions in the Environmental Justice For All Act that increase access to clean water for drinking, recreation, economic stability and for community health. We also believe that clean and healthy water is vital to a healthy environment. Water is a human right and unfortunately our communities have access in disproportionate ways. As such we are pleased to see that the Environmental Justice For All Act enhances the permitting decisions under the Clean Water Act and the Clean Air Act. This will help ensure that permits will not be issued if the project cannot demonstrate a reasonable certainty of no harm to human health.

Equitable Access and Communication

Our communities have long been excluded from providing input into the federal environmental process. Urgently needed action on climate change and environmental justice in an equitable manner can only be achieved if we center the voices of those most impacted. That is why we are so pleased to see that the Environmental Justice For All Act ensures that federal agencies include diverse communities in public health research, data collection, and analysis. It also requires federal agencies to provide early and meaningful community involvement opportunities under NEPA when proposing an action affecting an environmental justice community. In addition, we are pleased that the act ensures robust Tribal representation throughout the NEPA process for an activity that could impact an Indian Tribe, including activities impacting off-reservation lands and sacred sites.

Public Lands and Ocean

Public Lands and Ocean are often seen as a defining feature of our nation's character. Throughout our history, exclusion, oppression, and injustices have traditionally shaped the operations of policies of land and ocean management

agencies and have created real barriers of access to all overlooked communities. Latinx, Hispano, indio-hispano, communities from across the nation all have deep-rooted connections to land and ocean that define our culture and sense of place. As such we are excited to see that the Environmental Justice For All Act supports more equitable access to parks and recreational opportunities, prioritizing projects and recreational opportunities that benefit urban neighborhoods and underserved communities.

Climate and Clean Air

The public health crisis that wreaks havoc on our communities along with the climate crisis causes severe diseases like respiratory illness, cardiovascular disease, and shorter life span. Studies show that Latinx children in the U.S. are twice as likely as non-Latinx whites to die from asthma attacks. Nearly one third of Latino children live in counties where hazardous air pollutant concentrations exceed a 1 in 10,000 cancer risk level. GreenLatinos is heartened to see that the Environmental Justice for All Act authorizes \$75 million annually for grants to support research, education, outreach, development, and implementation of projects to address environmental and public health issues in environmental justice communities, including programs that improve the air frontline communities breathe and with it, boosts quality of life.

The climate crisis is already impacting Latino communities across the country. Latino communities want to see action taken to protect their health and mitigate the climate crisis. In fact, 86% of Latinx people support carbon pollution limits on power plants—a key driver of climate change. In this context, the Environmental Justice For All Act's establishment of a Federal Energy Transition Economic Development Assistance Fund is critical to our environmental liberation. Using revenues from new fees on the oil, gas, and coal industries to support communities and workers as they transition away from greenhouse gas-dependent economies is a smart way forward.

For all these reasons, GreenLatinos is proud to support the Environmental Justice for All Act. We urge all House Committees with jurisdiction over this legislation to support it as well and to act expeditiously to bring this important bill to the House floor. Thank you for your attention.

Sincerely,

MARK MAGAÑA,
Founding President and CEO

Statement for the Record
Healthy Gulf

As a regional organization working to support clean air, water and land for communities throughout the Gulf South, Healthy Gulf voices our strong support for the Environmental Justice for All Act. It's clear that this piece of legislation was crafted following direct consultation of our nation's environmental leaders and impacted residents. McEachin and Grijalva are doing exactly what elected officials should do, by ensuring that communities closest to the problem have a seat at the table as we develop policy solutions.

Our community partners, who live at the fenceline of polluting industries in Texas and Louisiana, have for decades made clear demands: that our regulatory agencies need to create real opportunities for meaningful community education and engagement around environmental issues. That we must take into account the cumulative impacts of exposure to multiple sources of toxic emissions in the permitting process. That sacred sites, burial grounds and Indigenous land must be protected, and that as we shift away from oil, coal and gas, we must guarantee economic justice for all workers in transition from these industries.

All of these principles are reflected in the Environmental Justice for All Act. This is a comprehensive policy plan that will move our country toward truly guaranteeing what should be the fundamental right of all its residents: to breathe clean air, to drink clean water, and to live and thrive in healthy communities.

Respectfully submitted,

MICHAEL ESEALUKA,
Louisiana Organizer

Statement for the Record

Inclusive Louisiana Joins Fight for Environmental Justice For All Legislation



St. James the Baptist Parish and the town of Convent are home to Inclusive Louisiana, an environmental justice group fighting for cleaner air, safer communities, and stronger federal regulation of petrochemical companies and heavy industry. Over the past 60 years, hazardous facilities with dangerous chemicals and emissions have engulfed the majority Black residents that live in the town. Inclusive Louisiana believes that the Environmental Justice For All Act, Sponsored by Chair Raul M. Grijalva and Representative A. Donald McEachin, "will address the urgent pollution emergency and climate crisis that has negatively impacted them and their families. The legislation is rooted in the moral principle that all people have the right to pure air, clean water and an environment that enriches life." According to Gail Lebouf, codirector of Inclusive, our local government treats us like we're expendable. We've been crying for 60 years and our cries are going unheard. If there's any place that cries out for Environmental Justice, it's St. James Parish.

The legislation will amend and strengthen Title VI of the Civil Rights Act of 1964, which will prohibit discrimination based on the disparate impact we endure as Black, fenceline communities. The act will also hold companies accountable by allowing those of us impacted to seek legal remedy when they discriminate. Another key feature of the legislation includes cumulative impacts, which requires consideration of the cumulative impacts in permitting decisions under the clean water and clean air act and ensures that permits will not be issued if the project cannot demonstrate reasonable certainty of no harm to health.

Inclusive Louisiana is a grassroots community advocate organization with deep beliefs in our christian faith, and passionate about the injustices we see imposed everyday on our health, air, water, and soil. Our mission is to spread enlightenment and hope to all people to create a fairer and more inclusive society.

**Interfaith Power & Light
New Mexico & El Paso Region**

February 14, 2022

Re: Environmental Justice Act

New Mexico & El Paso Interfaith Power and Light is very supportive of Environmental Justice for All Act to create a Federal Energy Transition Economic Development Assistance Fund.

New Mexico is one of the poorest states in the nation. We are the second largest fossil fuel producing state in the nation. Over decades the fossil fuel industry has not brought us out of poverty, rather, we now face lessening water supplies, polluted land and water, orphaned wells and miles of snaking pipelines from oil and gas sites to tanks and other fixtures that will probably never be cleaned up. What were ranching and farming areas seem to be destined for toxic wastelands. We have uranium mining legacy sites that we still seek funds for clean-up that we hope will provide training and jobs for our Navajo communities well into the future. But, we should not have to rely on clean-up of pollution for job training and jobs. We should not be left as a sacrifice zone or part of what Pope Francis calls the "Throw Away Culture".

We have created some avenues to begin just transition in our state and the federal legislation would go along way in moving this forward for justice and rights for our frontline and underserved communities. Here is a statement from a community group that we work with in the Permian Basin.

Statement from Kayley Shoup, Organizer, Citizens Caring for Future, Frontline Community in SE New Mexico Permian Basin.

"My hometown of Carlsbad, New Mexico is home to the Permian Basin. Also known as the largest oil field on the planet and likely the nation's top emitter of methane. While Southeast New Mexico is home to rich reserves of oil, we are also uniquely positioned to become a manufacturing hub for many different supplies that are used in the production of renewable energy. With the investment of time & resources that The Environmental Justice for All Act will provide we can create the political will in our communities to transition to a more sustainable economy, instead of continuing to be shackled to the oil industry. An industry that not only harms the health of those of us that live among it, but also harms the world with its contribution to global warming. Small oil towns in the most prolific basin in the world want a seat at the table in a green economy, and this act gives us an opportunity to take that seat."

For decades rural states like New Mexico have provided fossil fuels in many forms for the growth of the nation at the expense of communities. It is morally and ethically responsible that some way to address just transition be moved forward for our communities.

Peace and good,

SR. JOAN BROWN,
Executive Director

—

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

The undersigned organizations write to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities across the country.

The undersigned organizations work together as members and allies of the Coming Clean collaborative network to reform the industrial chemical and fossil fuel industries so they are no longer a source of harm and to secure systemic changes that allow a safe chemical and clean energy economy to flourish. We are working toward a world where no community's health, safety, or well-being is considered an 'acceptable' sacrifice to develop energy or to create and dispose of products. We know we can build a world where our climate and economy are nontoxic, sustainable, and just for all—and we're working to make this vision a reality.

Our work together is guided by the Louisville Charter for Safer Chemicals: A Platform for Creating a Safe and Healthy Environment Through Innovation, a vision and set of principles to guide transformation of the chemical industry, backed by policy recommendations. The very beginning of the Charter recognizes that: *Justice is overdue for people of color, low-income people, Tribes and Native/Indigenous communities, women, children and farmworkers, who experience disproportionate impacts from cumulative sources. This chemical burden is unprecedented in human history and represents a major failure of the current chemical management system.*

The urgent need to address disproportionate and cumulative impacts is a central tenet of the Louisville Charter (endorsed by over 100 diverse organizations across the country). One of the ten foundational principles of the Charter reads:

Prevent Disproportionate Exposures and Hazards, and Reduce Cumulative Impacts on Environmental Justice Communities.

Adopt policies and practices that remedy the disproportionate chemical hazards and exposures faced by communities of color, Tribes and Native/Indigenous communities, and low-income communities, and that address combined burdens of multiple pollutants, multiple sources, and accumulation over time with vulnerabilities that exist in a community. Break down and end discriminatory practices and policies that result in disproportionate and cumulative impacts in these communities. To this end, grassroots, fenceline and environmental justice communities must be at the table when developing and advancing chemical policies at all levels.

Other core Charter principles include the need to act with foresight to protect health and prevent pollution; take immediate action to protect, restore, and strengthen communities; and ensure the public and workers fully have the right to know, participate, and decide. The full Louisville Charter for Safer Chemicals, and a list of endorsing organizations, can be found at www.louisvillecharter.org.

As the Committee likely knows well, given the extensive process of research and public input that supported development of the Act, the history of cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities is very well documented. Decades of research and evidence were supplemented by a year-long public input process through which disproportionately impacted communities and constituencies detailed the harms and impacts that they experience, and the solutions and remedies that would be most beneficial to them, producing legislation uniquely influenced by the people and communities it seeks to help.

Research supporting by Coming Clean network members and allies which supports the need for the Act, and the policy solutions it contains, include:

Who's in Danger? Race, Poverty, and Chemical Disasters: A Demographic Analysis of Chemical Disaster Vulnerability Zones (published by the Environmental Justice Health Alliance for Chemical Policy Reform, or EJHA) documented that the percent-

age of Blacks living in fenceline zones near 3,433 high-risk chemical facilities is 75% greater than for the U.S. as a whole, and the percentage of Latinos is 60% greater. The poverty rate in these areas is 50% higher than for the U.S. as a whole.

Life at the Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities (EJHA, Coming Clean, Campaign for Healthier Solutions) found that in several communities that host clusters of hazardous facilities, the fenceline zones near these facilities are disproportionately Black, Latino, and low income, and face multiple health hazards and risks. In addition, the most vulnerable neighborhoods near these facilities (those that are both low income and have low access to healthy foods) are even more heavily and disproportionately impacted.

Watered Down Justice (Natural Resources Defense Council, Coming Clean, and EJHA) found that the rate of violations of the Safe Drinking Water Act increased in communities of color, low-income communities, and areas with more non-native English speakers. The analysis also found that water systems that serve these communities also stayed in violation for longer periods of time, for more violations, for more contaminants.

Environmental Justice for Delaware (EJHA, Delaware Concerned Residents for Environmental Justice, Coming Clean, et al) found that people in seven communities along the industrial corridor in the northern portion of Delaware's New Castle County face a substantial potential cumulative health risk from (1) exposure to toxic air pollution, (2) their proximity to polluting industrial facilities and hazardous chemical facilities, and (3) proximity to contaminated waste sites. These health risks are substantially greater than those of residents of a wealthier and predominantly White community in Delaware, and for Delaware as a whole.

Our organizations strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits will not be issued if projects cannot demonstrate a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by,

Center for Progressive Reform
National

PODER
Austin, TX

Clean and Healthy New York
Albany, NY

River Network
National

Clean Power Lake County Waukegan, IL	TX Campaign for the Environment Texas
CleanAirNowKC Kansas City	Toxic Free NC Durham, North Carolina
Health Prof. for a Healthy Climate Minneapolis, Minnesota	Upstream National
Lake James Environmental Assoc. Nebo, North Carolina	UrbanPromise Ministries Camden, New Jersey
Locust Point Community Garden Baltimore, MD	Waterway Advocates South Florida
Mother's of Diversity America Dunbar, WV	We the People of Detroit Detroit, Michigan
National Family Farm Coalition Washington, DC	West End Revitalization Association Mebane, NC 27302
National Women's Health Network National	WV Environmental Council Charleston, West Virginia
Oregon Phy. for Social Responsibility Oregon	West Virginia FREE Charleston, WV
Our Future WV Charleston, WV	Wisconsin's Green Fire Wisconsin
Pennsylvania Council of Churches Harrisburg, PA	Women's Voices for the Earth National/Montana/Colorado
Pesticide Action Network National	

February 15, 2022

The Hon. Raúl Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

We write in support of the Environmental Justice for All Act (H.R. 2021). We commend Chairman Grijalva and Rep. McEachin for creating an inclusive and open process to develop legislation that concretely addresses vast and long-standing inequities in our environmental protections. In process and in substance, the Environmental Justice for All Act is a significant step forward to confront the legacy of environmental racism and disparate impacts affecting frontline communities nationwide. We urge committee members to support and advance this legislation as soon as possible.

The Environmental Justice for All Act is the result of a process that prioritizes the voices of the communities most harmed by environmental degradation. It represents a bold and necessary shift in the way we create federal environmental policy—it is the result of a serious and years-long effort to genuinely listen to the expertise and concerns of the very people experiencing the worst of pollution. Its drafters carefully and transparently crafted legislation that reflected those experiences and expertise while creating concrete and significant improvements to our environmental protections systems.

Environmental justice communities—communities of color, low-income communities, and Tribal and Indigenous communities, as defined in the bill—continue to experience disproportionate levels of exposure and vulnerability to toxic pollution and environmental risks. To combat this reality, the bill would mandate bold actions that protect the health and safety of communities that are forced to carry the vast majority of the burden from our nation's historical and current reliance on dirty fuels, toxic substances, and exploitative practices. It also would invest in the same communities so that they can have broader access to cleaner transportation, safer food and green spaces. Moreover, it would redistributes the burden by having the same exploitative industries—oil, gas and coal companies who have profited from poisoning our air and water—pay for these new investments with additional fees.

Notably, the bill would give communities the right to hold polluters accountable in court when these polluters' actions result in a discriminatory impact. For far too long, polluters have been able to discriminate against people of color, forcing them to prove a discriminatory intent even when the impacts of their actions were clearly racist. The bill recognizes that front-line communities do not live with the intent of the polluters' racist practices; communities are forced to live with the impacts of those practices and they should have the right to remedy the impacts of this racism in court.

Many attempts were made over the last few years to violate or dismantle bedrock environmental protections like the National Environmental Policy Act (NEPA), but this bill offers a counter by giving environmental justice communities a voice in infrastructure development. The bill restructures current permitting processes so that cumulative impacts are considered properly and consistently as new infrastructure develops in environmental justice communities. The bill also directs federal agencies to seek Tribal government input in the NEPA process, and to ensure that Indian Tribes are invited to hold the status of a cooperating agency for proposed actions that might impact their reservation lands and sacred sites. Further, the bill codifies 2016 EPA guidance on consultation and coordination with Indian Tribes and 1997 Council on Environmental Quality guidance on environmental justice under NEPA. Taking a page from the process used to create the bill, the legislation would ensure that environmental justice communities most impacted by infrastructure projects have influence over the permitting process.

Centered on the simple premise that everyone has the right to drink clean water, breathe clean air, and live without fear of the poisonous effects of toxic chemicals, the Environmental Justice for All Act and the process used to create it, stand as an example to follow and significant step to end environmental racism. Setting strong new norms, it makes significant investments to limit and clean up the toxic pollution that has plagued environmental justice communities for decades. Concurrently, it invests in the same communities so that they have equitable access

to emerging resources and technologies that should be equitably available to them as our nation recommits itself to addressing our health, safety, and the climate crisis.

The undersigned organizations are proud to support the Environmental Justice for All Act. We urge all House Committees with jurisdiction over this legislation to support it as well and to act expeditiously in order to bring this important bill to the House floor. Thank you for your attention.

Sincerely,

Raul Garcia
Earthjustice

Donna Detweiler
Albuquerque Mennonite Church

Laura Neish
350 Bay Area Action

Katie Huffling
Alliance of Nurses for Healthy
Environments

Patricia Hine
350 Eugene

Peniel Ibe
American Friends Service
Committee

Carolyn C. Barthel
350 Mass

Roxanne Blackwell
American Society of Landscape
Architects

Emily Johnston
350 Seattle

Charles Robles
Ancestral Lands Conservation Corps

JL Andreponit, MPA, PhDc
350.org

Dori Peralta Baker
Asian Pacific Islander Coalition-
YKM

Athena Christodoulou Adelante
Progressive Caucus

Heather Cantino
Athens County's Future Action
Network

Kyle Crider
Alabama Interfaith Power & Light

Ted Glick
Beyond Extreme Energy

Pamela Miller
Alaska Community Action on Toxics

Lisa Arkin
Beyond Toxics

Mark Hefflinger
Bold Alliance

Elaine Cimino
Common Ground Community Trust

Lisette van Vliet
Breast Cancer Prevention Partners

Sofia Martinez
Concerned Citizens of Wagon Mound
and Mora County

Groger McNew
Cambio Inc.

David Feinman
Conservation Lands Foundation

Elizabeth Alex
CASA

Naina Panthaki
Cottonwood Gulch Expeditions

Cathleen Kelly
Center for American Progress

Karyn Bigelow
Creation Justice Ministries

Brett Hartl
Center for Biological Diversity

Dahlia Rockowitz
Dayenu: A Jewish Call to Climate
Action

<i>Dr. Sacoby Miguel Wilson</i> Center for Community Engagement, Environmental Justice and Health	<i>Kyli Wagner</i> Defend Our Future
<i>Thomas Fox</i> Center for Environmental Health	<i>Cameron Walkup</i> Defenders of Wildlife
<i>Darya Minovi</i> Center for Progressive Reform	<i>Omar Sarabia</i> Defiende Nuestra Tierra
<i>Catherine Garoupa White</i> Central Valley Air Quality Coalition	<i>Hazel James</i> Dine' Centered Research Evaluation
<i>Julie Waterman</i> City Parks Alliance	<i>Yolanda Whyte</i> Dr. Yolanda Whyte Pediatrics
<i>Kim Gaddy</i> Clean Water Action	<i>Bianca Sopoci-Belknap</i> Earth Care
<i>Esteban Arenas-Pino</i> Climate Justice Alliance	<i>Mary Gutierrez</i> Earth Ethics, Inc.
<i>Laura Gardner</i> Climate Reality Massachusetts Southcoast	<i>Lauren Pagel</i> Earthworks
<i>Rabbi Daniel Swartz</i> Coalition on the Environment and Jewish Life	<i>Bianca Encinias</i> El Chante: Casa de Cultura
<i>Ruth Santiago</i> Comite Dialogo Ambiental, Inc.	<i>Kendra Hughes</i> Environmental Defense Fund
<i>Ann Mesnikoff</i> Environmental Law & Policy Center	<i>Mark A Dunlea</i> Green Education and Legal Fund
<i>Thomas Wheeler</i> Environmental Protection Information Center-EPIC	<i>Barbara Carey</i> Green Faith Olympia
<i>Mona Munroe-Younis</i> Environmental Transformation Movement of Flint	<i>Amy Brooks Paradise</i> GreenFaith
<i>Leah Redwood</i> Extinction Rebellion San Francisco Bay Area	<i>Irene Burga</i> GreenLatinos
<i>Vernon C Butler</i> Families United for Education	<i>Deborah Jackson</i> Harambee House
<i>John Peck</i> Family Farm Defenders	<i>Charlotte Brody</i> Healthy Babies Bright Futures
<i>Nayyirah Shariff</i> Flint Rising	<i>Lexi Tuddenham</i> Healthy Environment Alliance of Utah
<i>Shannon Smith</i> FracTracker Alliance	<i>Naomi Yoder</i> Healthy Gulf
<i>Louise Lears</i> Franciscan Action Network	<i>Shanna Edberg</i> Hispanic Access Foundation

<i>Elaine Tanner</i> Friends For Environmental Justice	<i>Laura Esquivel</i> Hispanic Federation
<i>Michael Hansen</i> GASP	<i>Camilla Simon</i> Hispanics Enjoying Camping, Hunting, and the Outdoors
<i>Christina Schlegel</i> Global Center for Climate Justice	<i>Cheryl Barnds</i> Honor the Earth
<i>Jerry Otero</i> Grand Canyon Trust	<i>Marc Brenman</i> IDARE LLC
<i>Adrien Salazar</i> Grassroots Global Justice Alliance	<i>Tom BK Goldtooth</i> Indigenous Environmental Network
<i>Shelley Silbert</i> Great Old Broads for Wilderness	<i>Krystal Curley</i> Indigenous Lifeways
<i>Nadira Narine</i> Interfaith Center on Corporate Responsibility	<i>Lance Kittel</i> Inland Ocean Coalition
<i>Tiffany Hartung</i> Interfaith Power & Light	<i>Kyle Simpson</i> National Recreation and Park Association
<i>Carson Barylak</i> International Fund for Animal Welfare (IFAW)	<i>Rebeca Villegas</i> National Wildlife Federation
<i>Kimberly Baker</i> Klamath Forest Alliance	<i>Roberto Morales</i> Nature For All Coalition
<i>Monica Kleimeyer</i> Laudato Si Circle	<i>Jodi Lasseter</i> NC Climate Justice Collective
<i>Madeleine Foote</i> League of Conservation Voters	<i>Mariel Nanasi</i> New Energy Economy
<i>Alejandra Ramirez-Zarate</i> League of Conservation Voters- Chispa	<i>Dr. Virginia Necochea</i> New Mexico Environmental Law Center
<i>Dr. Terrie E. Griffin</i> League of Women Voters of Pennsylvania	<i>Sr. Joan Brown</i> New Mexico Interfaith Power and Light
<i>Dave Shukla</i> Long Beach Alliance for Clean Energy	<i>Anthony Rogers-Wright</i> New York Lawyers for the Public Interest
<i>Richard Moore</i> Los Jardines Institute	Next 100 Colorado
<i>Molly Rauch</i> Moms Clean Air Force	<i>Carol R. Foss, Ph.D.</i> NH Audubon
<i>Kera Panni</i> Monterey Bay Aquarium	<i>Carol Gay</i> NJ State Industrial Union Council

<i>Leslie Raff</i> Morristown United Methodist Church, Greenfaith Circle	<i>Fernanda Banda</i> NM Dream Team
<i>Susan Gordon</i> Multicultural Alliance for a Safe Environment	<i>Jerry Rivers</i> North American Climate, Conservation and Environment
<i>Maggie Ostdahl</i> National Aquarium	<i>Timothy Judson</i> Nuclear Information and Resource Service
<i>Jesse Walls</i> National Audubon Society	<i>Cari Gardner</i> NYPAN Environ Committee
<i>Jeff Slyfield</i> Ocean Conservancy	<i>Cari Gardner</i> NYPAN Greene
<i>Lara Levison</i> Oceana	<i>Dr. Robert K. Musil</i> Rachel Carson Council
<i>NaTisha C. Washington</i> One Pennsylvania	<i>Donna Chavis</i> RedTailed Hawk Collective
<i>Jackie Antalan</i> Operation HomeCare, Inc.	<i>Gabriel Thoumi, CFA, FRM</i> Founder, Responsible Alpha
<i>Emily Martin</i> Our Climate	<i>Mustafa Santiago Ali</i> Revitalization Strategies
<i>Alexandra Merlino</i> Partnership for Responsible Business	<i>Linda Starr</i> Rio Grande Valley Broadband, Great Old Broads for Wilderness
<i>Michael Malcom</i> People's Justice Council	<i>Michael Richardson</i> Rivers & Mountains GreenFaith Circle
<i>Andrea Vidaurre</i> Peoples Collective for Environmental Justice	<i>Nora Nickum</i> Seattle Aquarium
<i>Deborah L. Lynch</i> PHE INC	<i>Elizabeth Perera</i> Sierra Club
<i>Liz Robinson</i> Philadelphia Solar Energy Association	<i>Lauren Reliford, MSW</i> Sojourners
<i>Tonyehn Verkitus</i> Physicians for Social Responsibility Pennsylvania	<i>Nat Mund</i> Southern Environmental Law Center
<i>Alexia Leclercq</i> PODER	<i>Terry Sloan</i> Southwest Native Cultures
<i>Bishop Dwayne Royster</i> POWER Interfaith	<i>Nathan Taft</i> Stand.earth

<i>Beatriz Soto</i> Protegete	<i>Shoshana Hershkowitz</i> Suffolk Progressives
<i>Julia Bernal</i> Pueblo Action Alliance	<i>Jean Tepperman</i> Sunflower Alliance
<i>César G. Abarca</i> Quelites Institute	<i>Lauren Maunus</i> Sunrise Movement
<i>Timothy Edward Duda</i> Terra Advocati	<i>Wyatt G. Sassman</i> University of Denver Sturm College of Law
<i>Hal Connolly</i> The Climate Reality Project	<i>Desiree Luckey</i> URGE: Unite for Reproductive & Gender Equity
<i>Rev. Michael Malcom</i> The People's Justice Council	<i>Kelsey Anderson</i> Voices for Progress
<i>Myke Bybee</i> The Trust for Public Land	<i>Odette Mucha</i> Vote Solar
<i>Shayna Han</i> The Union for Reform Judaism	<i>Rachel Dawn Davis</i> Waterspirit
<i>Tamanna Brar</i> The Wilderness Society	<i>Susan Jane Brown</i> Western Environmental Law Center
<i>Anita Amstutz</i> Think Like a Bee	<i>Jennifer Byrne</i> White River Natural Resources Conservation District
<i>Christopher Ramirez</i> Together for Brothers	<i>Aubrey Bertram</i> Wild Montana
<i>Gerry Seavo James</i> Together Outdoors-Outdoor Recreation Roundtable	<i>Juli Slivka</i> Wilderness Workshop
<i>Connor Kippe</i> Toxic Free NC	<i>Jamie McConnell</i> Women's Voices for the Earth
<i>Tina M Cordova</i> Tularosa Basin Downwinders Consortium	<i>Amara Jones</i> Youth Emergency Auxiliary Service Sierra Leone (YEAS-SL)
<i>Taofik Oladipo</i> Union of Concerned Scientists	<i>Seneca Johnson</i> YUCCA Youth United for Climate Crisis Action
<i>Elizabeth Chun Hye Lee</i> United Methodist Women	<i>Zanagee Artis</i> Zero Hour
<i>Diana Dorn-Jones</i> United South Broadway Corporation, community partner	<i>Colton R. Dean</i>
<i>Bruce A. Rose</i>	

Natural Resources Defense Council (NRDC)
New York, New York

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Re: Letter for the Record on the Environmental Justice for All Act

Dear Chairman Grijalva and Ranking Member Westerman:

On behalf of the Natural Resources Defense Council and our members, we write to express strong support for the Environmental Justice for All Act (H.R. 2021). We urge committee members to advance this important legislation quickly to begin remedying the long history of environmental racism and injustice, and cumulative and disproportionate health and environmental impacts, that affects communities of color, low-income communities, and Native/Indigenous nations and communities, across the country.

We support this legislation as aligned with NRDC's mission and values, which are to address the global environmental and climate crises through actions that are rooted in justice and that reduce historic and persistent inequities in health, socio-economic security, and human well-being.

We underscore that this landmark bill has been developed in close partnership with leaders in the environmental justice movement. The extensive public input process that informed the Act's creation has produced legislation uniquely influenced by the peoples and communities affected by those it seeks to help. Accordingly, the Environmental Justice for All Act recognizes that meaningfully improving the lives of Black, Indigenous, and People of Color requires transformative change led by those on the frontlines.

We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. Among the foundational actions provided by the Environmental Justice for All Act is the strengthening of the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

Another significant aspect of the Environmental Justice for All Act is the requirement that federal agencies consider cumulative impacts in Clean Air Act and Clean Water Act permitting decisions. The failure to consider cumulative impacts is a long-standing and egregious oversight in environmental regulation and policy-making. It ignores the lived reality of frontline communities, who often face multiple environmental threats at once, along with social stressors such as racial discrimination, historical trauma, and reduced access to material resources. It ignores the science that shows that the risks from environmental pollution are heightened precisely when a person or community faces multiple threats and stressors. Accounting for cumulative impacts is fundamental to reducing inequities and ensuring that additional burdens are not heaped upon those already experiencing disproportionate environmental and social vulnerability.

Importantly, the Environmental Justice for All Act also strengthens the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies. Providing this recourse will help make progress toward correcting the unequal pollution burden and stark environmental health disparities that frontline communities experience due to historic and on-going structural discrimination.

Finally, we wish to underscore that the Environmental Justice for All Act is ambitious because it must be. It responds to the scale of challenges frontline communities face every day in their fight for clean air, clean water, and a healthy and safe environment. It is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly passing the bill out of Committee and sending it on

to the full House of Representatives. NRDC looks forward to working with you, the rest of the Committee, and environmental justice advocates to move this legislation forward.

Sincerely,

MELISSA LIN PERRELLA,
Chief Equity & Justice Officer
Environment, Equity & Justice Center

OUR FUTURE WEST VIRGINIA
Charleston, West Virginia

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

On behalf of Our Future West Virginia (OFWV), I write to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We are urging each committee member to quickly advance this important legislation as a way to appropriately address the long history of environmental racism and injustice, and the cumulative and disproportionate health and environmental impacts that have adversely affected communities of color, low-income communities, and Native/Indigenous nations and communities, across the country.

OFWV supports this critical piece of legislation as it aligns with our mission of helping communities in WV build local power to upend oppressive systems around them and working to ensure that every West Virginian has the justice, dignity, and equity needed to thrive.

Unfortunately, there are many communities in WV that have received short shrift when it comes to the notion of Environmental Justice, suffering in isolation and readily ignored by policy makers and toxic producing manufacturers. Despite decades of research and evidence, and the far-reaching testimonies from impacted people and communities themselves, there has been little if any redress. Instead, the documented history of the cumulative and disproportionate chemical hazards and impacts imposed on communities of color, low-income communities, and Native/Indigenous communities have continued for generations ad nauseam. Impacted folks have curated their own solutions to these injustices and harms for some time, while calls for official intervention at the local and state levels have gone ignored. The extensive public input process that informed the Act's creation reflects this history and stands as evidence. Further it has produced legislation that is uniquely influenced by the very folks it seeks to help.

OFWV strongly supports the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, income, or geographical location—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies.

These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;

- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue course correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to rectify these injustices and truly address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by,

KATHY FERGUSON,
Interim Exec. Director

OUTDOORS ALLIANCE FOR KIDS

February 14, 2022

Dear Chairperson Grijalva, Ranking Member Westerman and members of the House Natural Resources Committee:

We, the undersigned members, partners and supporters of the Outdoors Alliance for Kids (OAK), appreciate the prioritization of equitable access to nature and increased transportation options to parks, trails, green spaces and public lands in the Environmental Justice for All Act. OAK is a national strategic partnership of more than 100 businesses and organizations representing more than 60 million Americans, with a common interest in connecting children, youth and families with the outdoors. Our members and supporters believe that in the wake of the COVID-19 pandemic, the need for equitable opportunities to recreate in the outdoors has never been more apparent.

Parks and public lands belong to all Americans to enjoy, regardless of income or zip code. Unfortunately, far too many under-resourced families face significant obstacles to accessing these special places. Urban, rural and remote communities, especially racially and ethnically diverse, low-income, and disabled communities, disproportionately lack safe access to their public lands and waters. The pandemic has dramatically expanded this access gap, with the Governors Highway Safety Association finding that pedestrian injury and death increased 21% during the pandemic.

The Environmental Justice for All Act is rooted in the principle that all people have the right to pure air, clean water and an environment that enriches life. With a multi-year inclusive public process that involved a diverse set of stakeholders and impacted communities, this legislation incorporates three vital programs to support equitable access to nature for youth and families that OAK strongly supports:

Section 11, Access to parks, outdoor spaces and public recreation opportunities

This provision would codify and guarantee funding for the Outdoor Recreation Legacy Partnership (ORLP) program to enhance access to greenspace and develop recreational infrastructure in communities that lack park space and have been traditionally under-resourced. This important investment in local parks will expand access for one-third of Americans, including 28 million children, who lack access to a quality park close to home. Since the program's inception in 2014, ORLP funding has supported 69 projects, leveraging more than \$76 million in non-federal funds, to improve close-to-home outdoor access. With parks serving as critical, job-creating, resilient infrastructure and offering communities the proven physical and mental health benefits of access to the outdoors, we must act now to invest in open spaces.

Section 12, Transit to Trails grant program

The Transit to Trails grant program directs the Department of Transportation to establish a block-grant program to fund accessible transportation systems to parks, trailheads, green spaces and public lands. This will provide federal grants to match state and local funding of transit routes between cities and public lands to ensure underserved and rural communities can safely and equitably access parks and outdoor recreation opportunities. Connecting more families and individuals with quality nature, especially in critically underserved areas, will provide greater opportunities for employment, wellbeing and outdoor exploration.

Section 13, Repeal of sunset for the Every Kid Outdoors program

The Every Kid Outdoors (EKO) program provides fourth graders and their families with one year of free access to all national park sites. This program must be made permanent; by statute, the Every Kid Outdoors program will expire in 2026. Removing the sunset provision in EKO now will be essential in allowing agencies to provide lasting equitable access to federal public lands. Engagement with the outdoors is essential for developing resilient youth and strong families, and will develop future park visitors and stewards.

As we work to recover from the COVID-19 pandemic, it is clear that access to the outdoors is more important than ever. Engagement with the outdoors has been a lifeline for many during the pandemic and will be a crucial step in the healing process for youth and families while developing future park visitors and stewards. Expanding and bolstering programs that provide equitable access to nature will create healthier, more sustainable, economically vibrant and climate-resilient communities.

We strongly endorse and appreciate the inclusion of equitable access to nature programs within the Environmental Justice for All Act. For questions related to this letter, please reach out to Tara Brown, Senior Government Relations Representative at The Wilderness Society at Tara—Brown@tws.org. Thank you for your consideration.

Sincerely,

American Hiking Society	National Recreation and Park Association
American Society of Landscape Architects	Nature For All
Appalachian Mountain Club	Outward Bound California
Appalachian Trail Conservancy	Seed Your Future
Avid4 Adventure	Sierra Club
Children & Nature Network	SkyDay
Choose Outdoors	The Corps Network
Conservation Legacy	The Trust for Public Land
ForeverGreen Trails	The Venture Out Project
Latino Outdoors	The Wilderness Society
Move Redmond	

People Organized in Defense of Earth and her Resources (PODER)
Austin, Texas

February 8, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Re: Austin, Texas Community Testimony & Support for Environmental Justice for All Act (H.R. 2021)

Dear Chairman Grijalva and Ranking Member Westerman:

In 1928, the City of Austin's Master Plan set the stage for the relocation of African American and Mexican American population along with unwanted industry to East Austin.

East Austin residents have endured a legacy of racism. This legacy of racism includes cumulative and disproportionate chemical hazards that have impacted low-income and communities of color health and environment in East Austin.

For more than 35 years, East Austin residents had lived next to several bulk fuel storage tank facilities (Tank Farm) that devastated the land and our community. The tank farm was in a predominately Latino and African American neighborhood. Millions of gallons of petroleum products were stored at the Tank Farm. The Tank Farm was a 52-acre site with above ground fuel storage tanks owned by six major oil companies. Even though these six oil corporations were located next to each other, their permits at the state level were approved as if there was just one corporation located on the 52-acre site. Cumulative impacts were not considered. In 1992, PODER discovered that the companies had violated air emissions and had contaminated the groundwater. There were numerous health problems in the community.

The City of Austin's Holly Power Plant (HPP) located within feet of East Austin residents had noise levels that exceed the Housing, Urban, and Development (HUD) federal standards for residential areas, and elevated EMF (electromagnetic fields). The HPP was the largest stationary source of nitrogen oxide which contributes to ozone. Several fires at the site raised additional public health and safety concerns.

BFI, a multinational waste management company, was contracted by the City of Austin to collect recyclables such as plastics, glass, cans, and newspapers of over 350,000 households. BFI was in a community of color neighborhood. The site became a 'mini' landfill causing an infestation of rats, alarming residents' public health concerns. Industrial pollution from the large trucks delivering recyclables to the plant, devasted the residents. A five alarm fire at the site raised additional public health and safety concerns.

Pure Castings uses numerous toxic metals. The Pure Castings industrial metal foundry located across from Zavala Elementary School and in a residential area. PODER has been working with City Council members, health officials and other regulatory agencies to protect the health of the children and the community.

PODER has demanded solutions to these injustices and harms, not just for our communities but for communities throughout the United States and the world.

PODER strongly supports the central elements in the Environmental Justice for All Act, which are important steps toward remedying a long legacy of harm and ensuring the fair treatment and meaningful involvement of all people regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with authority over this legislation, to begin to correct these injustices and

address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by:

SUSANA ALMANZA,
Director

River Network

February 14, 2022

Hon. Raúl M. Grijalva, Chairman
Hon. Bruce Westerman, Ranking Member
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

I am writing on behalf of River Network to express our strong support for the Environmental Justice for All Act (H.R. 2021). Embedded in our mission and values is the belief that all people have a right to clean and ample water that sustains life. Unfortunately, biases and disparities disproportionately burden communities of color, Indigenous communities, and low-income communities with environmental damage and on-going harm that limits access to healthy, life-sustaining waters for all. Addressing and repairing these environmental injustices is essential to ensuring everyone's right to clean water.

We commend Chair Grijalva and Representative McEachin for their approach to developing this legislation. By collaborating with communities impacted by environmental racism and oppression, extensive community perspectives and input were used to craft this bill. This process led to a comprehensive bill with a clear set of policy solutions, informed by those most impacted by environmental injustices.

In particular, we commend the inclusion of the following provisions to strengthen the impact of the Environmental Justice for All Act, inspired by the feedback received from impacted communities:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits will not be issued if projects cannot demonstrate a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

River Network commends this process, supports the legislators and community members who identified these policy solutions, and fully supports the Environmental Justice for All Act.

Thank you for your consideration of our letter of support.

Sincerely,

APRIL INGLE,
Policy Director

SILENT SPRING INSTITUTE
Newton, Massachusetts

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

We are writing on behalf of Silent Spring Institute to provide comments on the Environmental Justice for All Act (H.R. 2021) and detail the need for action on issues of environmental racism and disparate exposure burdens to toxic chemicals across axes of race, class, and geographic location.

Silent Spring Institute is a non-profit research organization that studies the links between environmental chemicals and disease, with a focus on breast cancer. As one of the fundamental principles of environmental justice underscores, we believe that **every American has a right to live, work, and play in a safe and healthy environment regardless of race, color, national origin, or income.**¹ We have several research projects focused on environmental justice, including a study that explores the influence of lead hazard control programs at reducing other chemical hazards,² an investigation of endocrine disrupting chemicals in personal care products used by Black and Latina women,^{3,4} and research on whether low-income and communities of color in the U.S. have higher levels of contaminants in their drinking water.^{5,6} We have also researched indoor and outdoor air quality for environmental justice communities living near industrial facilities and major transportation corridors.^{7,8}

World War II, over 80,000 new chemicals have been released onto the market, very few of which are tested for safety or are subject to regulations.⁹ For breast cancer alone, **more than 200 chemicals have been associated with mammary gland tumors** in animal studies,¹⁰ and about half of these are chemicals that people are routinely exposed to in their everyday lives.¹¹ These chemicals are found in furniture, food packaging, cleaning products, personal care products, and numerous household items. Significantly, exposure to these chemicals are higher

¹ Silent Spring Institute. (2022). *Pursuing Environmental Justice*. Core Values. Accessed February 14, 2022. <https://silentspring.org/core-value/pursuing-environmental-justice>.

² Silent Spring Institute. (2022). *Lead and Healthy Homes*. How are we exposed to toxic chemicals?: Household air and dust. Accessed February 14, 2022. <https://silentspring.org/project/lead-and-healthy-homes>.

³ Helm, J.S., Nishioka, M., Brody, J.G., et al. (2018). Measurement of endocrine disrupting and asthma-associated chemicals in hair products used by Black women. *Environmental Research*, 165, 448–458. doi: 10.1016/j.envres.2018.03.030.

⁴ Dodson, R.E., Cardona, B., Zota, A.R., et al. (2021). Personal care product use among diverse women in California: Taking Stock Study. *Journal of Exposure Science & Environmental Epidemiology*, 31(3), 487–502. doi: 10.1038/s41370-021-00327-3.

⁵ Schaider, L.A., Swetschinski, L., Campbell, C., et al. (2019). Environmental justice and drinking water quality: are there socioeconomic disparities in nitrate levels in U.S. drinking water? *Environmental Health*, 18(3). doi: 10.1186/s12940-018-0442-6.

⁶ Silent Spring Institute. (2019). *Millions of Americans exposed to elevated nitrate levels in drinking water*. News. January 16. <https://www.silentspring.org/news/millions-americans-exposed-elevated-nitrate-levels-drinking-water>.

⁷ Dodson, R.E., Udesky, J.O., Colton, M.D., et al. (2017). Chemical exposures in recently renovated low-income housing: Influence of building materials and occupant activities. *Environment International*, 109, 114–127. doi: 10.1016/j.envint.2017.07.007.

⁸ Brown, P., Brody, J.G., Morello-Frosch, R., et al. (2012). Measuring the success of community science: the northern California Household Exposure Study. *Environmental health perspectives*, 120(3), 326–331. doi: 10.1289/ehp.1103734.

⁹ Lloyd-Smith, M., & Sheffield-Brotherton, B. (2008). Children's environmental health: inter-generational equity in action—a civil society perspective. *Annals of the New York Academy of Sciences*, 1140, 190–200. doi: 10.1196/annals.1454.051.

¹⁰ Brody, J.G., Moysich, K.B., Humblet, O., et al. (2007). Environmental pollutants and breast cancer: epidemiologic studies. *Cancer*, 109(12 Suppl), 2667–2711. doi: 10.1002/cncr.22655.

¹¹ Rudel, R.A., Ackerman, J.M., Attfield, K.R., & Brody, J.G. (2014). New Exposure Biomarkers as Tools for Breast Cancer Epidemiology, Biomonitoring, and Prevention: A Systematic Approach Based on Animal Evidence. *Environmental health perspectives*, 122(9), 881–895. doi: 10.1289/ehp.1307455.

among low-income communities of color. Our research shows that water systems with higher levels of nitrate tend to serve predominantly Latinx communities.⁵ Exposure to nitrate itself is shown to be associated with cancers^{12,13} as well as birth defects,^{12,14} and high nitrate levels are also a good indicator of other drinking water contaminants present.⁶ Our studies have also found that beauty products marketed to women of color contain higher concentrations of toxic chemicals,^{3,4} which may contribute to the trend of women of color having higher chemical body burdens than white women.¹⁵

The disparate exposures we have studied are only small parts of a disturbing national trend. More than half the people in the US who live within 3km of a toxic waste site are people of color.¹⁶ Low-income communities of color are disproportionately exposed to air pollution,^{17,18,19} and 40% percent more likely to be serviced by water systems that continually violate the Safe Drinking Water Act.²⁰ All of these trends of disparate exposure contribute to a myriad of health and social wellbeing disparities between minority and white communities,²¹ including disparate rates of asthma,²² lead poisoning,²³ adverse birth outcomes,²⁴ pesticide exposure,²⁵ and Covid-19 mortality.^{26,27}

¹²Temkin, A., Evans, S., Manidis, T., et al. (2019). Exposure-based assessment and economic valuation of adverse birth outcomes and cancer risk due to nitrate in United States drinking water. *Environmental Research*, 176, 108442. doi: 10.1016/j.envres.2019.04.009.

¹³Espejo-Herrera, N., Gracia-Lavedan, E., Boldo, E., et al. (2016). Colorectal cancer risk and nitrate exposure through drinking water and diet. *International Journal of Cancer*, 139: 334–346. doi: 10.1002/ijc.30083.

¹⁴Brender, J.D., Weyer, P.J., Romitti, P.A., et al. (2013). Prenatal Nitrate Intake from Drinking Water and Selected Birth Defects in Offspring of Participants in the National Birth Defects Prevention Study. *Environmental health perspectives*, 121(9), 1083–1089. doi: 10.1289/ehp.1206249.

¹⁵Zota, A.R. & Shamasunder, B. (2017). The environmental injustice of beauty: framing chemical exposures from beauty products as a health disparities concern. *American Journal of Obstetrics & Gynecology*, 217(4), 418.e411–418.e416. doi: 10.1016/j.ajog.2017.07.020.

¹⁶Justice and Witness Ministries of the United Church of Christ. (2007). *Toxic Wastes and Race at Twenty 1987–2007*. Cleveland, OH: United Church of Christ. <https://www.nrdc.org/sites/default/files/toxic-wastes-and-race-at-twenty-1987-2007.pdf>.

¹⁷Miranda, M.L., Edwards, S.E., Keating, M.H., & Paul, C.J. (2011). Making the Environmental Justice Grade: The Relative Burden of Air Pollution Exposure in the United States. *International Journal of Environmental Research and Public Health*, 8(6), 1755–1771. Retrieved from <https://www.mdpi.com/1660-4601/8/6/1755>.

¹⁸Tessum, C.W., Paolella, D.A., Chambliss, S.E., et al. (2021). PM2.5 polluters disproportionately and systemically affect people of color in the United States. *Science Advances*, 7(18), eabf4491. doi:10.1126/sciadv.abf4491.

¹⁹Bell, M.L. & Ebisu, K. (2012). Environmental inequality in exposures to airborne particulate matter components in the United States. *Environmental health perspectives*, 120(12), 1699–1704. doi: 10.1289/ehp.1205201.

²⁰Pullen Fedinick, K., Taylor, S., & Roberts, M. (2019). *Watered Down Justice*. National Resources Defense Council, Coming Clean, & Environmental Justice Health Alliance. <https://www.nrdc.org/sites/default/files/watered-down-justice-report.pdf>.

²¹Meyer, P.A., Yoon, P.W., & Kaufmann, R.B. (2013). *Introduction: CDC Health Disparities and Inequalities Report—United States, 2013*. Centers for Disease Control & Prevention: Morbidity and Mortality Weekly Report (MMWR), 62(03): 3–5. https://www.cdc.gov/mmwr/preview/mmwrhtml/su6203a2.htm?s_cid=su6203a2_w.

²²Nishimura, K.K., Galanter, J.M., Roth, L.A., et al. (2013). Early-life air pollution and asthma risk in minority children. The GALA II and SAGE II studies. *American journal of respiratory and critical care medicine*, 188(3), 309–318. doi: 10.1164/rccm.201302-0264OC.

²³Wengrovitz, A.M. & Brown, M.J. (2009). *Recommendations for Blood Lead Screening of Medicaid-Eligible Children Aged 1–5 Years: an Updated Approach to Targeting a Group at High Risk*. Centers for Disease Control & Prevention: Morbidity and Mortality Weekly Report (MMWR). <https://www.cdc.gov/mmwr/preview/mmwrhtml/tr5809a1.htm>.

²⁴Woodruff, T.J., Parker, J.D., Kyle, A.D., & Schoendorf, K.C. (2003). Disparities in exposure to air pollution during pregnancy. *Environmental health perspectives*, 111(7), 942–946. doi: 10.1289/ehp.5317.

²⁵Carter-Pokras, O., Zambrana, R.E., Poppell, C.F., et al. (2007). The environmental health of Latino children. *Journal of pediatric health care: official publication of National Association of Pediatric Nurse Associates & Practitioners*, 21(5), 307–314. doi: 10.1016/j.pedhc.2006.12.005.

²⁶Brandt, E.B., Beck, A.F., & Mersha, T.B. (2020). Air pollution, racial disparities, and COVID-19 mortality. *The Journal of allergy and clinical immunology*, 146(1), 61–63. doi: 10.1016/j.jaci.2020.04.035.

²⁷Wu, X., Nethery, R.C., Sabath, M.B., et al. (2020). Air pollution and COVID-19 mortality in the United States: Strengths and limitations of an ecological regression analysis. *Science Advances*, 6(45). doi:10.1126/sciadv.abd4049.

The Environmental Justice for All Act contains several measures that could greatly alleviate these exposure and health inequities,²⁸ including:

- Requiring permits under Clean Water Act and the Clean Air Act to consider cumulative impacts and only be issued when the project can demonstrate no harm to human health within reasonable certainty.
- Additional funding for research grants that study chemicals of exposure concern in personal and childcare products; funding for research into safer alternatives for cosmetic product chemical, specifically for those products containing chemicals marketed specifically to people of color; requirements for transparent and accurate disclosure of ingredients in personal care products' labels.
- \$75 million annually in grants to support research, outreach, development, education, and projects on environmental and public health issues in environmental justice communities.
- Requiring federal agencies to implement environment justice strategies and engage with diverse communities, as proposed by Executive Order 12898.
- Expanding and improving genuine and meaningful opportunities for community engagement and influence under the National Environmental Policy Act (NEPA), and specific strengthening of Tribal representation and consultation in projects affecting Tribal land or even sacred sites off-reservation.

These key measures of the Act represent a long-awaited addressment of the hazards and inequities posed by toxic chemicals, insufficient regulations, and the resulting harms for communities of color, low-income communities, and Native/Indigenous communities. We hope the peer-reviewed scientific information we have provided can help inform your decision to support this Act. We greatly appreciate the opportunity to submit comments.

Sincerely,

Summer-Solstice Thomas,
Research Assistant

Dr. Jennifer Liss Ohayon,
Research Scientist

Statement for the Record

The Alliance For Appalachia London, Kentucky

Dear Chair Grijalva and members of the House Committee on Natural Resources:

The Alliance for Appalachia is a regional coalition that promotes a healthy, just Appalachia by supporting member organizations in communities impacted by destructive resource extraction. Our coalition brings together some of the most experienced groups from across the region to share resources, strategize for collective impact, and organize for a just transition that shifts from an extractive economy to a regenerative economy. This includes building local and political power to redress past harms and lift up all people.

The Alliance for Appalachia supports the Environmental Justice For All Act (H.R. 2021) as legislation rooted in the moral principle that all people have the right to clean air, water, and soil. We need the safeguards included in this bill to ensure that these rights are a reality.

We know that our region is not unique and that we are not alone in our pursuit of justice. **Environmental racism and oppression plague communities across the country in the name of profit and people of color and low-income individuals suffer first and worst.**

The cumulative impacts of coal mining in our region are pervasive and devastating to communities across our region and beyond. Fossil fuel extraction like coal mining impacts the environmental and human health of workers and communities. Mountaintop removal coal mining devastates the landscape, turning

²⁸ Committee on Natural Resources, House of Representatives. (2021). *Environmental Justice For All Fact Sheet*. Fact Sheets. Published March 2021. <https://naturalresources.house.gov/imo/media/doc/EJ%20Fact%20Sheet%20-%20March%202021.pdf>.

beautiful, plentiful forests into ugly, barren lands where native plants and animals struggle to thrive. The U.S. EPA estimates that more than 500 mountains have been destroyed by mountaintop removal and over 2,000 miles of streams have been buried with many more being poisoned by heavy metals and toxins.

We know that water is life, and yet we have witnessed countless violations of the Clean Water Act at mines across Appalachia. While the industry may be on the decline globally, mountaintop removal mining is not over. Just last year, the WV Department of Environmental Protection approved a 1,085-acre MTR permit on Coal River Mountain, and a few months ago, approved a 1,112-acre Paint Mountain MTR permit on Paint Mountain, despite the overwhelming evidence that communities near mountaintop removal have significantly higher rates of birth defects, serious disease, and mortality.

Before coal is ever extracted, mountains are blown up with war-like explosives to expose coal seams. During the extraction process, workers breathe in silica dust that leads to the deadly black lung disease, and the same dust falls on communities below, often less than a mile from the site. This process buries headwater streams and poisons our drinking water. **When mining is finished these companies skirt reclamation responsibilities and leave behind polluted abandoned mine sites for taxpayers and community members to clean up.**

Further down the supply chain, coal-fired power plants are the largest single source of carbon dioxide emissions around the world. **The waste created from burning coal, coal ash, is similarly dangerous to the surrounding communities, and again is disproportionately dangerous to communities of color who have often had to bear the burden of storing the waste.**

Julie Bledsoe of Powell, Tennessee, who shared part of her family's story during the House Natural Resources Committee 2020 EJ Now Tour, has been directly impacted by the dangers of coal ash:

“My husband worked to clean up the Kingston Coal Ash Spill. He was a healthy life long non-smoker and he now has COPD. I would like to share the dangers of coal ash. There are coal ash sites in EJ communities and all over our Nation that must be cleaned up. The cleanup workers and communities must be protected. What happened at Kingston must never happen again. Coal Ash is currently classified as non-hazardous, but it is deadly for humans to breathe. Workers at Kingston were denied respiratory protection. There are now over 50 workers dead that worked on the Kingston Coal Ash Spill cleanup. Many more are sick.”

And yet, extreme coal mining practices aren't the only form of extraction in Appalachia. Members of the Alliance for Appalachia are also resisting a huge petrochemical buildup to process fracked gas in the Ohio Valley, where elected officials and the oil and gas industry are telling residents it's their only hope for jobs. **We know this is not true and we know the environmental and health impacts of this industry by following the experiences of our comrades in the Gulf South whose home is now referred to as “Cancer Alley.”**

The impacts of fossil fuel extraction reach beyond environmental injustices. In a region like ours, economies are inextricably linked to and impacted by the boom and bust cycles of extraction. For example, property taxes and royalties from coal fund local school systems. When trucks hauling coal destroy our roads, it's county taxes that have to repair them. When companies deny workers their health benefits, it's taxpayers that foot the bill. When they file bankruptcy and walk away from reclamation responsibilities, it's taxpayers that are footing the bill. And when our water is poisoned, it's up to us to find safe sources to drink and bathe that are often more expensive and labor-intensive than a public system.

The Environmental Justice For All Act would ensure that communities have the tools to protect themselves and fight back against harmful industries. It requires federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions and ensures that permits will not be issued if projects cannot demonstrate a reasonable certainty of no harm to human health. And, it requires permitting authorities to determine that there exists a reasonable certainty of no harm to the health or general population, or to any potentially exposed or susceptible subpopulation located in or immediately adjacent to the area of the major source.

We believe that we can achieve environmental justice by building power in communities and connecting people of all backgrounds and identities from geographically and culturally disparate places. We lean on people's personal experiences to tell the stories and perspectives necessary to reach strategic decisions. This bill is no different. As members of the Environmental Justice

Working Group with the House Natural Resources Committee, we know this legislation is based on principles defined and demanded by people like our members who are on the frontlines of environmental injustices. Had it been in place decades ago, it could have saved our communities and our mountains from the corporate greed that has robbed us of life-sustaining natural resources. **We support its passage so we can right the wrongs already done and protect future generations.**

For the mountains and the people,

MEMBERS OF THE ALLIANCE FOR APPALACHIA

Kentuckians for the Commonwealth • West Virginia Highlands Conservancy
 Coal River Mountain Watch • Appalachian Voices • Southern Appalachian Mountain Stewards
 Statewide Organizing for Community eMpowerment • Center for Coalfield Justice
 The STAY Project • Heartwood • Sierra Club Environmental Justice
 Southwings • Highlander Education and Research Center • Keepers of the Mountains
 Black Warrior Riverkeeper • The Clinch Coalition

Statement for the Record

The Descendants Project

The Descendants Project Announces Support of Key Environmental Legislation

February 7. Wallace, LA. The Descendants Project, a nonprofit organization committed to eradicating the legacies of slavery for black descendant communities especially fighting pollution within Louisiana's "Cancer Alley" announced its support for the Environmental Justice For All Act. Sponsored by Chair Raul M. Grijalva and Representative A. Donald McEachin," the legislation is rooted in the moral principle that all people have the right to pure air, clean water and an environment that enriches life."

Residents within Louisiana's cancer alley, an 83-mile stretch of highway along the Mississippi River inundated by petrochemical and heavy industry, endure cancer risks higher than 95% of the country. Plants and manufacturing facilities are often located on the former sites of plantations. Black neighborhoods and "freetowns", which are often on the perimeter of plantations, are now "fenceline" communities overburdened by the pollution from the facilities. Consequently, Black communities experience a disproportionate amount of exposure to carcinogens, PM 2.5, and even damage to homes and personal property. According to Dr. Joy Banner, one of the founding directors of The Descendants Project, "This legislation will amend and strengthen Title VI of the Civil Rights Act of 1964, which will prohibit discrimination based on the disparate impact we endure as Black, fenceline communities. The act will also hold companies accountable by allowing those of us impacted to seek legal remedy when they discriminate against us."

Another key feature of the legislation includes cumulative impacts, which requires consideration of the cumulative impacts in permitting decisions under the clean water and clean air act and ensures that permits will not be issued if the project cannot demonstrate reasonable certainty of no harm to human health.

Residents and EJ groups within cancer alley have highlighted the loophole whereby the heavy burden of pollution is not taken into consideration when evaluating the potential harm to the community from a new permit applicant. "It's like pouring water into a glass that's already two-thirds full, but not taking into account the water that's already in the glass. The glass can't handle the water, just like our bodies can't handle the pollution." Says Banner.

The Descendants Project is in their own fight for environmental justice; the foundation is suing St. John the Baptist Parish for illegal industrial zoning that is still on the books from the 1990s. The Parish President at the time served five years in federal prison for corruption and taking a bribe to rezone the land for Formosa. The illegal zoning is now being used by Greenfield, Louisiana LLC to plan a massive grain terminal that would inundate the community with more harmful dust, pollution, and emissions.

According to Banner, “It’s vital to our survival that we have federal legislation to hold states accountable for the protection of our environment and our health. We know from personal experience that without oversight, our states are not doing their due diligence to keep us safe. What more proof do you need than “Cancer Alley?”

Through programming, education, advocacy, and outreach, The Descendants Project is committed to reversing the vagrancies of slavery through healing and restorative work. We aim to eliminate the narrative violence of plantation tourism and champion the voice of the Black descendant community while demanding action that supports the total well-being of Black descendants. Visit thedescentantsproject.com to learn more or to donate.

**The Wilderness Society
Washington, DC**

February 14, 2022

The Hon. Raul Grijalva,
Chairman
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

The Hon. Bruce Westerman,
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva, Ranking Member Westerman, and all Members of the House Committee on Natural Resources:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express enthusiastic support for H.R. 2021, the Environmental Justice for All Act, being heard before the House Natural Resources Committee on February 15, 2022.

The Environmental Justice for All Act was developed over a year-long process that included environmental justice leaders, frontline communities, and a wide range of stakeholders. This helped shape the policy while keeping the most impacted communities on the front-end of the policymaking process. The development of this legislation represents a critical step toward meaningful community engagement, collaboration, and environmental justice action to alleviate environmental racism nationwide.

From the inclusive public process that involved a diverse set of stakeholders and impacted communities, H.R. 2021 is rooted in the moral principle that all people have the right to pure air, clean water, and an environment that enriches life. The Environmental Justice for All Act is informed by the belief that federal policy can and should strive for environmental justice, health equity, and climate justice for all deliberately overlooked and underserved communities. This legislation establishes that Congress and other federal agencies should seek to achieve environmental justice, promote meaningful public involvement, provide technical assistance on environmental justice issues to communities, and cooperate with Tribes, States, and local governments to address environmental injustice.

TWS supports H.R. 5986 as a whole and believes that legislation should center historically underrepresented populations to better address existing inequities. We commend Chair Grijalva, Representative McEachin, and their staff on pulling together a diverse coalition of contributors to this legislation and believe that it has strengthened the outcome of these community-based discussions. Below we have highlighted a few areas that we support and have particular expertise in:

Equitable Access to the Outdoors

H.R. 2021 would ensure more equitable access to parks, thus promoting individual health and economic benefits, specifically through the inclusion of the Every Kid Outdoors Act, Outdoors for All Act, and Transit to Trails Act. These programs prioritize and directly serve deliberately under-resourced and overlooked communities by addressing inequities in access to parks and natural outdoor spaces. There are proven benefits to investing in parks and recreation. The outdoor recreation economy accounts for billions of dollars in consumer spending and supports millions of jobs. By improving connectivity with outdoor recreation, more people can benefit from outdoor industry employment opportunities, as well as the physical and mental wellbeing associated with recreating outdoors. If we maximize the opportunities for

all people to experience the physical, mental, and social benefits of nature, then every community—regardless of race, income, or zip code—will be stronger, healthier, and more resilient for generations to come.

Fair and Just Transition

The Environmental Justice for All Act would increase the onshore coal, oil, and gas royalty rate to ensure companies pay a fair price and that the public is compensated properly for the private use of our shared public lands. The legislation also establishes a Federal Energy Transition Economic Development Assistance Fund and two new fees on the oil, gas, and coal industries to support communities and workers as they transition away from greenhouse gas-dependent economies.

Transparent and Inclusive Federal Decision Making

H.R. 2021 ensures early and meaningful community involvement opportunities under the National Environmental Policy Act (NEPA) when federal agencies propose an action that can harm the health and environment of an environmental justice community. The bill directs Federal agencies to solicit robust Tribal representation throughout the NEPA process for an activity that could impact an Indian Tribe, including activities impacting off-reservation lands and sacred sites. Federal agencies would also be directed to conduct and compile environmental and health research while soliciting community input, particularly with Indigenous communities. Additionally, H.R. 2021 would require the consideration of cumulative impacts in permitting decisions and ensure that permits issued pursuant to such acts demonstrate a reasonable certainty of no harm to human health.

Collaboration and Representation

The Environmental Justice for All Act would establish channels of collaboration between federal agencies and environmental justice communities, including Tribal and Indigenous populations, to ensure meaningful and transparent community collaboration in the development and implementation of environmental justice strategies and research. The bill would also bolster protections through the expansion of legal rights and recourse for impacted communities and individuals when faced with discrimination. Lastly, through agency trainings on justice and community grants to fund environmental justice initiatives and research, H.R. 2021 will generate educational benefits both for those in government and those in the community about the environment as a contributor to public health issues.

TWS supports the expansion of legal rights for people and communities experiencing environmental injustice, ensuring early and meaningful involvement of frontline communities in federal decision making, increasing environmental justice training for agency staff, providing resources to expand environmental justice programs, promoting equitable access to quality outdoor spaces, and ensuring just transitions for workforces in impacted communities. For these reasons, TWS supports the Environmental Justice for All Act and urges all Members of the Committee to support H.R. 2021.

Thank you for considering our views.

Sincerely,

DREW MC CONVILLE,
Senior Managing Director, Government Relations

TOXIC FREE NORTH CAROLINA
Durham, North Carolina

February 14, 2022

The Hon. Raul Grijalva,
 Chairman
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

The Hon. Bruce Westerman,
 Ranking Member
 Natural Resources Committee
 U.S. House of Representatives
 Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

Toxic Free North Carolina writes to offer our strong support for the Environmental Justice for All Act (H.R. 2021). We urge you and your fellow committee members to advance this important legislation quickly to begin remedying the long history of environmental racism in our nation, and the cumulative, disproportionate health impacts resulting from our institutional injustices.

Since 1986, Toxic Free NC has been advocating for safer and more just policies to protect environmental health in North Carolina. This legislation is aligned with our mission and values as we fight for a toxic-free future in which all individuals and communities across our state have sovereignty over their health and environment. Those who are living on the frontlines of toxic pollution—predominantly Black and Brown and low-income communities—also bear disproportionate impacts from racial injustice, an escalating climate crisis, and a public health emergency. Last week's Winston Weaver fertilizer plant fire in Winston Salem, North Carolina, is only the most recent example in a long history of environmental injustice in our state.

Many, many testimonies of the impacted people and communities, and academic research based on their stories have documented disproportionate chemical hazards and health impacts imposed on communities of color, low-income communities, and Native/Indigenous communities—currently and historically.

These affected peoples and communities have themselves developed and demanded solutions to these injustices and harms for some time. The extensive public input process that informed the Act's creation reflects this history and has produced legislation uniquely influenced by the people and communities it seeks to help.

We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices

and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Respectfully submitted by,

CONNOR KIPPE,
Policy Advocate

Statement for the Record

Virginia Interfaith Power & Light
Faith Harris & Kidest Gebre

Introduction:

Greetings and thank you for the opportunity to submit the following written comments to the committee in support of H.R. 2021, also known as the EJ4All Act. Virginia Interfaith Power & Light (VAIPL) represents over 16,000 supporters representing faith communities across the Commonwealth of Virginia. Our written testimony will focus on the importance of defining cumulative impacts and for providing meaningful community involvement opportunities to achieve environmental justice for all, especially for low wealth, Black, and Brown communities.

In Virginia, as well as in other states, we know that low-income communities and “communities of color are already at greater risk from pollution from fossil-fueled power plants than the general population. In 2015 as a supplement to the final Clean Power Plan, the EPA conducted an environmental justice proximity analysis. This analysis summarized all of the affected electricity generating units while collecting socio-demographic characteristics and other environmental data at a distance of 1 and 3 miles around each regulated source. The analysis showed that people who live within 3 miles of a power plant have an average income of \$18,400 compared to the national average of \$21,587. Thirty-nine percent of the people that live within 3 miles of a power plant are people of color compared to the national average of thirty-six percent.”¹ While there have been no subsequent reports, this type of analysis is a foundation to identify potential areas, communities, and regions to expand the analysis process accordingly.

Sec. 7. Consideration of cumulative impacts

“Many fossil fuel-fired power plants in the United States are located in the same areas where other industrial facilities are sited. Many of those facilities contribute to the nonattainment of other Clean Air Act standards. Residents in these communities are overburdened by numerous pollution sources as well as social and economic stressors.” The EPA should provide the standard for states to “address the cumulative impacts of multiple pollution sources on low-income communities and communities of color. Communities should advocate for their state to take a multi-pollutant approach to plan development. The EPA has suggested in the final rule. Application of a multi-pollutant approach increases the likelihood of limiting or eliminating localized emission increases that would otherwise affect overburdened communities.”²

“Cumulative impacts are defined as impacts that result from individually minor but collectively significant actions over time. Such impacts are known to increase racial and economic disparities in health outcomes resulting from harmful environmental activities such as energy generation, mining, waste disposal, and wastewater treatment. Disproportionate adverse environmental impacts have resulted from Virginia’s fossil fuel infrastructure, housing infrastructure, siting of industrial facilities, waste management, and transportation system. Numerous fossil-fuel based power plants have been placed in localities that have a higher percentage of people-of-color than the state average.”³ For example, the Mountain Valley Pipeline (MVP) would carry fracked gas across 303 miles from northern West Virginia to southern Virginia. The proposed pipeline would have a carbon impact equivalent to 26 typical coal plants and risk water contamination in local communities and homes. “The

¹ U.S. Environmental Protection Agency , EJ Screening Report for the Clean Power Plan, *supra* n.5.

² Final Clean Power Rule at 258 (2015).

³ Talking Points: Omnibus Environmental Justice Bill (2021) Virginia Environmental Justice Collaborative.

project would pump and pressurize fracked gas to travel from Chatham into North Carolina, posing several environmental and public health risks for the historically Black community.”⁴

MVP’s “Southgate Extension” plan includes the Lambert compressor station in Pittsylvania County. The Lambert compressor station would be the third compressor station located in the same community. “Compressor stations, which help maintain pressure and flow of the natural gas in pipelines, can be significant sources of pollution, emitting carbon monoxide, nitrogen oxides, fine particulate matter, sulfur dioxides, and volatile organic compounds, among other harmful substances. The station emits constant noise, but noise levels are most severe during a “blowdown” or release function.”⁵

The cumulative impacts of environmental issues are associated with adverse effects on public health that disproportionately impact communities of color. Considering cumulative impacts will allow federal “agencies to thoroughly evaluate their historical and anticipated environmental actions. This is particularly significant for environmental activities near low-income areas, communities of color, or historically underserved communities that are impacted by several environmental risks and harms simultaneously.”⁶ Mountain Valley Pipeline’s decision regarding the Lambert station at the MVP Southgate extension would perpetuate patterns of environmental racism that concentrate toxins in Black and Indigenous communities and is an excellent example of why we need to incorporate cumulative impact considerations.

Sec. 20. Public Meetings

As a grassroots organization, Virginia Interfaith Power & Light consistently supports community members to overcome barriers to participation in the current system for environmental decision-making. Public participation related to environmental decisions should include rulemaking and permit decisions. The environmental justice for all act requires involving impacted communities in the decision-making process for environmental justice issues. Public meetings are essential to improving public engagement in permitting procedures and related regulations for environmental justice issues.

Public meetings are crucially important for community participation and involvement in “consideration of the development of certain new polluting facilities for community members such as most fossil fuel-fired power plants, landfills, and sewage treatment plants.”⁷ For example, here in Virginia, “current public participation requirements do not provide for the fair treatment and meaningful involvement of Virginians in agencies’ environmental decisions and actions. This unfair treatment is demonstrated by the persistent environmental injustices related to siting of fossil fuel infrastructure, landfills, and other environmentally hazardous activities in environmental justice communities.”⁸

Similar to Pittsylvania County, many “environmental justice communities, especially rural Black communities as of recently, are known to be at risk of or directly face unequal burdens from the state’s environmental decision-making activities and the current cumbersome pathways for providing public feedback that have prioritized professional expertise and technical arguments over legitimate health concerns of residents of environmental justice and fenceline communities.”⁹ As people of conscience, we believe the voices of marginalized communities across the commonwealth need to be prioritized, valued, and empowered in all decision-making processes. Public hearings on permits should be held in the directly impacted communities earlier in the process with both in-person and hybrid options. Public hearings should be held when accessible to full-time workers. Communities also need more advance notice of when public hearings will be held.

The Environmental Justice for All Act will help our federal agencies to advance environmental justice and set the standards for state agencies to follow. During our current General Assembly 2022, we at Virginia Interfaith Power & Light are working to oppose legislation introduced to curtail the authority of citizen boards to approve or deny permits for both air and water pollution. One bill also removed the opportunity for public hearings and public comments. Passing legislation at the

⁴ Walters, Makaelah. “Residents near Proposed Lambert Compressor Station Push Back, Cite Environmental Racism.” *Appalachian Voices*.

⁵ *ibid.*

⁶ *ibid.*

⁷ Talking Points: Omnibus Environmental Justice Bill (2021) Virginia Environmental Justice Collaborative.

⁸ *Ibid.*

⁹ *Ibid.*

federal level where the EPA is tasked to hold public hearings regionally will set forth language and practice useful to state and non-governmental organizations like Virginia Interfaith Power & Light to hold state agencies and legislators accountable to engage impacted communities.

Women's Voices for the Earth

February 8, 2022

The Hon. Raul Grijalva,
Chairman
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

The Hon. Bruce Westerman,
Ranking Member
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

Women's Voices for the Earth, an environmental health organization representing tens of thousands of people across the nation, strongly supports the Environmental Justice for All Act (HR 2021). For too long, people of color and low-income communities have suffered the disproportionate impacts of pollution.

It is well-established that women of color experience some diseases and conditions at significantly higher rates than white women. African-American women are 34% more likely to die of breast cancer than white women,¹ and lupus, an autoimmune disease, affects African-American women at three times the rate of white women. Lupus also disproportionately affects women of Latina, Asian and American Indian descent.² African American women are more likely to have premature births and babies born with low birth weights.³ While there may be numerous factors associated with these increased risks, each of these risks has also been linked with exposure to toxic chemicals.

People of color, including African Americans, Latinos, and Asian Americans, comprise a majority of the population in neighborhoods where commercial hazardous waste facilities are located. Forty-six percent of housing units for the poor—mostly people of color—sit within about a mile of factories that reported toxic emissions to the EPA.⁴ As a result, people of color suffer higher-than-average rates of asthma, lead poisoning, and exposure to contaminated water, pesticides, and mercury.⁵ These factors, when combined with exposure in the workplace, home, and diet, often lead to greater adverse health effects in women of color than in the rest of the population.

Indigenous people who rely on traditional diets of fish and marine mammals are also strongly affected by environmental contamination, particularly of water. One study found blood levels of polychlorinated biphenyls (PCBs) at levels six to nine times higher in the Yupik people of Alaska than in the general population in the lower 48 states.⁶

¹ Center for Disease Control and Prevention. 2010. Finding Solutions to Health Disparities: At A Glance 2010. Available: <http://www.cdc.gov/chronicdisease/resources/publications/AAG/reach.htm>.

² Centers for Disease Control and Prevention, Office of Minority Health and Health Disparities. 2008. Eliminate Disparities in Lupus (Online Factsheet). Available: <http://www.cdc.gov/omhd/amh/factsheets/lupus.htm>.

³ March of Dimes Fact Sheet: Racial and Ethnic Disparities in Birth Outcomes. Available at: [https://www.marchofdimes.org/March-of-Dimes-Racial-and-Ethnic-Disparities feb-27-2015.pdf](https://www.marchofdimes.org/March-of-Dimes-Racial-and-Ethnic-Disparities-feb-27-2015.pdf).

⁴ Bullard, R; Saha, R; Wright, B. 2007. Toxic Wastes and Race and Twenty 1987–2007: Grassroots Struggles to Dismantle Environmental Racism in the United States. Report for United Church of Christ Justice & Witness Ministries. Available: <http://www.ejnet.org/ejtwerk.pdf>.

⁵ Ibid.

⁶ <https://www.tandfonline.com/doi/pdf/10.3402/jch.v64i4.18010>.

We strongly support the Act's central elements, which are important steps toward remedying a long legacy of harm, and ensuring the fair treatment and meaningful involvement of all people—regardless of color, culture, national origin, or income—with respect to the development, implementation, and enforcement of health and environmental laws, regulations, and policies. These urgently needed policy improvements include:

- Requiring federal agencies to consider cumulative health impacts under the Clean Air Act and Clean Water Act in making permitting decisions, and ensuring that permits are only issued when there is a reasonable certainty of no harm to human health;
- Providing \$75 million in annual grants for research and program development to reduce health disparities; and improve public health in environmental justice communities;
- Strengthening the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies;
- Creating an energy transition economic development assistance fund—paid for through new fees on oil, gas and coal companies—to support communities and workers as they transition away from greenhouse gas-dependent economies;
- Strengthening the National Environmental Policy Act to ensure that communities have a meaningful opportunity to engage in NEPA processes that will impact them.

The Environmental Justice for All Act is a long overdue correction to our nation's failed chemical management policies, and the cumulative hazards and disproportionate harms that have resulted for communities of color, low-income communities, and Native/Indigenous communities. We urge the Committee, and any other committees with jurisdiction over this legislation, to begin to correct these injustices and address this legacy of harm, by promptly passing the bill out of Committee and sending it on to the full House of Representatives.

Women's Voices for the Earth strongly supports (HR 2021).

Sincerely,

JAMIE McCONNELL,
Deputy Director

The CHAIRMAN. The members of the Committee may also have some additional questions to the witnesses, as I do, and we will ask you to respond to those in writing.

Under the Committee Rules, Members can submit additional questions to the witnesses within 3 business days following the hearing, and the record will be kept open for 10 days for these responses.

Let me just close by again thanking the Members and the Committee.

There are so many things that Congress is dealing with and the people of this nation are dealing with right now, and one would wonder, and it sort of came up either by implication or by direct statement, why are we focusing on this right now when we have so many other things that we should be worried about.

And there is child slave labor, the China and Russia threat, and the economic pain that this bill would inflict, inflation, the cost of fuel, cost of energy, and the fact remains that what this legislation is about is fundamental to what we do in Congress and what our role is and what we should support. And that is fairness and equal protection under the law. It is about corrective action. There are efforts ongoing to erase history, to rewrite history, and you cannot do either. But you can correct what occurred and make sure that

we put in place those protections for generations to come so we are not revisiting this issue over and over again.

And I think that Congresswoman Stansbury said this is not a hypothetical, and it is not. It is quantifiable, and the means to empower and protect all communities equally is before us.

So, as we go forward heading toward a markup, I think we need to keep in mind that this bill is not about ending anything that is positive. It is about ending everything and the legacy that has created a situation.

It is no coincidence, this is not just mere happenstance, that the concentration of polluting and endangering emissions and discharges in this country happen to be in communities that are predominantly poor, predominantly of color, and adjacent to Indigenous and tribal lands in terms of impact.

It is no coincidence that when Bismarck did not want the pipeline going through their town because, "it would endanger their water quality and their groundwater," that the Dakota Pipeline was moved, so it now affects the Sioux Tribe, and you wonder why you have a controversy.

Here in Tucson, the local county, municipalities, the City, want more stringent standards on an emission plan, but as the state and the Environmental Quality Board says, and the local ones, "we don't have the authority to look at EJ impact, at cumulative impact, and to have higher standards because there is no overarching Federal guidance and law."

That is what we are trying to address.

So, I look forward to it. I look forward to your comments and, in terms of the letter to the Mayor, no disrespect. I would hope that everybody—

Would somebody mute?

And, Representative Stauber, the position in the letter really boils down to sending a letter demanding more public input. After the court decision delayed the action on the Willow Development Project, there was an opportunity, a pause, and that is when that letter went to Interior demanding more local input. It was a flawed and questionable process that occurred in the initial study.

That is all. So, if I am being castigated for not seeking local input before I send a letter seeking more local input, I plead guilty.

With that, the meeting is adjourned. Thank you very much.

[Whereupon, at 1:22 p.m., the Committee meeting was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submission for the Record by Rep. Porter

Deep Dive

Oil is the hottest sector, and Wall Street analysts see upside of up to 48% for favored stocks

Last Updated: Feb. 15, 2022 at 8:15 a.m. ET

First Published: Feb. 11, 2022 at 8:07 a.m. ET

Analysts favor Canadian oil companies but also some large U.S. players, such as ConocoPhillips, Schlumberger and Valero

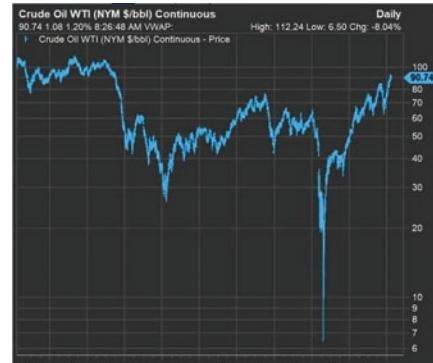


Energy is the best-performing stock-market sector this year. Given today's strong economic growth and inflation, many believe oil prices could remain at current levels for years or maybe even move higher.

Below are two screens of stocks derived from the holdings of three exchange-traded funds that invest in oil and natural gas companies.

An oil price review

First, here's a chart showing the price movement of forward-month delivery contracts for West Texas Intermediate Crude Oil CL00 over the past 10 years:



FACTSET

That steep but brief plunge on the chart is April 2020, when demand for oil tanked during the early days of the COVID-19 pandemic, storage sites were full and those holding front-month futures contracts essentially had to pay people to take the oil off their hands.

Oil price expectations from here

So what lies ahead for oil prices?

In a report provided to clients on Feb. 10, analysts at BCA Research said they believe prices will rise over the next decade in the face of increasing demand and declining supplies. Those threats to supplies include government action that curbs fossil-fuel production as well as “climate activism at the board level at major energy suppliers and in the courtroom.”

In other words, the best intentions to reduce carbon emissions can push oil prices higher because alternate energy sources take a long time to be available in sufficient quantity to curb demand for fossil fuels.

The BCA analysts favor long-term exposure to oil through ETFs.

Three energy ETFs

If you agree with the above scenario you might want to consider a broad investment in the sector through one or more ETFs. Here's a quick look at three of them:

- The Energy Select Sector SPDR ETF XLE tracks the energy sector of the S&P 500 SPX. That's a group of 21 stocks. This is the only sector of the S&P 500 that is up this year—a total return of 24.4% through Feb. 9, with dividends reinvested. XLE has \$35.7 billion in assets and annual expenses of 0.12% of assets. It is highly concentrated, with shares of Exxon Mobil Corp. XOM and Chevron Corp. CVX making up 44% of the portfolio.
- The iShares Global Energy ETF IXC holds 46 stocks, including all the stocks held by XLE. It brings in large non-U.S. companies, such as Shell PLC UK:SHEL, TotalEnergies SE FR:TTE, BP PLC UK:BP, BP. (For the three companies just listed, the first ticker is the local one, the second is the American depositary receipt, or ADR. Many of the locally traded non-U.S. companies listed below also have ADRs.) IXC has \$1.8 billion in assets, with an expense ratio of 0.43%. The fund's largest two holdings are Exxon Mobil and Chevron, which together make up 25.5% of the portfolio.
- The iShares S&P/TSX Capped Energy Index ETF CA:XEG holds 20 stocks of Canadian energy producers. It is also heavily concentrated, with the largest three holdings, Canadian Natural Resources Ltd CNQ., Suncor Energy Inc. SU and Cenovus Energy Inc. CVE making up half the portfolio. The ETF has 2 billion Canadian dollars in total assets, with an expense ratio of 0.63%.

You might wonder why a foreign single-country ETF is included in the list, but Canada stands out with its expansion of fossil-fuel production. The iShares S&P/TSX Capped Energy Index ETF has outperformed the other two ETFs in recent years, while underperforming longer term.

Here's a comparison of total returns, with dividends reinvested, for the three ETFs and the SPDR S&P 500 ETF Trust SPY through Feb. 9:

S&P 500 sector	2022	1 year	3 years	5 years	10 years	15 years	20 years
Energy Select Sector SPDR Fund	24.1%	64%	31%	20%	33%	81%	355%
iShares Global Energy ETF	21.7%	55%	22%	24%	18%	49%	262%
iShares S&P/TSX Capped Energy Index ETF	19.0%	98%	49%	11%	-10%	-11%	177%
SPDR S&P 500 ETF Trust	-3.7%	19%	78%	117%	310%	328%	510%

Source: FactSet

The iShares S&P/TSX Capped Energy Index ETF has shined over the past one and three years. You can also see how dramatically the oil price decline from mid 2014 through early 2016 hurt the energy sector's long-term performance.

A look ahead for the ETFs

Here are forward price-to-earnings ratios for the three energy ETFs and SPY, along with expected compound annual growth rates (CAGR) for revenue and earnings per share through 2023, based on consensus estimates among analysts polled by FactSet:

S&P 500 sector	Ticker	Forward P/E	Two-year estimated sales CAGR	Two-year estimated EPS CAGR
Energy Select Sector SPDR Fund	XLE	12.7	3.8%	14.1%
iShares Global Energy ETF	IXC	10.7	4.3%	9.4%
iShares S&P/TSX Capped Energy Index ETF	CA:XEG	8.6	4.1%	9.7%
SPDR S&P 500 ETF Trust	SPY	20.2	6.5%	9.1%

Source: FactSet

From the forward P/E ratios, the energy ETFs might be considered cheap relative to SPY, however, they “earned” investors’ mistrust during the long decline of stock prices from mid-2014 through early 2016, and, of course, early in the pandemic.

Analysts don’t expect to see spectacular revenue growth for the energy portfolios over the next two years. However, they do expect better earnings growth than they do for the broad U.S. market—especially for XLE.

Two energy stock screens

The three energy ETFs together hold 63 stocks. The two screens below show which ETF or ETFs hold each stock.

First screen: dividend yields

Given what appears to be a healthy environment for oil prices, a broad round of dividend cuts, such as those we saw early in the pandemic, appears unlikely. With that in mind, the first screen of the 63 stocks held by the three ETFs is simply by dividend yield.

Here are the 21 stocks held by the three ETFs with the highest dividend yield (over 4%), along with a summary of analysts' opinions of the stocks. Share prices and consensus price targets are in the currencies of the country where the stocks are listed.

Company	Ticker	Country	Dividend yield	Share "buy" ratings	Closing price - Feb. 9	Cons. Price target	Implied upside potential	Held by
Petroleo Brasileiro SA ADR Pfd	PBR	Brazil	16.05%	57%	12.26	14.79	21%	IXC
Petroleo Brasileiro SA ADR	PBR	Brazil	14.66%	50%	13.42	14.09	5%	IXC
Enbridge Inc.	CA:ENB	Canada	6.32%	57%	54.44	55.16	1%	IXC
Kinder Morgan Inc Class P	KMI	U.S.	6.22%	21%	17.37	19.15	10%	XLE, IXC
Peyto Exploration & Development Corp.	CA:PAY	Canada	6.09%	67%	9.85	13.83	40%	XEG
Pembina Pipeline Corp.	CA:PPL	Canada	6.07%	39%	41.49	43.97	6%	IXC
GALP Energia SGPS SA Class B	PT:GALP	Portugal	5.99%	52%	10.02	11.72	17%	IXC
ONEOK, Inc.	OKE	U.S.	5.88%	29%	63.64	66.00	4%	XLE, IXC
Williams Cos., Inc.	WMB	U.S.	5.58%	68%	30.47	32.09	5%	XLE, IXC
Freehold Royalties Ltd.	CA:FRU	Canada	5.41%	87%	13.30	16.60	25%	XEG
TC Energy Corp.	TRP	Canada	5.28%	35%	65.85	67.32	2%	IXC
Eni S.p.A.	IT:ENI	Italy	5.06%	67%	13.25	14.81	12%	IXC
TotalEnergies SE	TTE	France	5.04%	71%	52.40	55.55	6%	IXC
ENEOS Holdings, Inc.	JP:5020	Japan	4.79%	78%	459.00	550.67	20%	IXC
Impex Corp.	JP:1605	Japan	4.71%	78%	1,147.00	1,371.11	20%	IXC
Suncor Energy Inc.	CA:SUN	Canada	4.59%	64%	36.59	43.50	19%	IXC, XEG
Exxon Mobil Corp.	XOM	U.S.	4.46%	35%	79.00	80.75	2%	XLE, IXC
Valero Energy Corp.	VLO	U.S.	4.41%	81%	88.84	94.41	6%	XLE, IXC
Chevron Corp.	CVX	U.S.	4.12%	74%	137.79	144.41	5%	XLE, IXC
Phillips 66	PSX	U.S.	4.11%	79%	89.45	99.31	11%	XLE, IXC
OMV AG	AT:OMV	Austria	4.07%	50%	56.46	62.51	11%	IXC

Source: FactSet

You can click on the tickers for more about each company.

Then read Tomi Kilgore's detailed guide to the wealth of information available for free on the MarketWatch quote page.

Don't assume dividends are distributed quarterly, as is common for U.S. stocks. Some companies only distribute annually.

Also note that the highest-yielding stocks on the list are American depositary receipts of Petroleo Brasileiro SA (known as "Petrobras") common shares PBR and preferred shares PBR. Unlike traditional preferred stocks issued in the U.S., this Petrobras preferred issue has no par value. (More information about the Petrobras ADRs is available in this filing from Dec. 21, 2021 with the Securities and Exchange Commission.)

Any stock with a dividend yield above 14% has a built-in warning. If investors expected the dividend to be safe, the share price would be higher and the dividend yield lower. So this is an investment that might best be left to professionals or other sophisticated investors.

Second screen: analysts' picks

Going back to our combined list of 63 stocks, here are the 18 favored by at least 80% of analysts polled by FactSet, sorted by 12-month upside potential as implied by consensus price targets. You can see that analysts favor many of the Canadian oil and gas producers in lockstep:

Company	Ticker	Country	Share "buy" ratings	Closing price - Feb. 9	Cons. Price target	Implied 12-month upside potential	Dividend yield	Held by
Birchcliff Energy Ltd.	CA:BIR	Canada	88%	6.63	9.78	48%	0.60%	XEY
Tourmaline Oil Corp.	CA:TOU	Canada	100%	45.59	63.40	39%	1.58%	XEY
Parex Resources Inc.	CA:PXT	Canada	100%	26.85	36.73	37%	1.94%	XEY
ARC Resources Ltd.	CA:ARX	Canada	100%	14.49	19.42	34%	2.76%	XEY
Whitecap Resources Inc.	CA:WCP	Canada	93%	9.02	11.69	30%	2.99%	XEY
Enerplus Corporation	ERF	Canada	85%	14.77	19.07	29%	1.10%	XEY
Secure Energy Services Inc.	SES	Canada	100%	6.12	7.81	28%	0.49%	XEY
Tamarack Valley Energy Ltd.	CA:TVE	Canada	85%	4.90	6.25	28%	2.03%	XEY
Freehold Royalties Ltd.	CA:FRU	Canada	87%	13.30	16.60	25%	5.41%	XEY
Cenovus Energy Inc.	CVE	Canada	100%	19.09	23.29	22%	0.73%	IXC, XEG
Santos Limited	AU:STO	Australia	88%	7.50	8.90	19%	1.95%	IXC

Shell PLC	UK:SHE	United Kingdom	80%	20.28	23.87	18%	3.25%	XLE, IXC
Diamondback Energy, Inc.	FANG	United States	85%	128.88	144.36	12%	1.55%	XLE, IXC
ConocoPhillips	COP	United States	86%	92.95	102.25	10%	1.98%	XLE, IXC
Pioneer Natural Resources Company	PXD	United States	82%	221.82	241.53	9%	3.08%	XLE, IXC
Schlumberger NV	SLB	United States	90%	39.40	42.66	8%	1.27%	XLE, IXC
Valero Energy Corp.	VLO	United States	81%	88.84	94.41	6%	4.41%	XLE, IXC
EOG Resources, Inc.	EOG	United States	82%	113.31	118.03	4%	2.65%	XLE, IXC

Source: FactSet

As always, do your own research and form your own opinions about which investments, whether through ETFs or other funds or a combination of those and/or individual stocks, match your investment objectives.

Submission for the Record by Rep. Maloney

HOUSE COMMITTEE ON OVERSIGHT AND REFORM
Chairwoman Carolyn B. Maloney

Endorsers of the Justice in Power Plant Permitting Act

- Center for Earth, Energy & Democracy
- Ironbound Community Corporation
- Michigan Environmental Justice Coalition
- New Jersey Environmental Justice Alliance
- New York Communities for Change
- PEAK Coalition (New York City Environmental Justice Alliance, The Point CDC, UPROSE, New York Lawyers for the Public Interest, Clean Energy Group)
- South Bronx Unite
- WE ACT for Environmental Justice
- Earthjustice
- Evergreen Action
- League of Conservation Voters
- Sierra Club
- Sunrise Movement

Supporters of the Justice in Power Plant Permitting Act's Key Policies

- Equitable and Just National Climate Platform
 - Center for American Progress
 - Center for Urban Environment, John S. Watson Institute for Public Policy, Thomas Edison State University
 - Deep South Center for Environmental Justice
 - Environmental Justice Health Alliance for Chemical Policy Reform
 - Harambee House—Citizens for Environmental Justice
 - Little Village Environmental Justice Organization
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