

THE CLEAN FUTURE ACT AND ENVIRONMENTAL JUSTICE: PROTECTING FRONTLINE COMMUNITIES

VIRTUAL HEARING

BEFORE THE
SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE
CHANGE
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES
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¹ Dr. McClain, Mr. Logan, and Ms. Yeampierre did not answer submitted questions for the record by the time of publication.

² The information has been retained in committee files and is available at <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=111450>.

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THE CLEAN FUTURE ACT AND ENVIRONMENTAL JUSTICE: PROTECTING FRONTLINE COMMUNITIES

THURSDAY, APRIL 15, 2021

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE CHANGE,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:30 a.m., via Cisco Webex online video conferencing, Hon. Paul Tonko (chairman of the subcommittee) presiding.

Members present: Representatives Tonko, DeGette, Schakowsky, Sarbanes, Clarke, Ruiz, Peters, Dingell, Barragán, McEachin, Blunt Rochester, Soto, O'Halleran, Pallone (ex officio), McKinley (subcommittee ranking member), Johnson, Hudson, Carter, Duncan, Palmer, Curtis, and Rodgers (ex officio).

Staff present: Jeffrey C. Carroll, Staff Director; Jacqueline Cohen, Chief Environment Counsel; Adam Fischer, Professional Staff Member; Waverly Gordon, General Counsel; Tiffany Guarascio, Deputy Staff Director; Anthony Gutierrez, Professional Staff Member; Caitlin Haberman, Professional Staff Member; Perry Hamilton, Clerk; Zach Kahan, Deputy Director Outreach and Member Service; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; Mackenzie Kuhl, Digital Assistant; Brendan Larkin, Policy Coordinator; Dustin J. Maghamfar, Air and Climate Counsel; Elysa Montfort, Press Secretary; Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel; Chloe Rodriguez, Clerk; Kylea Rogers, Staff Assistant; Nikki Roy, Policy Coordinator; Andrew Souvall, Director of Communications, Outreach and Member Services; Rebecca Tomilchik, Policy Analyst; Sarah Burke, Minority Deputy Staff Director; Michael Cameron, Minority Policy Analyst, Consumer Protection and Commerce, Energy, Environment; Nate Hodson, Minority Staff Director; Peter Kielty, Minority General Counsel; Mary Martin, Minority Chief Counsel, Energy and Environment; and Michael Taggart, Minority Policy Director.

Mr. TONKO. The Subcommittee on Environment and Climate Change will now come to order.

Today the Subcommittee on Environment and Climate Change is holding a hearing entitled "The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities."

Due to the COVID-19 public health emergency, today's hearing is being held remotely. All Members and witnesses will be participating via video conferencing.

As part of our hearing, microphones will be set on mute for purposes of eliminating inadvertent background noise. And Members and witnesses, you will need to unmute your microphone each time you choose to speak.

Documents for the record can be sent to Rebecca Tomilchik at the email address we have provided to staff. All documents will be entered into the record at the conclusion of today's hearing.

The Chair now recognizes himself for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

The Subcommittee on Environment and Climate Change is hoping, as I indicated—this discussion on the CLEAN Future Act as it relates to environmental justice, and protecting our frontline communities. Due to all of the efforts as we continue to move forward, and make certain that we receive all input, recognize that all people will have a chance to enter into the record any statements.

I believe members of this committee would agree that all Americans should be able to have clean air, clean water, and lives free from pollution. Unfortunately, this has not been the case throughout our history, and it is not the case as we speak today. And the burdens of this exposure have not been distributed equally or randomly. Americans who have paid the highest price for this pollution have mostly been people of color and those of low-income communities. Their exposure to pollution has resulted in higher rates of respiratory illnesses, of cancer, of premature death.

And the consequences ripple out much further. For example, impacted communities tend to have greater vulnerability to damage and hardship caused by our climate inaction. In recent years this subcommittee has taken a leading role in reversing these trends, and many Members have championed efforts to right these historic injustices and support investments, public health protections, and pollution reductions in the communities that need them most, regardless of race, income, or ZIP code.

Today's legislative hearing is an opportunity to examine some of these efforts. Our focus today includes title 6, subtitle F of title 4, and section 842 of the committee's CLEAN Future Act.

But, of course, the CLEAN Future Act was not developed in a vacuum. It builds on input, ideas, and provisions from many stakeholders and Members of Congress. That spirit of partnership has made the CLEAN Future Act much stronger. And it is my hope that these improvements will continue today and in future hearings.

In addition to the CLEAN Future Act, today's hearing will look at 10 bills to address aspects of environmental justice. So I do want to recognize and thank subcommittee members DeGette, Clarke, Ruiz, Barragán, McEachin, and Blunt Rochester for their work on these bills and commitment to putting environmental justice at the heart of our subcommittee's work. I share their commitment and look forward to working with all of our members to make certain the 117th Congress isn't merely a Congress for climate action, but a Congress for just and equitable climate action.

And I have been pleased that, starting with President Biden's Executive order on tackling the climate crisis at home and abroad, that the administration has made a commitment to enhancing environmental justice.

But these goals will not be achievable unless we act through an inclusive process that allows community organizations and people most affected by pollution to be involved. This means having community voices in the development, the consideration, the implementation, and certainly the enforcement of our Nation's environmental laws. Today's hearing is part of that.

In that spirit I welcome our witnesses, and I thank the many environmental justice advocates who have taken time to meet with Members and our staffs to share your perspectives, because our goals depend on listening to the communities that have faced these disproportionate impacts and have been shut out of participation in processes for decades.

No one bill will undo the generations of injustices, racism, and discrimination against frontline communities. That is why we need a comprehensive strategy that deals with disproportionate impacts and supports the revitalization of communities which will come from reducing and remediating pollution. That is why today's hearing includes coal ash protections, lead service line replacements, brownfield and Superfund remediations, and traditional air pollutants.

We will also consider legislation to reduce emissions, emissions from ports to deploy air pollution-monitoring infrastructure, and build capacity of community-based organizations to enable greater participation in environmental and infrastructure decisionmaking processes.

These bills also propose ways to strengthen and improve public participation, codifying Executive Order 12898 and its requirements for integration of environmental justice across Federal agencies, requiring EJ training of Federal employees, and meetings between EPA and community groups to improve collaboration and communication.

Finally, the CLEAN Future Act, much like the Biden administration's commitment, requires that 40 percent of funds made available be used to support activities directly benefiting environmental justice communities. So I look forward to today's discussion and yield back my time.

[The prepared statement of Mr. Tonko follows:]

PREPARED STATEMENT OF HON. PAUL TONKO

I believe members of this committee would agree that all Americans should be able to have clean air, clean water, and lives free from pollution.

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Finally, the CLEAN Future Act, much like the Biden administration's commitment, requires that 40% of funds made available be used to support activities directly benefitting environmental justice communities.

I look forward to today's discussion and yield back my time.

Mr. TONKO. And I now recognize Mr. McKinley, our ranking member of the Subcommittee on Environmental and Climate Change.

Representative McKinley, you are recognized for 5 minutes for your opening statement, please.

OPENING STATEMENT OF HON. DAVID B. MCKINLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. MCKINLEY. Thank you, Chairman Tonko. Chairman, recently I read an article citing the World Health Organization's definition of poverty. But their measurement of poverty simply in terms of per capita income seems inadequate. According to the article, among the poor, poverty is better understood in terms of shame, powerlessness, hopelessness, and humiliation.

This hearing on environmental justice is central to an agenda to eliminate fossil fuels from the power sector by 2035, the consequences of which will leave workers, families, children, and entire communities in poverty. Mr. Chairman, where is the justice in that?

Think about it. Extremism is spending years shaming coal miners and oil field workers, blaming them for causing wildfires, flooding and droughts, hurricanes, low-birth-weight babies, premature deaths, as you just mentioned, and asthma. And in this new environment, fossil fuel workers feel powerless, as liberal Democrats and administration team up to take away their lifelong jobs. And when their jobs are lost and there are no other opportunities in their area, hopelessness will take hold.

Will they have to move away? Will they leave their home, their community, their church, their support base?

And their house is typically, Mr. Chairman, their biggest asset. So who will buy a house in a dying community?

We have asked for these letters to be introduced into the record.

And then finally, coal miners and oilfield workers have produced a reliable, dependable income for their families. Now they are going to be humbled into welfare and food stamps and waiting for transition jobs that, historically, never materialize. Workers will be losing their dignity, not for what they did, but for what Government did to them.

And the cruel irony of all this is, as America dismantles its fossil fuel economy, the rest of the world is expanding its use of coal, natural gas, and oil and emitting greenhouse gases at an alarmingly increasing rate. So by eliminating jobs in fossil fuels, Congress will be sentencing American workers all across the country into poverty. How is that outcome any different than the injustices created in the past?

So maybe it is time, Mr. Chairman, that the men and women of Government lose their sanctimonious attitude and walk in the shoes of these families who are about to experience poverty, all in this guise of justice.

Oh, yes, Mr. Chairman, the workers will be offered unrealistic promises about just transition into jobs in the renewable sector. But even former Secretary Menezes has concluded that new replacement jobs and the green jobs will pay significantly less and will have an impact on their families. And workers in the coal and natural gas industries are well aware of how Government injustices in the past betrayed their fellow workers in steel, electronics, and textiles.

Look, fossil fuel workers simply want to keep their jobs, not get a Government handout or a Government program. This misguided

congressional pursuit of environmental justice will not—will no doubt create poverty, causing shame, powerlessness, hopelessness, and humiliation to hardworking Americans. So instead of perpetuating another generation of injustice, wouldn't it be more respectful to accomplish our mutual objective in reducing carbon emissions by using innovation, and research, and advancing efficiencies, renewables, nuclear, and batteries?

So, look, poverty is poverty, Mr. Chairman. Injustice is injustice, whether it is in an urban area or in a rural community.

Paul, I know you. If you can prevent poverty for just one family in your district in New York, I am confident you would fight like hell on their behalf. So I am confused. Why is the rest of your party turning a deaf ear to the pleas of men, women, and children with fossil fuel jobs and subjecting whole communities to poverty? Is that what Democrats call environmental justice?

Hurting working families is not a justice that any of us should embrace.

Thank you, and I yield back the balance of my time.

[The prepared statement of Mr. McKinley follows:]

PREPARED STATEMENT OF HON. DAVID B. MCKINLEY

Recently I read an article citing the world health organization's definition of "poverty." But their measurement of poverty, simply in terms of per capita income, is inadequate.

According to the article: among the poor poverty is better understood in terms of, shame, powerlessness, hopelessness and humiliation. This hearing on environmental justice is central to an agenda to eliminate fossil fuels from the power sector by 2035.

The consequences of which will leave workers, families, children and entire communities in poverty. Where is the justice in that?

Think about it extremists have spent years shaming coal miners and oilfield workers, blaming them for causing: wildfires, flooding and droughts, hurricanes, low birth weight babies, premature cancers, and asthma.

In this new political environment, fossil fuel workers feel powerless as liberal Democrats and the administration team up to take away their life-long jobs.

When their jobs are lost and there are no other opportunities in their area hopelessness will take hold. Will they have to move away to find work? Leave their family? Their community? Their church? Their house is usually their largest asset, but who will buy a house in a dying community?

And finally coal miners and oilfield workers have provided a reliable, dependable income for their families. Now they will be humbled into welfare and food stamps. and waiting for transition jobs that historically never materialize. Workers will be losing their dignity not for what they did but rather for what their Government did to them.

And the cruel irony of all of this—as America dismantles its fossil fuel economy the rest of the world will be expanding its use of coal, natural gas, and oil and emitting GHGs at an alarming pace.

By eliminating jobs in fossil fuels Congress will be sentencing Americans all across the country to poverty. How is that outcome any different than the injustice created in the past? So maybe it's time for the men and women of Government to lose their sanctimonious attitude and walk in the shoes of these families who are about to experience poverty, all in this guise of justice

Oh, yes, workers will be offered unrealistic promises about a "just transition" into jobs in the renewable sector. But even former Sec. Menezes concluded that new, replacement "green jobs" pay significantly less. And workers in coal and natural gas industries are well aware of how Government injustices in the past betrayed fellow workers in: steel, electronics, and textiles.

Look, fossil fuel workers simply want to keep their jobs, not get a Government program or a handout. This misguided congressional pursuit of environmental justice will no doubt create poverty causing shame, powerlessness, hopelessness, and humiliation to hard working Americans.

So instead of perpetuating another generation of injustice wouldn't it more respectful to accomplish our mutual objective of reducing carbon emissions by using innovation and research and advancing efficiencies, renewables, nuclear, and batteries?

Look, poverty is poverty, injustice is injustice. Whether it's in an urban area or rural community. Mr. Chairman: if you could prevent poverty for just one family in your district, I'm confident that you too would fight like hell in their behalf.

So, I'm confused. Why is the rest of your party turning a deaf ear to the pleas of men, women, and children with fossil fuel jobs and subjecting whole communities to poverty? Is that what Democrats call "environmental justice"? Hurting working families is not a "justice" that any of us should embrace. Thank you and I yield back.

Mr. TONKO. Representative McKinley yields back, and now the Chair recognizes Representative Pallone, the chair of the full committee of Energy and Commerce, our overtime, hardworking chair. We recognize him for 5 minutes for his opening statement.

Welcome, Chairman Pallone.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Chairman Tonko. Today we continue this committee's important work on environmental justice, as we examine 11 bills that address the pressing needs of environmental justice communities. And for far too long, low-income communities and communities of color have borne the brunt of air pollution, exposure to contaminated sites, and unsafe water.

Environmental injustice can be attributed to many things, from intentionally racist policies like redlining that lead to vulnerable communities being excluded from siting and permitting decisions, to unequal investment in these communities. And climate change and deteriorating infrastructure are exacerbating these problems and this inequality.

So it is time for Congress to act. As Chairman Tonko said, we must address the overlapping crisis facing our Nation, including inequality, climate change, and the economic downturn caused by this pandemic. And as President Biden has said, we need to build back better, and that means building back cleaner, healthier, and with greater equity.

So I believe the 11 bills before us today can help us do exactly that.

One of the bills is H.R. 1512, the CLEAN Future Act, which I introduced last month with Chairmen Tonko and Rush and several other committee members. And the CLEAN Future Act is a comprehensive and ambitious plan to combat the climate crisis and achieve net-zero greenhouse gas pollution by no later than 2050. And environmental justice is the key component of the CLEAN Future Act and must be a focus of our efforts to address climate change and infrastructure.

But many of the environmental justice provisions in the CLEAN Future Act are reflected in President Biden's American Jobs Plan. Both proposals prioritize investments for environmental justice communities and basically commit 40 percent of investments to directly benefiting these communities. And both proposals seek to clean up the sectors of our economy like the ports that not only increase the amount of carbon in the atmosphere but also add to the

amount of hazardous air pollutants concentrated in environmental justice communities. And both policy proposals make the long-overdue investments in cleaning up Superfund sites, replacing lead service lines, and updating the energy grid.

Now, the other bills we are going to hear about today focus on important environmental justice topics, including climate justice, port climate readiness, cumulative impact assessments, and the tools available to identify environmental justice communities. And many of these bills align with the American Jobs Plan and can help us make that plan a reality.

So I want to thank my colleagues for their engagement and help in refining and expanding the environmental justice provisions of the CLEAN Future Act. And I also commend them for their leadership on the other bills that we are developing or that we are discussing today.

All these bills reflect thoughtful stakeholder engagement with communities of color and low-income communities, and I am proud to continue that engagement with today's hearings.

But I also want to thank our witnesses who are leaders and experts in environmental justice communities. We are fortunate to have this panel with us today, and I hope we can have a constructive dialogue and work with these stakeholders to enact needed change.

But let me just emphasize, if I can, Chairman Tonko, that environmental justice can and should be a bipartisan issue. Many of us were excited to pass environmental justice provisions out of the House as part of last year's energy bill. And although we did get about half of that energy bill in the final omnibus, we were disappointed because we couldn't find the bipartisan support we needed to get the environmental justice provisions included in that omnibus bill.

So I hope we can find common ground and build on support, because I know that these problems that exist in environmental justice communities, you know, are throughout the country, not just in Democratic districts. In fact, I always point out that, when we did a brownfields bill, I don't know, 20 years ago now, it was with Congressman Gillmor, and it was with—it was when my former Governor, Whitman, was the EPA Administrator and George Bush was President. So there is no reason that this can't be bipartisan.

And also, this—the notion of building back better does require bold action, and a focus on the communities most in need. So I think the bills before us today are a good start. I thank Chairman Tonko for calling this important hearing, and I look forward to working together to see environmental justice provisions enacted into law.

[The prepared statement of Mr. Pallone follows:]

PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

Today we continue this committee's important work on environmental justice, examining 11 bills that address the pressing needs of environmental justice communities.

For far too long, low-income communities and communities of color have borne the brunt of air pollution, exposure to contaminated sites, and unsafe water. Environmental injustice can be attributed to many things, from intentionally racist policies like red-lining that lead to vulnerable communities being excluded from siting and

permitting decisions, to unequal investment in these communities. Climate change and deteriorating infrastructure are exacerbating these problems and this inequality.

It's time for Congress to act. We must address the overlapping crises facing our Nation, including inequality, climate change, and the economic downturn caused by this pandemic. As President Biden has said, we need to build back better, and that means building back cleaner, healthier, and with greater equity. I believe the 11 bills before us today can help us do that.

One of the bills is H.R. 1512, the CLEAN Future Act, which I introduced last month with Chairmen Tonko and Rush and several other committee members. The CLEAN Future Act is a comprehensive and ambitious plan to combat the climate crisis and achieve net zero greenhouse gas pollution by no later than 2050. Environmental justice is a key component of the CLEAN Future Act, and must be a focus of our efforts to address climate change and infrastructure.

Many of the environmental justice provisions in the CLEAN Future Act are reflected in President Biden's American Jobs Plan. Both proposals prioritize investments for environmental justice communities and commit 40 percent of investments to directly benefit those communities. Both proposals seek to clean up the sectors of our economy, like ports, that not only increase the amount of carbon in the atmosphere, but also add to the amount of hazardous air pollutants concentrated in environmental justice communities. And both policy proposals make long-overdue investments in cleaning up Superfund sites, replacing lead service lines, and updating the energy grid.

Other bills we will hear about today focus on important environmental justice topics including climate justice, port climate readiness, cumulative impacts assessment, and the tools available to identify environmental justice communities. Many of these bills align with the American Jobs Plan and can help us make that plan a reality.

I want to thank my colleagues for their engagement and help in refining and expanding the environmental justice provisions of the CLEAN Future Act. I also commend them for their leadership on the other bills we are discussing today. These bills reflect thoughtful stakeholder engagement with communities of color and low-income communities, and I am proud to continue that engagement with today's hearing.

I also want to thank our witnesses, who are leaders and experts in environmental justice communities. We are fortunate to have this panel with us today, and I hope we can have a constructive dialogue and work with these stakeholders to enact needed change.

Environmental justice can and should be a bipartisan issue. Many of us were excited to pass environmental justice provisions out of the House as part of last year's energy bill, and were disappointed we could not find the bipartisan support we needed to get those provisions enacted. I hope we can start to find common ground and build that support.

Building back better will require bold action, and a focus on the communities most in need. The bills before us are a great start. I thank the Chair for calling this important hearing, and I look forward to working together to see environmental justice provisions enacted into law.

Mr. PALLONE. And with that, I will yield back. Thank you, Chairman.

Mr. TONKO. You are most welcome.

The gentleman, the chair, yields back. The Chair now recognizes Mrs. Rodgers. Representative Rodgers serves as ranking member of the full committee.

And Representative Rodgers, you have 5 minutes now for your opening statement, please.

**OPENING STATEMENT OF HON. CATHY McMORRIS RODGERS,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF
WASHINGTON**

Mrs. RODGERS. Good morning, everyone.

Mr. Chairman, throughout these CLEAN Future Act hearings, Republicans have stressed that, to address climate change and the climate risk, the policies we develop must strengthen, not weaken,

our communities. You cannot build back better if you are tearing down to do it.

Policies must recognize the vital role affordable, reliable energy serves for expanding economic opportunity, for enabling new work opportunities, increasing community resilience, or expanding prosperity, for providing affordable power to homes when we need it. We do this by building on current achievements in energy, in environmental improvements, in economic opportunity, not dismantling them.

We have all seen the human toll when economic opportunity abandons communities. Witnesses in the past have outlined the harsh economic, social, and physical harm that follows the loss of good, blue-collar, middle-class jobs as factories pull out, or power plants close. Whether the harm is due to lost economic opportunity or not having the opportunity in the first place, we should remove barriers and provide incentives to lift economic prospects for all Americans, but especially for those that need it the most.

The legislation before us today covers so much ground, it is easy to overlook some of the ways the CLEAN Future Act harms economic prospects. We have warned in previous hearings that mandates like those in this bill will raise electricity rates, sideline small businesses, and increase energy poverty for those who need it.

And consider some of the provisions under review today that would further weaken economic opportunity: section 606 of the CLEAN Future Act prohibits new and renewed permits for projects in census tracts identified as, quote, “overburdened” whether or not the projects contribute to the burden. There is no room here for State or local decisions, what workers or communities want.

Amazingly, one trigger for prohibiting permits is set at air emissions levels that are within current air quality standards. That is not the way to foster economic opportunity or improve public health.

Another provision, section 621, creates new regulations on carbon capture and storage for enhanced oil recovery, a key incentive for building out carbon capture for clean energy. This provision duplicates existing regulations and imposes impractical permitting requirements that may undermine future development of this technology and the jobs it will create.

Section 625 establishes a clear Federal role for hydraulic fracturing and forces new requirements on State regulation of hydraulic fracturing, a practice the States have handed—have handled without Federal intervention for many decades.

These new changes would upend the regulatory structure that helped drive the shale revolution, transforming American energy security, lowering our greenhouse gas emission levels, and providing new economic life to scores of communities around our Nation.

And in other provisions of this bill we are looking at an economic train wreck, not the way to help frontline communities. We can do better than this.

We can start by recognizing the tremendous progress we have made, as a Nation, in the terms of environmental improvements under existing State and Federal policies. Fine particulate matter

is declining, down an average of almost 40 percent since 2000. Our air quality levels are 5 times lower than the global average, 7 times lower than China's, well below France, Germany, Mexico, and Russia, according to the EPA. And these positive environmental trends will continue, as will the economic and clean energy opportunities, if we don't block the way with convoluted new regulatory policies.

Let's focus on incentives to economic development, especially for under-served communities with ground-up, bipartisan policies like opportunity zones.

I am pleased that Mr. Shay Hawkins is joining us this morning to update us on how these policies help communities that are in need of economic opportunity.

Mr. Derrick Hollie will remind us of the vital role of affordable energy for economic progress, and the risk of heavy regulation on energy.

Mr. Chairman, we can drive clean energy policies, improve economic and environmental health, and foster prosperity for all families. But the ingredients for success are not more regulations, mandates, and central control that stifles opportunity and freedom. Let's recognize and let's—let's recognize that, and let's recognize our successes, and build on that.

[The prepared statement of Mrs. Rodgers follows:]

PREPARED STATEMENT OF HON. CATHY MCMORRIS RODGERS

Throughout these CLEAN Future Act hearings Republicans have stressed that—to address climate risks—the policies we develop must strengthen, not weaken our communities.

You cannot build better if you're tearing down to do it. Policies must recognize the vital role affordable, reliable energy serves for expanding economic opportunity for enabling new work opportunities, increasing community resilience, for expanding prosperity—for providing affordable power to homes when they need it most.

And we do this by building on current achievements in energy, in environmental improvements, in economic opportunity, not dismantling them. We've all seen the human toll when economic opportunity abandons communities.

Witnesses in the past have outlined the harsh economic, social, and physical harm that follows the loss of good blue-collar, middle-class jobs, as factories pull out or power plants close.

Whether the harm is due to lost economic opportunity or not having the opportunity in the first place, we should remove barriers and provide incentives to lift economic prospects for all Americans, but especially for those areas most in need. The legislation before us today covers so much ground, it is easy to overlook some of the ways the CLEAN Future Act harms economic prospects.

We've warned in previous hearings that mandates like those in this bill will raise electricity rates, sideline small businesses, and increase energy poverty for those most in need. And consider some of the provisions under review today that would further weaken economic opportunity:

Section 606 of the CLEAN Future Act prohibits new and renewed permits for projects in census tracts identified as "overburdened"—whether or not the projects contribute to the burdens. There's no room here for State or local decisions, what workers and communities want.

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This provision duplicates existing regulations and imposes impractical permitting requirements that may undermine future development of this technology, and the jobs it will create.

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Add in other provisions of this bill and we're looking at an economic train wreck—not the way to help frontline communities. We can do better than this.

And we can start by recognizing the tremendous progress we have made as a Nation, in terms of environmental improvements under existing State and Federal policies. Fine particulate matter is declining, down an average of almost 40% since 2000.

Our air quality levels are five times lower than the global average... seven times lower than China's and well below France, Germany, Mexico, and Russia, according to the EPA.

And these positive environmental trends will continue, as will the economic and clean energy opportunities, if we don't block the way with convoluted new regulatory policies. Let's focus on incentives to economic development, especially for underserved communities, with ground-up bipartisan policies like opportunity zones.

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Mr. Chairman, we can drive clean energy policies, improve economic and environmental health, and foster prosperity for all families. But the ingredients for success here are not more regulations, mandates, and central control that stifles opportunity. Let's recognize that, recognize our successes and build on them. Thank you.

Mrs. RODGERS. With that, I yield back.

Mr. TONKO. Thank you, the gentlelady yields back.

The Chair reminds Members that, pursuant to committee rules, all Members' written opening statements shall be made part of the record.

I now will introduce the wonderful witnesses that we have for today's hearing. And we again thank them for joining us and for sharing info with us.

Dr. Mildred McClain is our first witness to be introduced. She is the executive director of Harambee House/Citizens for Environmental Justice.

We then have Mr. Angelo Logan, campaign director, Moving Forward Network.

Ms. Elizabeth Yeampierre—I hope I said that correctly—and she serves as executive director of UPROSE.

And Mr. Derrick Hollie, who is founder of Reaching America.

Mr. Shay Hawkins, who is president of Opportunity Funds Association.

And finally, Dr. Adrienne Hollis, senior climate justice and health scientist of the Union of Concerned Scientists.

I remind all of our witnesses to please unmute as you are called upon to share your thoughts for 5 minutes, and we will begin now by recognizing Dr. McClain for 5 minutes to provide an opening statement.

Dr. McClain, please unmute, and the floor is yours.

STATEMENTS OF MILDRED McCLAIN, Ph.D., EXECUTIVE DIRECTOR, HARAMBEE HOUSE AND CITIZENS FOR ENVIRONMENTAL JUSTICE; ANGELO LOGAN, POLICY AND CAMPAIGN DIRECTOR, MOVING FORWARD NETWORK; ELIZABETH YEAMPIERRE, EXECUTIVE DIRECTOR, UPROSE, AND CO-CHAIR, CLIMATE JUSTICE ALLIANCE; DERRICK HOLLIE, PRESIDENT, REACHING AMERICA; SHAY HAWKINS, PRESIDENT, OPPORTUNITY FUNDS ASSOCIATION; AND ADRIENNE HOLLIS, Ph.D., SENIOR CLIMATE JUSTICE AND HEALTH SCIENTIST, CLIMATE AND ENERGY PROGRAM, UNION OF CONCERNED SCIENTISTS

STATEMENT OF MILDRED McCLAIN, Ph.D.

Dr. McCLAIN. Good morning. I hope you can hear me, because I can barely hear you.

Mr. TONKO. We can hear you, and—

Dr. McCLAIN. Thank you so much for inviting me to testify today. My name is Mildred McClain, I am the executive director of the Harambee House/Citizens for Environmental Justice, located in Savannah, Georgia. And we are a community-based organization that has worked for the last 32 years with families, organizations, communities throughout this country, in building the capacity of regular people to have their voice heard in environmental decision making.

I have submitted written testimony, so I just want to highlight a couple of things this morning verbally.

There are a number of legislative proposals under discussion today, and I am going to focus my comments on H.R. 2021, the Environmental Justice for All Act. This is a promising start, but it is not where we want to finally end up. It is a bill that was built up from the ground up, and that is very, very, very important.

For far too long, environmental justice communities have suffered the devastating impacts of having to disproportionately bear the burdens of exposure to multiple sources of pollution, including alarming rates of respiratory illnesses, cancer, and premature death, as has been said earlier. Rightly, this bill attempts to address this problem by investing in local communities, increasing transparency, and empowering impacted stakeholders to hold polluters accountable.

The process by which this bill was developed deserves particular attention. Representative McEachin and Chairman Grijalva have developed this legislation from the ground up, with impacted communities leading and driving the development of the bill. To address environmental injustice, the process really does matter.

I want to pull out two important parts of the Act that are very important, two key features, and one looks at the cumulative impacts. Cumulative impacts requires consideration in permitting decisions under the Clean Air Act and the Clean Water Act and ensures that permits will not be issued if the project cannot demonstrate a reasonable certainty of no harm to human health. Cumulative impacts is all about the concentration of polluting industries in heavily burdened neighborhoods. There must be consideration of denying a permit if there is any chance of harm. Let us put the burden of proof on the applicant.

Secondly, a feature that I want to uplift is the Executive Order 12898, which codifies and bolsters President Clinton's 1994 Executive order by directing Federal agencies to develop EJ strategies and to regularly report on implementation and progress. It also ensures that Federal agencies include diverse communities in public health research, data collection, and analysis. But it is not a law, it is an order. When codified and put into law, made a legal obligation, this allows for accountability in Federal agencies.

The fact is many agencies do not comply with Executive orders. Therefore, they must be required under the law. This gives community, the public, tools to hold folks accountable. Where agencies do not comply, the public can then complain about noncompliance and do something about it.

A lack of enforcement of existing laws and regulations from EPA and State permit regulators is a major component of the challenge that needs to be addressed. That is to say, there is often a breakdown between the regs on the books and how that translates to improving residents' lives on the ground. The Clinton Executive order takes steps to address this.

But as I said earlier, an Executive order can be overturned with the stroke of a pen. That is why we need Congress to codify agency accountability mechanisms into law, like the Environmental Justice for All Act does with the Executive Order 12898, as well as with the recent Biden Executive order on tackling the climate crisis at home and abroad that calls for interagency coordination as well as accountability.

I want to just highlight one thing in my written testimony before I close. We are calling for you to legislate consistent and enforceable regulatory tools to end the disproportionate and cumulative impact of multiple pollution sources and toxic exposures on overburdened environmental justice communities. As this committee proceeds with its work, I urge you all to be thinking about how we can even add greater protections and programs to the Environmental Justice for All Act, and build on the communities' framework that is reflected in this important legislation.

I close with a quote from Martin Luther King: "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly." We are Americans, and as the bill title suggests, this is our vision: environmental justice for all.

And so I thank you for allowing me to talk today, and I will be open for answering any questions.

[The prepared statement of Dr. McClain follows:]



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Tuesday, April 13, 2021

House Committee on Energy & Commerce
Legislative Hearing on "The CLEAN Future Act and Environmental Justice"
Testimony of Dr. Mildred McClain
April 15, 2021

Good Morning Chairman Tonko, Ranking Member McKinley, and members of the committee.

Thank you for inviting me to testify today. My name is Dr. Mildred McClain and I am the Executive Director of the Harambee House and Citizens for Environmental Justice, located in Savannah, Georgia. We are a community-based organization that works collectively with families, youth, businesses, and other organizations in our neighborhoods and across the country. Since 1990, we have aimed at educating, inspiring, organizing, and building the capacity of African Americans and other communities of color to create and sustain safe, economically vibrant, healthy neighborhoods that promote healthy living, wellness. We advocate for environmental justice for frontline communities like ours that have historically suffered the effects of a disproportionate exposure to toxins and pollutants.

There are a number of legislative proposals under discussion, today. I will focus my testimony on H.R. 2021 - the "Environmental Justice for All Act." H.R. 2021 or the EJ4ALL Act, as the community has termed it, is a promising start to long-overdue legislation aimed at addressing systemic environmental injustices resulting from federal actions and decisions. For far too long, environmental justice communities have suffered the devastating impacts of having to disproportionately bear the burdens of exposure to multiple sources of pollution, including alarmingly high rates of respiratory illnesses, cancer, and premature death. Rightly, this bill attempts to address this problem by investing in local communities, increasing transparency, and empowering impacted stakeholders to hold polluters accountable.

The process by which this bill was developed deserves particular attention. Representative McEachin (here with us today) and Natural Resources Chairman Raúl Grijalva developed this legislation from the ground up, with impacted communities leading and driving the development of the bill. To address environmental injustice, the process matters. By reaching out to communities and providing opportunities to meaningfully engage in its development,

Representatives McEachin and Grijalva – as well as then Senator Kamala Harris modeled the principles of engagement, transparency, and accountability that should also animate the federal decisions that often times have enormous impacts on front line communities. The importance of process is reflected in the bill's emphasis on strengthening one of the only laws that gives communities a voice – the National Environmental Policy Act (NEPA).

There are many important pieces to this bill which we support, but I want to speak directly the critical importance of NEPA in ensuring better environmental justice outcomes. The Harambee House and Citizens for Environmental Justice in its early inception were able to use the NEPA to engage citizens and residents with the Department of energy as well as the Savannah River plant on the activities that were going on at the facility. We began our engagement after 20,000 picocuries of tritium found its way down to the Savannah River a day after Christmas in the early 90's and it served to galvanize a group of people who took it on as their responsibility to begin to inform, educate, mobilize, and organize communities both in Georgia and South Carolina(because most of the workers came from those two states). It was NEPA that gave us both authority as well as opportunity to call for public hearings and community meetings in the various cities and counties that were being impacted by the production of nuclear weapons materials right in our backyard. This legislation builds on this tool to ensure that the voices of ALL communities are heard and ensures that their input will be meaningfully considered.

In addition to the important public input and community engagement components of the bill, our organization sees the following components of the EJ4ALL Act as critical to comprehensively and substantively addressing environmental injustice in a systemic and equitable manner:

1. Legislate consistent and enforceable regulatory tools to end the disproportionate and cumulative impact of multiple pollution sources and toxic exposures on overburdened environmental justice communities. This is reflected H.R. 2021's cumulative impacts provisions in section 7 of the bill.
2. Reaffirm and make explicit that discriminatory decisions and actions by the government resulting in an adverse and disproportionate impact shall be a violation of the Civil Rights Act and private citizens shall have the right to seek justice and redress through the courts – as sections 4-6 of the Environmental Justice For All Act make clear.
3. Ensure that communities have the resources, information, access, and meaningful engagement to have their own community-led solutions by leveraging the EJ community's expertise and lived experiences. A number of crucial provisions of the EJ For All Act accomplish this through community grants, language and information accessibility provisions, citizen science and public notice requirements, among other provisions.
4. Ensure robust and adequate cultural competency, training and resources, and accountability on ALL federal agencies to infuse environmental justice as a central tenet of its decision making and outcomes.

While the community is immensely proud that OUR vision for environmental justice is reflected in H.R. 2021, the Environmental justice for All Act, in closing I want to underscore and make clear that we see H.R. 2021 as the floor of what the community's aspirations for environmental justice are – not a ceiling. As this committee proceeds with its work, I urge you all to be thinking about how we add even greater protections and programs to the EJ For All Act and build on the community's framework that is reflected in this important legislation.

Mr. TONKO. Thank you. We thank you, Dr. McClain.

And I please ask people to stay within the 5-minute boundaries, please. So thank you so much. We will now move to Mr. Logan.

You are recognized, sir, for 5 minutes, please.

STATEMENT OF ANGELO LOGAN

Mr. LOGAN. Thank you. Good morning, Chairman Tonko, Ranking Member McKinley, and members of the committee. My name is Angelo Logan, and I am with the Moving Forward Network.

The Moving Forward Network is a national coalition of over 50 organizations in 20 cities committed to environmental justice, with a focus on ports and freight transportation.

Ultimately, you cannot address environmental justice without addressing ports and freight transportation, focusing on self-determination, cumulative impacts, toxic exposure, investing in EJ communities and just transition. As a major environmental justice issue, ports and, more broadly, freight transportation is a complex system that weaves seaports, freight corridors, rail yards, intermodal facilities, inland ports, and logistics centers. The communities where these facilities are located not only contend with freight impacts but are also inundated by a wide variety of other impacts, such as refineries, trash incinerators, Superfund sites, and many more. So, without a doubt, freight communities are clear examples of the need for cumulative impact policies.

Environmental justice communities are hit first and worst by the climate crisis. The freight system is a major source of diesel pollution, which creates CO₂, a major greenhouse gas. Freight transport contributes approximately 3 billion tons of CO₂, globally. The freight sector accounts for roughly 9 percent of U.S. greenhouse gas emissions. And in the next couple of decades it is expected that oceangoing vessels alone will account for about 17 percent of all manmade carbon dioxide emissions.

The 13 million people that live near ports and rail yards are majority communities of color and have increased health risk. Freight transportation alone puts African Americans at a high risk that is three times their proportion of the U.S., and Latinos make up two times their proportion. To that end I would like you to consider taking the following actions.

One, advance proposals that center community voices, self-determination, local solutions, and have incorporated a comprehensive community process. One of the proposals before you today, H.R. 2021, has incorporated a comprehensive, community-led approach. The committee-facilitated Environmental Justice Working Group resulted in the committee establishing a statement of policy principles for this environmental justice legislation.

Two, do not advance parts, pieces, or sections of proposals that harm environmental justice communities. Proposals that incorporate market mechanisms, trading schemes, biomass, and other strategies that continue to burden EJ communities are nonstarters, and have been strongly opposed by environmental justice communities for many years.

Three, tackle environmental racism, address cumulative impacts head on. Continuous permitting of polluting facilities in already overburdened communities perpetuate environmental racism. Any

serious environmental justice proposal must contain a cumulative impacts policy that includes permit denials within the strategy.

Four, invest in clean air plans, zero-emission freight vehicles, and equipment at ports. On one hand, environmental justice for port communities includes creating local solutions and planning. The development of clean air plans for ports that identify the problem, solutions, and actions. The need to eliminate local toxic pollution and climate pollutants is critical, and it must start with a community-led process. On the other hand, the approach to reducing local toxic emissions and climate pollutants must involve investing in the deployment of zero-emission freight vehicles, equipment, and infrastructure. Eliminating diesel pollution is critical if we are going to protect community health and address the climate crisis.

It is critical that both H.R. 501 and H.R. 862 include organized labor engagement, and that investments require labor protections. Community residents should have the right to both a healthy environment and high-quality careers.

Five, environmental justice includes a just transition. As polluting industries are phased out, pathways for workers in those industries must be developed to support a transition to new, quality careers.

Six, do not enable freight automation. Zero-emission technologies at ports do not mean automation, nor should technologies that would negatively impact freight—frontline workers be supported.

Seven, require EPA to adopt regulations that reduce and eliminate emissions from the freight sector. The following should be the next generation of national emission standards prioritized by EPA: national standards for heavy-duty trucks, new standards for ocean-going vessels, national standards for locomotive engines. These rules should include timelines and requirements for the deployment of zero-emission technologies.

In closing, I would like to emphasize that community engagement for developing solutions and strategies is paramount. To that end we encourage the committee continue engagement directly with the MFN membership. Thank you.

[The prepared statement of Mr. Logan follows:]

TESTIMONY OF ANGELO LOGAN
MOVING FORWARD NETWORK

BEFORE THE UNITED STATES House
Subcommittee on Environment and Climate Change of the
Committee on Energy and Commerce

Legislative Hearing on
“Environmental Justice Legislative Proposals, including the
Environmental Justice title of the “CLEAN Future Act”.”

APRIL 15TH 2021

Good morning Chairman Tonko, Ranking Member McKinley, and members of the Committee:

Thank you for inviting me to testify today. My name is Angelo Logan, and I am with the Moving Forward Network. The Moving Forward Network (MFN) is a national coalition of over 50-member organizations including community-based groups, national environmental organizations, and academic institutions, in over 20 major U.S. cities, representing over 2 million members, committed to achieving environmental justice and climate justice. Since inception, MFN has focused on resolving the local public health impacts and the climate crisis created by our country’s freight transportation system. At the heart of MFN is the membership, which is predominantly people who live and work directly in frontline communities.

Ultimately, you cannot address environmental justice without addressing ports and freight transportation and you can not address ports and freight transportation without a focus on self-determination, cumulative impacts, toxic exposers, EJ investment and just transition.

As a major environmental justice issue, ports and more broadly freight transportation, is a complex system that weaves seaports, freight corridors, rail yards, intermodal facilities, inland ports and logistic centers. The transportation system that brings materials and good from place of origin to place of consumption. From manufacturing to the marketplace and doorstep. It is the trucks, trains, ships and cargo-handling equipment that transport the things we buy that are produced across the globe. But the communities where these facilities are located not only contend with freight impacts but are also inundated by a wide variety of other impacts, such as refineries, trash incineration, superfund sites and many more. So, without a doubt, freight communities are clear examples for the need for cumulative impact policies.

Environmental justice communities are hit first and worst by the climate crisis. When considering climate pollutants, diesel emissions have a major role in resolving climate change. The freight system relies on diesel-powered vehicles and equipment, which produces diesel exhaust made up of toxins and climate pollutants. Diesel exhaust creates CO₂, a major greenhouse gas. Freight transport worldwide contributes approximately 3 billion tons of CO₂. Black carbon is also a result of diesel exhaust. Black carbon is a fine particulate matter and short-lived climate pollutant that has very high global warming potential. Some estimate over 600 times higher than CO₂. The freight transportation sector accounts for roughly 9% of US greenhouse gas emissions and in the next couple of decades, it is expected that ocean going vessels alone will account for about 17% of all man-made carbon dioxide emissions worldwide.

The 13 million people that live near major marine ports and rail yards are disproportionately low-income communities of color and have an increased health risks from climate change impacts and the toxic air pollution freight transportation and the surrounding industries. Epidemiologic studies have consistently demonstrated that children and adults living near freight transportation sources have poorer health outcomes, including but not limited to: Asthma, poor lung development, and other respiratory diseases; Cardiovascular disease; Lung cancer; Pre-term births and infants with low birth weight; and Premature death. Freight transportation alone puts African Americans as a high-risk population that is 3 times their proportion of the U.S. population and Latinos made up two times their proportion.

Freight transport poses a huge climate crisis for the planet and for the local environmental justice communities that have been dealing with the impacts of the air pollution that is causing the climate crisis.

To that end I would like you to consider taking the following actions:

Advance Proposals that Center Communities Voices, Self-Determination, Local Solutions and have Incorporated a Comprehensive Community Process.

To truly address environmental justice, we must reduce and eliminate air pollution and green house gas emissions at their source, locally in communities that have been disproportionately burdened with toxic exposure for decades and are now the most vulnerable to climate impacts. Frontline communities have the real expertise and true solutions that will solve the climate crisis. Therefore, the process for developing any solution or strategy is paramount. A corner stone of environmental justice is self-determination. If we are to truly advance environmental justice, communities must be able to speak for themselves and identify local solutions to the issues in their communities.

One of the proposals before you today, (“Environmental Justice for All Act.” H.R. 2021) has incorporated a comprehensive community lead approach starting with a committee facilitated Environmental Justice Working Group. As a result of the Work Group the committee established a statement of policy principles for environmental justice legislation.

Do Not Advance Part, Pieces, or Sections of Proposals that Harm Environmental Justice Communities.

Proposals that incorporate market mechanisms, trading schemes, bio-mass or other strategies that continue to burden EJ communities are nonstarters and have been strongly opposed by environmental justice communities for many years.

Tackle Environmental Racism, address Cumulative Impacts Head On

Cumulative impacts are a common threat and burden to environmental justice communities across the country and freight impacted communities are no exception. Cumulative impacts are the concertation of multiple sources of pollution in a geographic area, usually at the neighborhood level. Cumulative impacts pose serious threats to local residents and the environment. Individually these sources have the potential of harm, combined these sources present impacts that accumulate and result in the environmental health disasters. There is no doubt that environmental justice communities have been targeted and considered to be collateral

damage in the development of numerous projects. Continuous permitting of polluting facilities in already overburden communities, perpetuates environmental racism. Any serious attempt at tackling environmental racism must include a cumulative impacts policy that includes permit denials within the strategy.

Invest in Clean Air Plans, Zero Emission Freight Vehicles and Equipment at Ports and Beyond.

On one hand, environmental justice for port communities include co-creating local solutions that will result in clean air plans for ports that identify the polluting source, develop a strategy and draft actionable plans that will dramatically reduce local toxic exposure and climate pollutants. The need to eliminate local toxic pollution and climate pollutants is critical and must start with a community lead planning process.

On the other hand, the approach to reducing local toxic emissions and climate pollutants must involve investing in the deployment of zero emission freight vehicles, equipment, and infrastructure. Local community's health depends on the elimination of internal combustion engines that drive ships, cargo handling equipment, drayage trucks and harbor craft. Specifically, making significant strides in eliminating diesel pollutions is critical to addressing community level health impacts on community of color and addressing the climate crisis.

Prioritizing investments in environmental justice communities is a must when considering ports, freight impacted cities, environmental justice, and equity.

Part of the environmental justice approach for port and communities must include the freight industry workforce. It is critical that both H.R. 501 and H.R. 862 include provisions that involve organized labor engagement and have established investment restrictions for projects that replace workers with automated equipment. It is equally important that investments require labor protections, prevailing wages, and project labor agreements. The local community residents should have the right to both a clean, safe and healthy community as well as a good quality career in the industry predominate in their neighborhood.

Environmental Justice includes a Just Transition

Transitioning away from polluting operations, equipment and vehicles provides the opportunity to build a thriving economy while protecting the general public's health, the workforce and address the climate crisis. But there are also challenges of creating quality jobs as potential job loss occurs in the transition. As polluting industries are phased out, pathways for workers in those industries must be developed to support a transition to new quality careers in new regenerative economies.

Do Not Enable Freight Automation

The movement towards automatization in the freight sector is a real concern for workers and the community. Job loss trends are associated with the constant push for greater output and productivity, which has been leading to the adoption of automation. Freight sector industries, and companies often promote a false framing of the importance of automation to assure growth while also reaching zero emissions. Zero emissions technology at ports and for freight transportation

does not mean automation, nor should technologies that would negatively impact frontline worker be supported.

Require EPA to Meet its Mission and Legal Requirements under the Clean Air Act. EPA Must Adopt Regulations to Reduce and Eliminate Emissions from the Freight Sector and Beyond.

Require EPA take action to address freight pollution. The committee should require timelines, progress reporting and hold regular hearings on the progress of all EPA's legal requirement for meeting the Clean Air Act. It is critical that Congress do everything in their power to hold EPA accountable. Specifically, Congress should require EPA to adopt regulations to reduce and eliminate emissions from the freight sector.

The devastating impacts of freight operations require elevation within EPA. In 2009, EPA's National Environmental Justice Advisory Council (NEJAC) provided 41 recommendations for EPA action. To date, however, EPA has failed to adopt targeted strategy for reducing emissions from the freight sector to the degree necessary to protect public health and climate change. As a result, the health crises in these communities persist and threaten to get worse with increasing freight activity.

EPA must identify reducing freight-related air pollution as a top priority for the Agency. Tackling such pollution will further the Agency's air quality, climate, and environmental justice goals. EPA must adopt new national standards for freight-related sources and provide more guidance to states with freight-related activities in areas that violate national air quality standards and/or produce localized health risks.

EPA must prioritize promulgation of the next generation of national emission standards for freight-related sources. The following national rules should be prioritized within EPA:

- National Standards for Heavy-Duty Trucks. EPA's should advance the proposed greenhouse gas emissions standards for heavy-duty trucks encouraging the adoption of incentives for advanced zero-emissions technologies and addressing particulate emissions from auxiliary power units.
- New Standards for Ocean Going Vessels. EPA should pursue a next generation of NOx and particulate matter standards. Foreseeable technologies and more general engine efficiency improvements hold the potential to reduce NOx emissions by another 90 percent below current standards.
- National Standards for Locomotive Engines. EPA should also adopt Tier 5 standards for new locomotive engines. Technologies can achieve significantly lower NOx and PM limits. Moreover, technologies now exist to enable zero-emission track miles. The next generation of standards should reflect the feasibility of these technologies and incentivize development and deployment of advanced zero-emission technologies.

This list of proposed actions is not absolute or complete. As mentioned above the community engagement process of developing solutions and strategies is paramount. To that end, we encourage the committee's continued engagement with the Moving Forward Network.

Sincerely,

Angelo Logan
Moving Forward Network

Moving Forward Network Members

1. Air Alliance Houston
2. Alternatives for Community and Environment (ACE)
3. Bay Area Healthy 880 Communities-SL
4. California Cleaner Freight Coalition
5. Charleston Community Research to Action Board (CCRAB)
6. Center for Community Action and Environmental Justice
7. Central California Environmental Justice Network
8. Central Valley Air Quality Coalition
9. Citizens for a Sustainable Future, Inc.
10. Clean Air Council
11. Clean Water Action, Clean Water Fund
12. Coalition for Healthy Ports (NYNJ)
13. Coalition for a Safe Environment
14. Coalition for Clean Air
15. Comité Civico Del Valle, Inc.
16. Diesel Health Project, Inc.
17. Duwamish River CleanUp Coalition
18. Earthjustice
19. East Yard Communities for Environmental Justice
20. End Oil, Inc.
21. Environmental Health Coalition
22. Environmental Integrity Project
23. Global Community Monitor
24. Georgia Research Environmental Economic Network (GREEN) Inc.
25. Harambee House, Inc.
26. Hudson Hill EJ Working Group
27. Ironbound Community Corporation
28. Long Beach Alliance for Children with Asthma
29. Maryland Institute for Applied Environmental Health, School of Public Health
30. National Nurses United
31. Natural Resources Defense Council (NRDC)
32. New Jersey Environmental Justice Alliance
33. Peoples Collective for Environmental Justice
34. Puget Sound Sage
35. Regional Asthma Management and Prevention (RAMP)
36. Respiratory Health Association
37. Rutgers Robert Wood Johnson Medical School

38. Rutgers University School of Management & Labor
39. Southwest Detroit Community Benefits Coalition/Southwest Detroit Environmental Vision
40. Steps Coalition
41. Sunflower Alliance
42. Texas Environmental Justice Advocacy Services (TEJAS)
43. The Center for the Urban Environment, Thomas Edison College
44. THE NEW SCHOOL
45. Union of Concerned Scientists
46. University of Southern California
47. University of Texas Medical Branch / Sealy Center for Environmental Health and Medicine
48. West Oakland Environmental Indicators Project

Mr. TONKO. Thank you so much, Mr. Logan, and next we will recognize Ms. Yeampierre.

You are recognized for 5 minutes, please.

STATEMENT OF ELIZABETH YEAMPIERRE

Ms. YEAMPIERRE. Buenos dias, Chair. Thank you for the opportunity to testify before you today. My name is Elizabeth Yeampierre, and I am cochair of the Climate Justice Alliance, a national organization that links more than 75 organizations across the U.S., Guam, and Puerto Rico. I am also executive director of UPROSE—oldest Latino community organization. We work at the intersection of racial justice and climate change and are part of the national frontline climate justice movement representing those most impacted by climate change.

Like climate change, the conditions of our communities are the consequence of a long history of extraction. We share legacies of fighting colonialism as well as race, class, and gender oppression while advocating for environmental justice. Our communities are the first and most impacted by the storms, fires, floods, and droughts and are disproportionately burdened by pollution, poverty, and systemic violence associated with the multinational corporations driving these ecological crises.

Years of grassroots organizing and frontline community leadership by members of New York Renews won the hard-fought battle for New York's Climate Leadership and Community Protection Act, the most progressive climate policy in the Nation, paving the way for models and processes that are community-led solutions grounded in racial justice and equity. These community-led models serve as a foundation from which the Federal Government can accelerate a just transition.

Congresswoman Yvette Clarke's proposal for a just—for a climate justice working group represents an important step forward for the prior and informed consent of frontline communities and a just and equitable transition towards a clean, zero-emission economy that protects and prioritizes our communities. We applaud the bill for centering representatives from frontline community-based organizations as advisers and experts on matters pertaining to the impacts of climate change and environmental pollution in our communities.

In order to transition away from fossil fuels, improve health conditions in severely-polluted communities, and strengthen social cohesion, we must redress past harms, create new relationships of power that ensure the self-determination of communities, and include the expertise of frontline leadership.

UPROSE is located in Lenape Territory, also known as Sunset Park, Brooklyn. It is a diverse, working-class community, where the majority of the residents are people of color. Housing affordability is a major crisis, with nearly half our neighbors being rent burdened and the city undergoing extreme gentrification that will only worsen with the expansion of opportunity zones. It is also an industrial waterfront community exposed to flooding from hurricanes and storm surges, as we saw in 2012 with Superstorm Sandy.

We know the history of environmental racism led to the disparate impacts of COVID-19, a public health crisis where infection and death rates were significantly higher among our people. This bill's proposed climate justice working group would work to protect and prioritize frontline communities and greenhouse gas emission reduction, copollutant reductions and investments.

A set of criteria to identify climate-burdened communities not only looks at the public health impacts but also takes on a necessary holistic approach. This transition away from fossil fuels in the extractive economy must be just and equitable, redressing past harms and creating new relationships of power for the future through reparations, living-wage jobs, and an economic and social development that aims to address historical harm and systemic racism.

All around the country, there are examples of frontline communities developing projects that engage in innovative infrastructure, further local control, and create jobs. Some of these projects are in their early stages. My organization, UPROSE, partnered with the New York City Economic Development Corporation, Solar 1, and co-empowered it to create the first community-owned solar cooperative in New York State. Projects like these are scalable and replicable community-led models of development and investment.

As the bearers of the historical and present-day brunt of environmental degradation and climate change, our communities must be at the forefront of solutions. Investment in just development plans around the Nation through mandatory funding for block grants earmarked for community-based organizations and community development funds would go even further to repair historical harm and center community innovation for water, land, air, energy resources in both urban and rural areas as well as Indian countries.

Our hopes are that our Government will work with us to build a regenerative economy, and a just and equitable future.

Gracias.

[The prepared statement of Ms. Yeampierre follows:]



Testimony of Elizabeth Yeampierre
Executive Director of UPROSE & Co-Chair of the Climate Justice Alliance

Frontline Communities: Impacted by the Climate Crisis, Leading on Solutions

My name is Elizabeth Yeampierre. I am Co-Chair of the Climate Justice Alliance, a national organization that links more than 70 organizations across the U.S., Guam and Puerto Rico. I am also Executive Director of UPROSE, Brooklyn's oldest Latin@ organization. Founded in 1966, UPROSE is dedicated to environmental and social justice and part of the national frontline climate justice movement representing those most impacted by climate change.

Like climate change, the conditions of our communities are the consequence of a long history of extraction. We share legacies of fighting colonialism, as well as race, class and gender oppression, while advocating for environmental justice. And we share vision, values and principles that guide our environmental, economic, and social justice organizing. Our communities are the first and most impacted by the storms, fires, floods and droughts, and are disproportionately burdened by the pollution, poverty and systemic violence associated with the multinational corporations driving these ecological crises.

Toward a Just Transition

To effectively tackle climate change, we must invest in a Just Transition toward specifically local, living economies of scale. Years of grassroots organizing and frontline community leadership won the hard-fought battle for New York's Climate Leadership and Community Protection Act- the most progressive climate policy in the nation, paving the road for models and processes that are inclusive and community-led climate solutions grounded in racial justice and equity.

These community-led models serve as a foundation from which the federal government can accelerate a Just Transition. Representative Yvette Clark's proposal for a Climate Justice Working Group represents an important step forward for the prior and informed consent of frontline communities in a just and equitable transition towards a clean, zero-emission economy that protects and prioritizes our communities, those on the frontlines of the climate crisis.

Just Transition is a vision-led, unifying and place-based set of principles, processes and practices that build economic and political power to shift from an extractive economy to a regenerative economy - not just for workers but for whole communities. Within our vision of governance, a deep democracy is a core principle that calls for the rights of workers and communities to have control over the decisions that affect their daily lives.

We applaud the bill for centering representatives from frontline community-based organizations as advisors and experts to the president and federal agencies on matters pertaining to the impacts of climate change and environmental pollution in our communities.

In order to transition away from fossil fuels, improve health conditions in severely polluted communities, and ensure the resilience of frontline communities to the debilitating effects of climate change, we need to redress past harms, create new relationships of power that ensure

the self determination of communities, and create spaces for frontline leadership to share their expertise.

Lived experiences become innovative solutions

UPROSE is located in Sunset Park, Brooklyn. It is a diverse working-class community where the majority of the residents are People of color/immigrants, mostly of Latinx and Chinese descent. We have a poverty rate of nearly 26 percent, above the city average and far above the national average. Housing affordability is a major crisis, with nearly half of my neighbors being rent-burdened and the city undergoing extreme gentrification that will only worsen with the expansion of Opportunity Zones.

From a climate perspective, we are an industrial waterfront community exposed to flooding from hurricanes and storm surges, as was the case in 2012 when Superstorm Sandy hit. As a poor and working-class community, housing displacement and disruption of services due to storms and other severe weather affect our people much more acutely compared to residents of affluent communities with more resources. Further, on a day-to-day basis, disproportionate exposure to fossil fuel pollution and other climate change impacts, such as extreme heat, is built into New York City's policy fabric, transportation planning, and economic development, all arising from racism that compounds the pollution impacts with socioeconomic inequities. The oppression of low wages and underfunded schools in our community is exacerbated by high rates of asthma and other pulmonary diseases, heart disease, and lung cancer, which further restrict my neighbors' economic and educational potential.

This bill's proposed Climate Justice Working Group would, in its duty, create a set of criteria to identify climate burdened communities and create guiding principles for the federal government to protect and prioritize frontline communities in greenhouse gas emissions reductions, co pollutant reductions, and investments. The set of criteria to identify climate burdened communities not only looks at the public health effects of cumulative environmental pollution and the vulnerability of communities to climate related weather events, but also takes a holistic approach to identify racial discrimination (racism), income and wealth, rent burden, home ownership, education, and access to green spaces as contributing factors to environmental inequities.

This transition away from fossil fuels and an extractive economy must be just and equitable, redressing past harms and creating new relationships of power for the future through reparations, living wage jobs and economic and social development that aims to address historical harm and discrimination. When it comes to policy work, those closest to the problems have the most innovative solutions, and are the experts on the issues affecting their lives. We are changing the way governance works by building Our Power and pathways to solutions that work for frontline communities and workers, while pushing back against false solutions to climate change.

Examples of community led solutions

New York's first solar cooperative is community owned

All around the country there are examples of frontline communities developing projects that engage innovative infrastructure, further local control, and create jobs. Some of these projects are in the early stages. Others are ready to be scaled up and replicated in ways that will benefit more people and communities if there is public investment and incentive to do so. The fossil fuel

industry receives millions in subsidies. Imagine what communities already forging comprehensive solutions to the climate crises could do with the reallocation of those subsidies.

My organization, UPROSE, partnered with the NYC Economic Development Corporation, Solar One and Co-op Power to create the first community-owned solar cooperative in New York State to provide local solar energy to 200 households and small businesses for a 15% savings on monthly energy bills.

Educating for the future, solving problems now

For years, in another part of the country, the residents of Highland Park, Michigan suffered high energy costs and energy blackouts along with massive flooding. When the municipality was in financial crisis, the local energy company repossessed 1,000 streetlights, leaving the residents in the dark. Soulardarity, a local environmental justice group and a CJA member, stepped in and designed a system for installing solar-powered street lights. They have installed 7 solar-powered streetlights and created a proposal for the City to finance and install a full 1000, re-lighting the streets and providing affordable internet and civic engagement tools. Building on its commitment to energy democracy and community empowerment, Soulardarity created a bulk purchasing program that is training residents in solar installation and weatherization, readying them to step into clean energy jobs as they become available, and has deployed \$30,000 of solar lighting and other products in Highland Park and neighboring communities. They are using education and organizing to literally make light of a dark situation. The group is shortly releasing a Blueprint for Energy Democracy, a plan to make Highland Park a global model of sustainability and democracy, and collaborating with a diverse array of stakeholders to advance the plan, and advocating for state and federal actors to provide financial resources and technical assistance to bolster community plans.

Expanding solar while growing community jobs

In Chicago, CJA member Little Village Environmental Justice Organization (LVEJO), which is based in a low-income, mainly Latinx immigrant neighborhood, worked hard to directly represent environmental justice communities in the state of Illinois' Future Energy Jobs Act (FEJA) by insisting that it focus on health, environmental justice, and economic justice opportunities. With unprecedented funds directed to low-income environmental justice communities, LVEJO developed access to a solar panel training program delivered in communities across the state that prioritizes community members that were formerly incarcerated or had aged out of the foster care system. FEJA programs were designed to bring the benefits of solar energy to low-income communities, whether or not they are able to install the panels on their homes, including energy sovereignty opportunities for low-income communities to build ownership of solar systems. The group is also at the center of a plan to repurpose a closed down coal-fired power plant, with the goal of using it for community-run projects.

These are but a few examples of how our communities are developing concrete projects to address the climate crisis. There are many more that look at the different tipping points and sectors needed to halt the climate crisis. If we want to ensure a healthy future for future generations we must start prioritizing these solutions and scaling them now.

Following the lead of the frontlines and acting now

We urgently need a Just Transition to center frontline communities leaders as experts in the decision making that directly affects the lives of our people. As the bearers of the historical and present day brunts of environmental degradation and climate change, our communities need to be at the forefront of the solutions not only as recipients but leaders in innovation and change.

Simply put, we must have legislation that clearly prioritizes investments in scalable projects like those mentioned today that reduce emissions at the source and address the historical harm and discrimination communities like mine have faced for centuries.

Investment in just development plans around the nation through mandatory funding for block grants earmarked for community-based organizations and community development funds would go even further to repair historical harm and center community innovation for water, land, air, and energy resources, in both urban and rural areas, as well as Indian Country.

Climate change demands that we live with what we need instead of what we want. Everywhere people are learning to do this, and frontline communities are leading the way and reclaiming their traditions. Our hopes are that our government will work with us to build a regenerative economy and a just and equitable future.

Mr. TONKO. You are most welcome, de nada. And next—we thank you, Ms. Yeampierre, and next we will welcome Mr. Hollie. Mr. Hollie, you are recognized for 5 minutes, please, for your opening statement.

[Pause.]

Mr. HOLLIE. Am I unmuted? Can you hear me?

Mr. TONKO. I can hear you.

STATEMENT OF DERRICK HOLLIE

Mr. HOLLIE. Greetings, Chairman Tonko, Ranking Member McKinley, and members of the subcommittee. Thank you for the opportunity and allowing me to speak today. I am Derrick Hollie, president of Reaching America, an education and policy organization I developed to address complex social issues impacting African-American communities.

One of the issues I do the most work on is reducing energy poverty. Energy poverty exists when low-income families or individuals spend upwards of 30 percent of their total income on their electric bill. I believe it would be fair to say that many Americans who struggled with rising energy costs before the COVID-19 pandemic are struggling even more now. And with millions still out of work, many Americans are experiencing energy poverty for the first time in their life. And with moratoriums over, some folks' power is being turned off in these same vulnerable communities that these new laws and regulations claim to protect.

We know that communities around the country, particularly low-income, minority, and senior citizen communities, suffer from a lack of access of reliable energy sources and spend a disproportionate amount of their income, much higher amounts of their income, on electricity costs. And when this happens, it results in energy poverty.

Eliminating energy poverty is a goal I think we are all interested in achieving, but in working towards that goal we need to be mindful of how policies will impact the communities we are trying to serve. When the Government creates policies, its first priority should be the welfare of the people, especially those impacted the hardest. And with the uncertainty that still exists from this virus, it would not be prudent to eliminate safe, reliable energy sources like oil and natural gas for unproven and unreliable renewable sources. Certainly, not right now.

Under this current administration, the oil and gas industry is under attack from pipelines to hydraulic fracturing, which has revolutionized how we access our natural resources. A study done by Shale Crescent USA shows end users have saved \$1.1 trillion over the past 10 years due to increased natural gas production that has reduced the price of natural gas in the United States. Meanwhile, California, which is rich in its own natural resources, increased crude oil imports from foreign countries from 5 percent in 1992 to 57 percent in 2018.

This is a glaring example of hypocrisy, and here is why. Just 2 years ago, booming shale production helped the U.S. overtake Saudi Arabia and Russia to become the world's top oil exporter for the first time ever. How can our natural resources be worthy

enough to supply the other countries and the rest of the world but not good enough for us right here at home?

My grandfather was a Black coal miner in southwest Virginia, and I had the opportunity to visit that area. And the poverty that exists in rural America is different. And these communities have never recovered from the mines that were shut down years ago, decades ago. My fear, Mr. Chairman, is that the same will happen to these thriving communities that have relied on good-paying oil and gas jobs for generations. I know plenty of Black folks in Houston, Dallas, and Louisiana who have worked in the industry, and they are not in agreement with new policies and regulations that will ultimately destroy their lifestyle.

I am a licensed captain, and I fished the Atlantic, the Gulf, and I am an environmental steward. I recognize we have to protect our planet. However, the bottom line here is the Federal clean energy standard that is being proposed is overly ambitious, and it will undoubtedly raise electricity rates for low-income, minority, rural, and senior citizen communities. It will also put fossil fuels, including natural gas, which has been a game changer, at a complete disadvantage.

There are also provisions in this bill concerning eminent domain that will stop pipeline permitting. We have more miles of pipeline in this country than we have roads, and most people are living and breathing just fine. I think we all agree that American people have gone through enough. And with the uncertainty that still exists from this global pandemic of COVID-19, the last thing we need to do is take away good-paying jobs and disrupt people's lifestyle more than it already has, and is destroying an industry that we have relied on for industries. The same industry—for centuries, excuse me.

The same industry that has allowed us to create a life that Americans have grown to appreciate from petrochemicals, including plastics, fibers, pharmaceuticals, and your yoga mat, are all at risk of going away right now. We need market-oriented energy policy that will allow America to keep exploring and developing our own natural resources safely and allow us to maintain our energy independence, which will ultimately impact our national security.

Thank you, I yield my time.

[The prepared statement of Mr. Hollie follows:]



House Energy and Commerce Committee Hearing

Testimony for Derrick Hollie, President Reaching America

April 15, 2021

Greetings Chairman Pallone,

Ranking Member Mc Morris Rogers and Members of the Committee.

Thank you for the opportunity and allowing me to speak today.

I'm Derrick Hollie president of Reaching America, an education and policy organization I developed to address complex social issues impacting African American communities. One of the issues, I do the most work on is reducing energy poverty. Energy Poverty exists when low-income families or individuals spend up to thirty percent of their total income on their electric bill. I believe it would be fair to say many Americans who struggled with rising energy cost before COVID 19 pandemic are struggling even more now. And with millions still out of work, many are experiencing energy poverty for the first time – and with moratoriums over – some folks power is being turned off, in these same vulnerable communities that these new laws and regulations claim to protect.

We know that communities around the country, particularly low-income, minority, rural, and senior citizen communities, suffer from a lack of access to reliable energy sources and spend proportionately much higher amounts of their income on electricity costs and when this happens the result is energy poverty.

Eliminating energy poverty is a goal we all are interested in achieving. But in working towards that goal, we need to be mindful of how policies will impact the communities we are trying to serve. When the government creates policy, its first priority should be the welfare of the people, especially those impacted the hardest. And with the uncertainty – still with this virus, it would not be prudent to eliminate safe reliable energy sources like oil and natural gas for unproven and unreliable renewable sources – certainly not right now.

Under the current Administration, the oil and gas industry is under attack -- from pipelines to hydraulic fracturing, which has revolutionized how we access our natural resources. A study done by Shale Crescent USA -- shows end users have saved \$1.1 trillion -- over the past 10 years due to increased

natural gas production that has reduced the price of natural gas in the United States. Meanwhile California, rich with its own natural resources, [increased its crude oil imports](#) from foreign countries from 5% in 1992 to 57% in 2018. This is a glaring example of hypocrisy, and here's why. Just two years ago, booming shale production helped the U.S. overtake Saudi Arabia and Russia to become the [world's top oil exporter](#) for the first time ever -- . How can our natural resources be worthy enough to supply other countries, but not good enough for us here at home?

My grandfather was a black coal miner in southwest Virginia, and I had the opportunity to visit that area and the poverty that exist in rural America is different and these communities have never recovered from the mines that were shut down decades ago. My fear -- Mr. Chairman is the same will happen to these thriving communities, that have relied on good paying oil and gas jobs for generations. I know plenty of black folks in Houston, Dallas and Louisiana who work in the industry, and they are not in agreement with new policies and regulations that will ultimately destroy their lifestyle.

I'm a licensed captain and have fished the Atlantic and the Gulf, and as an environmental steward, I recognize -- we have to protect our planet, however the bottom line here -- The federal clean energy standard being proposed is overly ambitious. And It will undoubtedly raise electricity rates for low-income, minority rural and senior citizen communities. It will also put fossil fuels, including natural gas, which has been a game changer, at a disadvantage; There are also provisions in the bill concerning eminent domain that will stop pipeline permitting. We have more miles of pipelines in this country than we have roads, and most people are living and breathing just fine.

I think we all would agree, the American people have gone through enough and with the uncertainty that still exists from the global pandemic of COVID 19, the last thing we need to do is take away good paying jobs, disrupt people's lifestyle more than it already has -- and destroy an industry that we have relied on for centuries. The same industry that has allowed us to create a life that Americans have grown to appreciate from petrochemicals, including plastics, fibers, pharmaceuticals and your yoga mat.

We need market-oriented energy policy that will allow America to keep exploring and developing our own natural resources safely and allow us to maintain our energy independence which will ultimately impact our national security -- why do we need to get our energy elsewhere we have more than enough right here at home.

Mr. TONKO. Thank you, Mr. Hollie, and now we will move to Mr. Hawkins.

You are recognized, Mr. Hawkins, for 5 minutes, please.

STATEMENT OF SHAY HAWKINS

Mr. HAWKINS. Thank you, Chairman Tonko. Thank you, Ranking Member McKinley and the other members of the subcommittee, for having me. This is my third time testifying in front of Congress, but my second time testifying in front of this committee. So I appreciate you having me.

My name is Shay Hawkins. I am the president of the Opportunity Funds Association, a trade association focused on investors, entrepreneurs, and developers in opportunity zones. Prior to founding OFA, I was the majority staff director for the Senate Finance Subcommittee on Energy, Natural Resources, and Infrastructure, and I served as tax counsel for Senator Tim Scott for South Carolina, where we developed the opportunity zones provision based on the Investing and Opportunity Act, a bipartisan proposal with 88 House cosponsors—44 Democrats, 44 Republicans—and 16 Senate cosponsors—8 Republicans and 8 Democrats.

Opportunity zones, according to the accounting firm Novogradac, \$15 billion have been raised into the vehicles for opportunities on investing opportunity funds, and 3 billion of that has been raised in the midst of this pandemic. The Council of Economic Advisers estimates that 1 million Americans will be lifted out of poverty over the next 10 years through this policy.

Opportunity zones overlap 294 Native lands—I am sorry, 244 opportunity zones overlap Native lands. And, as you all know, these are communities that are disproportionately affected by environmental challenges. And so, as we go move forward and look at legislation to serve frontline communities, we have to be very careful that we don't exacerbate these disparate impacts in these communities with unique challenges.

So, for instance, you know, when we look at Alaska Native communities, policies that would raise oil prices or fuel prices through additional taxation would have a disparate impact on those folks who are dependent on air travel for freight but also for passenger travel in a way that those of us down here in the lower 48 just couldn't relate to. And so that is just something that we need to bear in mind as we look for bipartisan solutions to serve these frontline communities.

Frontline communities overlap opportunity zones, and vice versa. We are seeing some amazing things happening in opportunity zones. I was just down in Panama City, Florida, where the St. Joe Company broke ground on a waterfront hotel and stand-alone restaurant. The parcel that the hotel is built on is city-owned, and the city will lease it to St. Joe Company, providing an immediate benefit of revenue to the residents of Panama City as well as 150 direct jobs created by that project.

You know, out in San Bernardino, California, a leading real estate investment firm, RevOZ, will be cutting the ribbon on an 11,000-square-foot office project. The facility will house San Bernardino County's Children's Department of Behavioral Health,

and that will provide mental wellness care to some of the most vulnerable and underserved members of that community.

And we also see operating businesses taking root in critical industries such as clean energy. There are 475 solar energy installations in opportunity zones, 127 wind farms have been developed, and 15 battery plants, all providing electricity right now.

And so I look forward to speaking more with the committee and offering whatever I can to help these frontline communities through investment but also through reasonable, low-cost energy that is secure in its delivery.

[The prepared statement of Mr. Hawkins follows:]

Testimony Before The Subcommittee on Environment and Climate Change of the
Committee on Energy and Commerce

Shay Hawkins
President, Opportunity Funds Association

"THE CLEAN FUTURE ACT AND ENVIRONMENTAL JUSTICE: PROTECTING
FRONTLINE COMMUNITIES"

April 15, 2021

Introduction

Chairman Tonko, Ranking Member McKinley, and members of the committee: it is a pleasure to be with you again today. This will be my third time testifying before Congress and my second time testifying on the House side for you so thank you for having me. I am the Co-founder and President of the Opportunity Funds Association (OFA), a trade association whose members are entrepreneurs, investors, developers and fund managers operating in Opportunity Zones. Through our members we connect capital to overlooked areas including Frontline Communities, improving lives, creating opportunities, and ensuring long-term economic growth.

Prior to co-funding OFA I served as the Majority Staff Director for the Senate Finance Subcommittee on Energy Natural Resources and Infrastructure and as Tax Counsel to Senator Tim Scott (R-S.C.) where I helped champion the Investing in Opportunity Act, legislation authored by Senators Tim Scott (R-SC) and Cory Booker (D-NJ) and Representatives Pat Tiberi (R-OH) and Ron Kind (D-WI). This legislation, which enjoyed broad bipartisan support, was the basis for the Opportunity Zones provision in the Tax Cuts and Jobs Act (TCJA) of 2017. The Opportunity Zones initiative is the most ambitious federal attempt to boost private investment in low-income areas in a generation. Research from the accounting firm Novogradac shows that over \$15 billion has been raised for investment so far with over 3 billion of that being raised in the midst of a pandemic. An August report from the Council of Economic Advisors estimates that Opportunity Zones will lift 1 million Americans from poverty and reduce poverty in designated zones by 11 percent.

294 Opportunity Zones contain Native American lands, many of which face unique environmental challenges. We must be careful not to exacerbate these challenges through uneven distribution of the costs of fighting climate change. For example, new taxes on fuel could certainly have a larger impact on rural Alaskan's electricity and heating costs compared to the Lower 48. Another example is found in air travel, prices of which could be impacted by new oil/fuel taxes. Air travel for passengers and freight is essential to many Alaska Native communities and price increases could have a disproportionate impact on these communities.

We should remain mindful that in addition to capital investment, residents of distressed communities benefit from cleaner energy, they benefit from affordable energy, and they benefit from secure energy. Bipartisan solutions can serve vulnerable Americans in all these areas

without creating disparate impacts. I look forward to seeing what the Committee develops and helping in any way I can.

Opportunity Zone Activity

Two weeks ago in Panama City Florida, The St. Joe Company broke ground on a waterfront hotel and standalone restaurant on Panama City Marina. The parcel is city-owned and will be leased to St. Joe, providing immediate revenue to residents. The terms provide for an increase in lease payments as the hotel's revenues grow over time.. The project will create 150 direct jobs for current residents and rebuild a portion of Panama City that was completely destroyed during Hurricane Michael.

In San Bernardino California, RevOZ a leading real estate investment firm specializing in Opportunity Zones, will cut the ribbon on an 11,325 square-foot office project. The facility will house San Bernardino County's Children's Department of Behavioral Health (DBH), providing mental wellness care to some of the most vulnerable and underserved members of the community. The facility's location allows for synergy between the County's collective community resources, such as the San Bernardino County Office, San Bernardino Department of Health, San Bernardino County Public Defender, San Bernardino County Juvenile Court and local schools.

We also see operating businesses taking root in opportunity zones in critical industries such as clean energy. There are 475 solar energy installations producing more than 1MW of activity in Opportunity Zones, as well as 127 wind farms and 15 battery plants of at least the same capacity.

Opportunity Zones Overlap Frontline Communities.

Research from the bipartisan Economic Innovation Group provides key information on designated Opportunity zones:

- **Demographics:** 31.5 million people call Opportunity Zones home (35 million including Puerto Rico and the territories). The majority of Opportunity Zones residents, 57 percent, are non-white minorities, compared to 39 percent of the country as a whole. Black Americans are particularly over-represented in Opportunity Zones, constituting nearly twice as large a share of the zone population as they do the national population.
- **Poverty:** In total, 7.9 million Americans residing in Opportunity Zones live in poverty. Opportunity Zones have an average poverty rate of 27.7 percent compared with the national poverty rate of 14.1 percent. Poverty rates rose in 53 percent of zones between the 2006-10 and 2014-18 periods.

Even though Opportunity Zones only cover one-quarter of the country's low income census tracts, they cover 38 percent of all U.S. census tracts that have been persistently poor (with a poverty rate of at least 20 percent) since at least 1980. They cover 49 percent—essentially half—of the country's pockets of concentrated persistent poverty, meaning census tracts in which at least 40 percent of the population has lived in poverty since at least 1980

- **Median Family Income:** The median family income (MFI) in the average Opportunity Zone is \$47,316, compared to \$73,965 nationally; the value in the median tract is \$45,547. Fully three-fifths of zones have an MFI below \$50,000.
- **Food Access:** The U.S. Department of Agriculture provides data on “food deserts”, which are defined as low income census tracts without a full service grocery store within a 1 mile radius in urban areas or within a 10 mile radius in rural areas. While Opportunity Zones represent around 11 percent of all census tracts, they account for 24 percent of the nation’s food deserts. In total, 2,225 Opportunity Zones, or 28 percent of all zones, qualify as food deserts.
- **Brownfields:** Opportunity Zones, which represent only 10.7 percent of all U.S. census tracts, contain nearly one-third (32 percent) of the country’s brownfield sites, which are properties that have been contaminated by prior (often industrial) use and typically stand vacant for years or decades.¹¹ All together the country’s 8,766 Opportunity Zones contain over 14,700 known brownfield sites.

What Congress Should Do

The most important step Congress can take to optimize sustainable growth in Opportunity Zones is to pass a bill adding reporting and transparency requirements to the policy. Senator Tim Scott along with Senators Sinema, and Grassley introduced a bill to this end last Congress. The bill would enable Treasury to collect key information on the location of Opportunity Zone investments, the types of businesses and projects attracting investment, and the number of jobs created. This information will enable Congress to adjust the policy to further incentivize investment in areas remaining underserved, and will demonstrate the viability of the policy as a community development tool.

As a part of an effort to target, streamline, and coordinate Federal resources to be used in Opportunity Zones, EPA awarded 155 grants for communities and tribes totaling over \$65.6 million in EPA Brownfields funding the agency’s Assessment, Revolving Loan Fund, and Cleanup Grant Programs. These funds will aid under-served and economically disadvantaged communities, including neighborhoods located in Opportunity Zones, in assessing and cleaning up abandoned industrial and commercial properties. Of the 151 total communities selected, 118 of these communities can potentially assess or clean up brownfield sites in census tracts designated in these zones. Congress should codify coordination across federal agencies to optimize Opportunity Zones and support community development.

Congress should also consider extending this great policy. Investment in Opportunity Zones was first undermined by untimely regulations, and further hindered by the global pandemic. Extending the policy to account for the time and momentum lost would go far in bringing capital into distressed communities for benefit of existing residents.

Mr. TONKO. Thank you, Mr. Hawkins. And now we will go to our final witness, Dr. Adrienne Hollis.

And you are recognized Dr. Hollis, for 5 minutes, please.

STATEMENT OF ADRIENNE HOLLIS, Ph.D.

Dr. HOLLIS. Good morning, and thank you, Chairman Tonko, Ranking Members Rodgers and McKinley, and members of the subcommittee, for providing me the opportunity to testify here today. And good morning also to my esteemed copanelists. My name is Dr. Adrienne Hollis, and I am a senior climate justice and health scientist at the Union of Concerned Scientists. I am here to share my perspectives on the impacts of environmental assaults on EJ communities.

We are in the midst of a syndemic. A syndemic occurs when a set of two or more linked health problems affect the same group of people at the same time and negatively compound each other's effects. EJ communities have existed in the middle of a syndemic for decades, facing challenges of structural racism, environmental injustice, and climate change. Any of these factors on their own is deadly, but together the damage is immeasurable. Add that to existing adverse conditions in communities that survive despite the presence of systemic racism, where poverty exists and incomes have never been healthy—and, in some circumstances, neither have the communities.

We must acknowledge that the underlying factor, systemic racism against Black, brown, Native Americans, and indigenous peoples, affects every aspect of our lives, from education to employment, from housing to healthcare, from the food we eat and the water we drink to the air we breathe. We contribute the least to environmental pollution, and yet we have the most exposure to undrinkable water and unbreathable air. We contribute the least to climate change, yet suffer most from its consequences.

Let me share a perfect illustration of a syndemic. It happened last year in western Lake Charles, Louisiana.

First, because of systemic racism, activities like redlining, and the practice of NIMBY-ism—Not In My Back Yard—factories and other polluting facilities were placed in EJ communities—in this case, near the familiar Cancer Alley. Residents have been exposed to toxic chemicals in the air, water, and soil for years.

They—then Hurricane Laura struck. Laura's landfall was a borderline category 5, the strongest since 1856. Hurricane Laura devastated the area. People who could evacuate, and those who could not stayed. Remember, this is right in the middle of the COVID-19 pandemic.

Then a chemical fire broke out at a biolab facility and burned for three days, sending what was thought to be millions of gallons of chlorine gas into the nearby EJ community and beyond. A shelter-in-place order was issued. And because of that order and directions to keep windows and doors closed and not use air conditioners, people may have been at an increased risk of COVID-19 infection and adverse health effects from the chlorine gas, on top of the danger from emissions occurring during facility shutdowns in advance of the hurricane.

The temperature was also a sweltering 90 degrees.

The chemical fire—the chemical plant fire put residents at risk of breathing in toxic air, which contributes to the underlying health conditions that make COVID–19 more likely to kill. Research has shown that Black, Latinx, Native American, and indigenous communities in the high environmental risk areas have higher death rates.

All of this is on top of the danger and trauma from a climate change-fueled storm. Hurricane Laura killed 32 people in Louisiana and was predicted to cause unsurvivable storm surges.

This is a perfect example of the confluence of conditions that make up a syndemic. Communities should have been made aware of the presence of dangerous, toxic chemicals and should have been part of any plan to address releases of toxic substances.

Furthermore, there is no standardized Federal guideline for keeping people safe from COVID–19 transmission during evacuations. The final challenge with COVID–19 in communities of color is the lack of racial and ethnic data. That data would have been instrumental in developing policy around vaccine administration, for example, and that way the most impacted would have been vaccinated first. Instead, people in harm's way have to hope that their local leadership has a plan.

It is beyond time for this country to address and alleviate the factors that make up this syndemic. And for that reason, I am very pleased that this hearing is occurring. Thank you.

[The prepared statement of Dr. Hollis follows:]

**Written Testimony of Dr. Adrienne L. Hollis, Senior Climate Justice and Health Scientist,
Climate and Energy Program
Union of Concerned Scientists**

**The CLEAN Future Act and Environmental Justice: Protecting Frontline
Communities**

**Subcommittee on Environment and Climate Change
of the Committee on Energy and Commerce**

April 15, 2021

Hello and thank you, Committee on Energy and Commerce Chairman Pallone, Ranking Members Rodgers and McKinley, Subcommittee Chairman Tonko and Members of the Subcommittee on Environment and Climate Change, for providing me the opportunity to testify here today. My name is Dr. Adrienne Hollis and I am the Senior Climate Justice and Health Scientist in the Climate and Energy program at the Union of Concerned Scientists. I am here today to share my perspectives on the impacts of climate change on environmental justice communities, and to underscore the importance of legislation aimed at addressing data gaps, eliminating harms experienced by environmental justice communities and providing equal protection under law.

The Syndemic

I would like to begin with an overview of the current situation. We are in the midst of a Syndemic. A Syndemic occurs when a set of two or more linked health problems interact and negatively compound each other's effects. For a lot of people, the syndemic involves the COVID-19 pandemic and the accompanying economic crisis only. However, many more people have begun experiencing the syndemic, as areas of the country deal with extreme weather and power outages, and contaminated water supplies, and as wildfires rage, floodwaters rise, and hurricanes intensify. The Covid-19 pandemic is highlighting a host of long-standing racial, geographic, and class disparities. Over the last year, incomes have become nonexistent for many as infections increase again, evictions increase, and despair grows.

Environmental justice communities have existed in the middle of a syndemic for years, facing challenges of structural racism, environmental injustice, and climate change. Any of these on their own is deadly but together the damage is immeasurable. Add that to existing adverse conditions in communities that survive despite the presence of systemic racism, where poverty exists, and incomes have never been healthy-and neither have the communities.

The Impact of Systemic Racism on Environmental Justice

The first issue in the syndemic that I am describing is systemic racism, which became the norm during slavery, as Africans were brought to the United States (and other areas) to work as slaves

for White owners. While slavery occurred in various places across the United States, it was concentrated in greater numbers in certain locations. Figure 1 depicts 'slave states', areas where the practice of slavery was most widespread and fell the heaviest on people. A strikingly similar pattern is observed today when examining current data around the impacts of environmental injustice, climate change, adverse health effects and COVID-19. Environmental and economic conditions experienced by people of color are influenced not only by the environmental injustices of living in contaminated areas, but also by climate change impacts. Those impacts affect vulnerable communities first and worst, and this is exacerbated by COVID-19, which has ravaged the lives of Black, Latinx and Indigenous communities. The underlying cause that runs through these issues is racism, plain and simple.

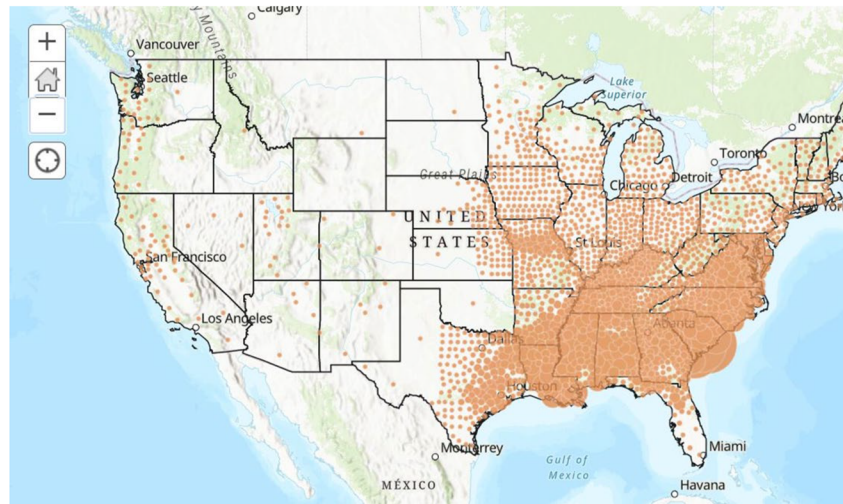


Figure 1. Enslaved as a percentage of the population 1850

In the United States, systemic racism against Black and Brown people affects every aspect of our lives, from education to employment, from housing to healthcare, from the food we eat to the air we breathe. Systemic racism takes many forms, including the practice of 'redlining' which began in 1930, was outlawed after decades, but which still occurs in some form or fashion. Through redlining, many banks in the U.S. denied mortgages to people, mostly Black people, in urban areas, preventing them from buying homes in certain neighborhoods or getting loans to renovate their homes. The practice — once backed by the U.S. government — took place across the country, including many large cities like Atlanta, Chicago, Detroit, Tampa and others with large minority populations. As a result of redlining, loans for creditworthy Black borrowers were commonly rejected by banks and lenders — based not only on where they lived, but on the color

of their skin. In redlining practices, geographic maps were either marked in red – to denote areas where Black populations lived and which were not favorable areas for positive lending practices, yellow for areas with mostly Black and Latinx populations, blue for areas where it was still ‘safe’ for White buyers and lenders or green which denoted all White areas – safe for lending and home purchase activities. As a result of redlining and racial segregation, Black people were limited in the areas of cities, counties and states, as well as parts of the country, where they could live. The practice of redlining has had deeply harmful long-term consequences particularly for Black Americans, denying them the ability to build and pass on wealth, forcing them to live in neighborhoods more exposed to environmental pollution and risks such as flooding and extreme heat – neighborhoods that have also been systematically deprived of good schools, affordable transportation options, infrastructure and economic opportunities.

Figure 2 depicts the percent of the Black population by county. When compared with Figure 1 it is apparent that for the most part, the majority of Black people still reside in the areas where slavery was greatest.

Other racist practices included the use of racially restrictive housing covenants, which prohibited Black people from buying certain properties in certain neighborhoods and from acquiring generational wealth compared to their White counterparts. ‘NIMBYism’ – which stands for ‘Not in my Backyard’ – is a term used to describe the argument by wealthy, White people against the siting of locally undesirable land uses (LULUs) in their communities, while still recognizing the need for incinerators, landfills, factories and other unwanted businesses. These facilities were then placed in communities of color.

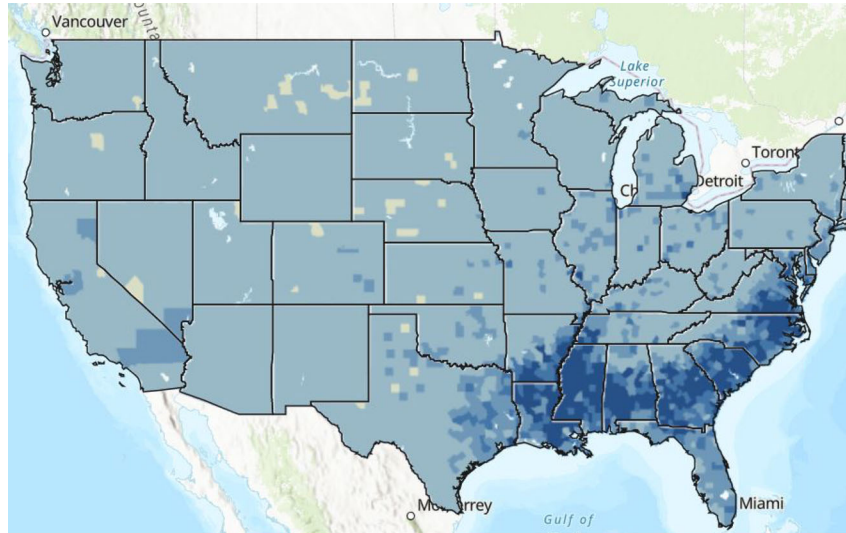


Figure 2. Black population by County

Systemic or Structural Racism is a public health issue. Racist practices have placed Black communities and other communities of color and poor communities directly in the path of pollution producing industries, landfills, incinerators, confined animal feeding operations and other environmental assaults. As such, the American Public Health Association, (APHA) along with many state and local leaders, have declared racism to be a public health crisis, as indicated in figure 3 below. According to the APHA, racism is a driving force of the Social Determinants of Health and is a barrier to health equity.

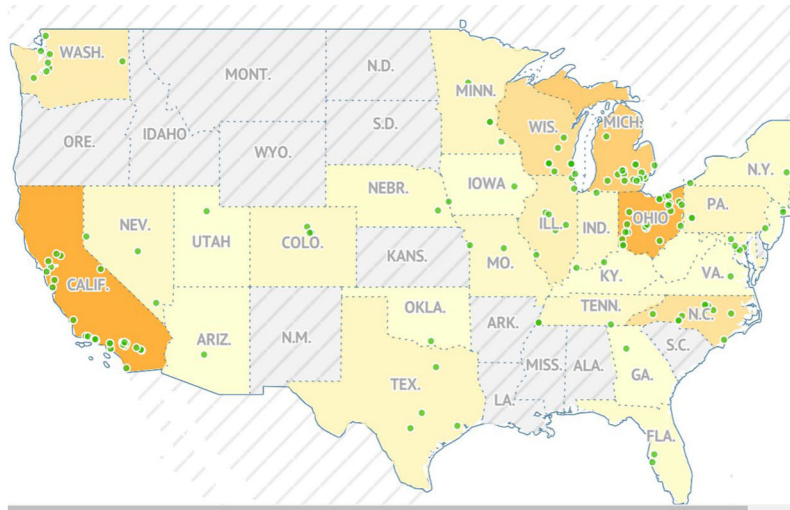


Figure 3. American Public Health Association's Map of Declarations of Racism as a Public Health Crisis by color. 1 (yellow) to 30+ (dark gold)

<https://www.mapbox.com/> at <https://www.apha.org/topics-and-issues/health-equity/racism-and-health/racism-declarations>

Impacts of Environmental Contamination and Exposure on Environmental Justice Communities

Long before Mr. Eric Garner, an unarmed Black man who was killed in 2014 after being put in a chokehold by New York City Police, or Mr. George Floyd, killed last year in Minnesota or more than 70 other murdered individuals urgently and fearfully cried out that they could not breathe, communities had been adamantly asserting and insisting that they could not breathe, thanks in large part to where they were forced to live because of systemic racism and the contaminants to which they are exposed. Their voices were largely ignored.

People of color are exposed to environmental pollution at a rate that far exceeds White communities. According to a 2018 EPA report, people of color are much more likely to live near polluters and breathe polluted air. Those in poverty had a 1.35 times higher burden of facilities than did the overall population, and non-Whites had a 1.28 times higher burden. Black Americans had a 1.54 times higher burden than did the overall population, which translates to a

54 percent increase in the number of facilities for Black Americans. In addition, 88% of Latinx people and 54% Black people live near facilities that handle, manufacture, use, or store certain flammable or toxic substances, as required under section 112(r) of the Clean Air Act (CAA) (RMP – Risk Management Plan – facilities), 42% percent of Latinx and 30% of Black people live near National Priority List sites and 41% percent of Black people and 46% of Latinx people are exposed to diesel particulate matter.

The EPA study indicated that inhaling particulate matter (PM or particle pollution) leads to higher rates of asthma, heart attacks and lowered life expectancy rates. PM is a mixture of solid particles and liquid droplets found in the air. Some particles, such as dust, dirt, soot, or smoke, are large or dark enough to be seen with the naked eye and others are very, very small. That exposure is more likely for residents living in neighborhoods with polluting facilities or in proximity to highways, underscoring the need to clean up polluted areas. Exposure to PM is important in the context of this syndemic, as research suggests that the COVID-19 virus may attach to the PM, thereby allowing it to enter the lowest areas of the lung.

Approximately 21 million people live within 1 mile of a Superfund site (roughly 6% of the U.S. population) including approximately 6% of all Blacks in the U.S., 9% of all Hispanics in the U.S., 8% of all minorities in the U.S. and 7% of all households in the U.S. below the poverty line. In addition, approximately 73 million people live within 3 miles of a Superfund site (approximately 22% of the U.S. population), including 26% of all Black people in the U.S., 29% of all Hispanics in the U.S., 24% of all households in the U.S. below the poverty line, and 28% of all minorities in the U.S. Figure 4 shows the percentage of people of color who live within 5 miles of a toxic release inventory (TRI) site. The majority of the population in port cities live within 5 miles of a TRI facility.

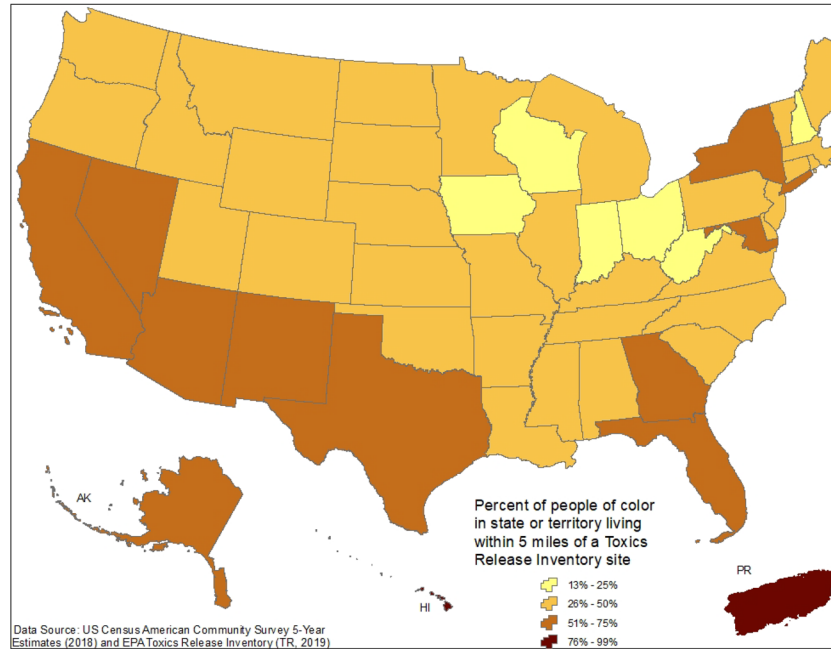


Figure 4. Percent of people of color living within 5 miles of a Toxic Release

As Figure 5 indicates below, Indigenous people, Black Americans, Latinx and people from low socioeconomic groups are more likely to be adversely affected by air pollution, and in some cases, to die earlier than the general population from breathing polluted air that is largely driven by burning fossil fuels. It also reported that US energy-related carbon emissions rose in 2018, and it was the largest increase in 8 years. People living near hazardous facilities already experience adverse health effects from exposures, including respiratory effects, like asthma or chronic obstructive pulmonary disease, increased cardiac disease and others. To allow facilities to increase the amount of pollutants they release into the environment, particularly since there are no real repercussions, puts these communities at ground zero!

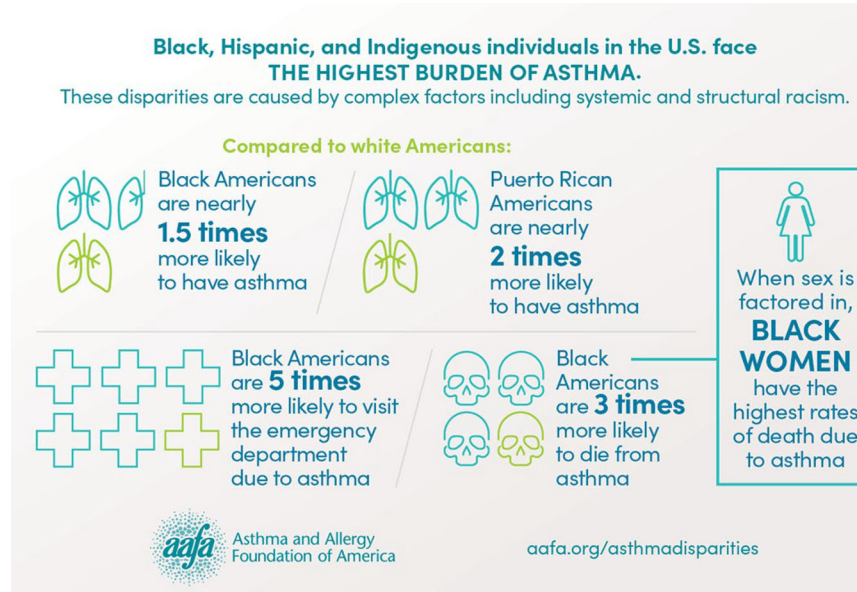


Figure 5. Asthma Burden – Black Americans

Black people are three times more likely to die from asthma-related causes than White Americans and that increases to 10 times for children. Black children are over four times more likely to be admitted to hospitals for asthma compared to white children. Black Americans not only have a higher prevalence of asthma than Whites; they also have higher rates of asthma-related morbidity and death. Multiple factors contribute to this disparity in prevalence rates including socioeconomic status, environmental factors. Figure 6 shows the prevalence of asthma by race and ethnicity from 2001 to 2017.

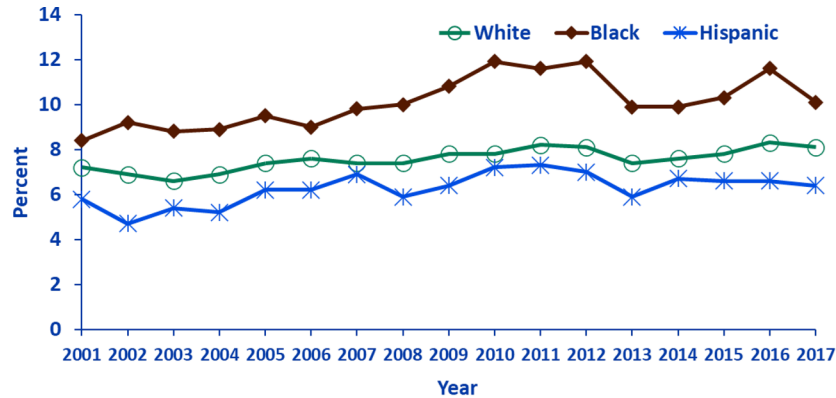


Figure 6. Current Asthma Prevalence by Race and Ethnicity: United States, 2001-2017

African Americans also have the highest rate of deaths from heart disease. African American women and low-income women have an increased risk of premature births and infant deaths than their white counterparts, and premature babies have a greater incidence of chronic health issues, including lung and breathing problems.

Impact of Climate Change on Environmental Justice Communities

The U.S. Policy Brief of the Lancet Report discusses the ways in which vulnerable and marginalized populations are negatively and disproportionately impacted by climate change. It specifically examines impacts on minorities and other vulnerable populations, like the poor, the very young, the elderly, pregnant women and children. One of the Brief's focus areas—heat—describes how people in the US are negatively affected by extreme temperatures. This is similar to findings from our UCS [report](#), *Killer Heat in the United States*. Figure 7 shows areas in the U.S. that historically had temperatures above 90 degrees Fahrenheit, and those same areas if no action is taken to address climate change. Note that more states will have at minimum an extra month of days with temperatures above 90 degrees. A similar pattern was observed for temperatures above 105 degrees Fahrenheit. Compare the pattern observed with extreme heat with the location of Black and Brown communities in Figures 8 and 9. Certain populations are more susceptible to adverse health effects from climate change, African Americans, and communities of color, low-income communities, and other vulnerable populations in metros and rural areas and specifically highlights the outdoor workers and the elderly. In the UCS report, scientists observed that rapid, widespread increases in extreme heat are projected to occur across the country due to climate change, including conditions so extreme that a heat index cannot be measured.

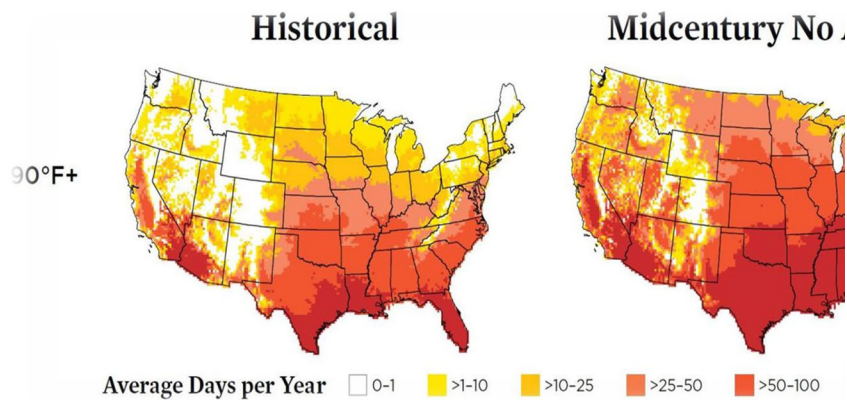


Figure 7. Average days per year of temperatures above 90 degrees in the U.S.: historically and mid century

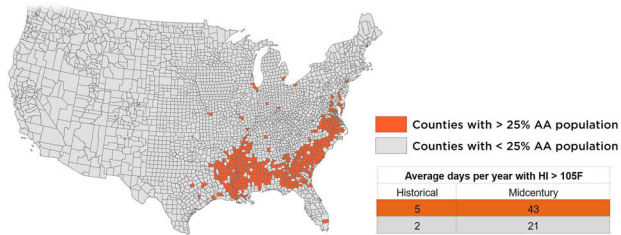
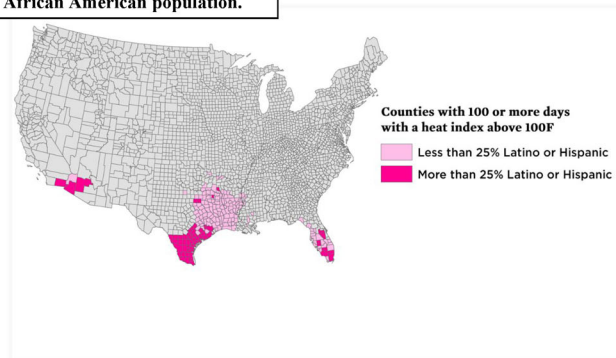


Figure 8. Average days per year with a Heat Index greater than 105 degrees Fahrenheit in counties with greater than 25% African American population.

Figure 9. Average days per year with a Heat Index above 100 degrees Fahrenheit for counties with more than 25% Latino or Hispanic population.



The second example of the impact of climate change on communities relates to flooding and exposure to toxics during Hurricane Harvey. Hurricane Harvey's unprecedented levels of rainfall—which scientists have linked to warmer air and oceans caused by climate change—exacted a huge toll on the residents of Texas and Louisiana. In the wake of this storm, UCS analysis showed that more than 650 energy and industrial facilities may have been exposed to Hurricane Harvey's floodwaters. To highlight these facilities, the Union of Concerned Scientists developed an interactive tool showing affected sites. The tool relies on satellite data analyzed by the Dartmouth Flood Observatory to map the extent of Harvey's floodwaters, and facility-level data from the US Energy Information Administration and the Environmental Protection Agency.

The tool includes several types of energy infrastructure (refineries, LNG import/export and petroleum product terminals, power plants, and natural gas processing plants), as well as wastewater treatment plants and three types of chemical facilities identified by the EPA (Toxic Release Inventory sites, Risk Management Plan sites, and Superfund sites). Hurricane Harvey may have exposed to flooding more than 160 of EPA's Toxic Release Inventory sites, 7 Superfund sites, and 30 facilities registered with EPA's Risk Management Program. The Gulf Coast is home to a vast chemical industry. The EPA's Toxic Release Inventory (TRI) program lists over 4,500 facilities in Texas and Louisiana alone that are required to report chemical releases to the environment. Before the storm hit, many facilities shut down preemptively, releasing toxic chemicals in the process. In the wake of the storm, explosions at Arkema's Crosby facility highlighted the risks that flooding and power failures pose to the region's chemical facilities and, by extension, the health of the surrounding population.

In the Houston area, low-income communities and communities of color are disproportionately exposed to toxic chemicals. Our analysis shows that over 160 TRI facilities, at least seven Superfund sites, and over 30 facilities registered with EPA's Risk Management Program were potentially exposed to floodwaters. The number of flooded Superfund sites may be even higher than the map in Figure 19 shows, as indicated by preliminary reports from the EPA and other sources. Though most of the impacts from this exposure remain unknown, the risks include compromised facilities and the release of toxins into the air and receding floodwaters.

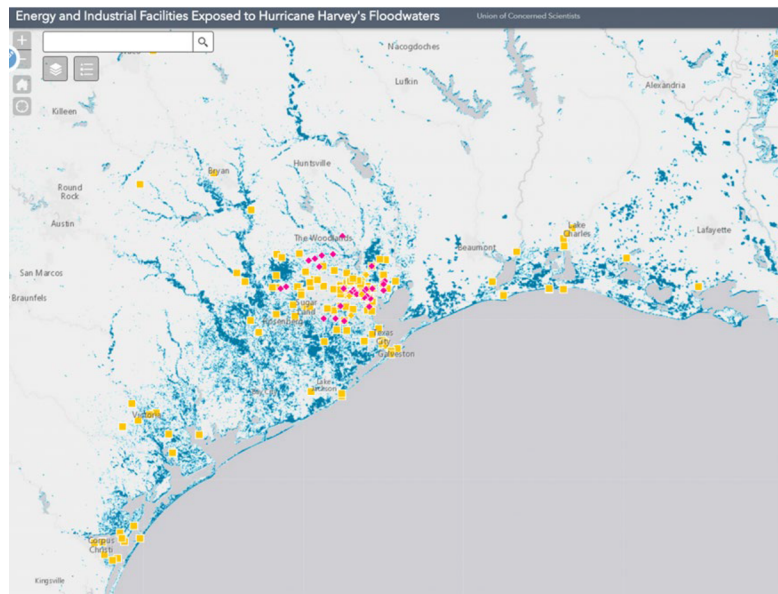


Figure 10: Chemical facilities potentially exposed to flooding from Hurricane Harvey

Energy Infrastructure

In the week after Hurricane Harvey reached the Texas coast, disruptions to the region's energy infrastructure caused gas prices to rise nationally by more than 20 percent. Our analysis found that more than 40 energy facilities may have been exposed to flooding, potentially contributing to disruptions in operations. More than 40 energy facilities—including power plants and refineries—may have been exposed to Hurricane Harvey's floodwaters.

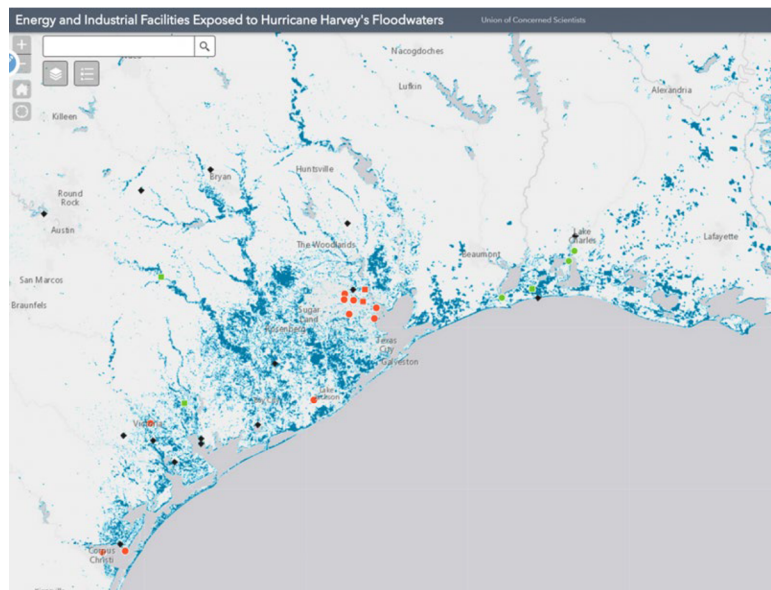


Figure 11: Energy Facilities Exposed to flooding from Hurricane Harvey

Climate change is also shifting rainfall patterns, making heavy rain heavier and more frequent in many areas of the country. With human alteration of the land—like the engineering of rivers, the destruction of natural protective systems, increased construction on floodplains, and increased area of impermeable surface—many parts of the United States are at greater risk of experiencing destructive and costly floods.

Impact of COVID-19 on Environmental Justice Communities

Indigenous, Latinx and Black people are disproportionately exposed to a greater number of environmental hazards compared with White people, making them more likely to be infected by COVID-19. Dr. Lisa Cooper, internist and social epidemiologist at the Johns Hopkins Bloomberg School of Public Health, stated in 2020 that she believed that COVID-19 would

impact African Americans “to a greater extent than other more socially advantaged groups, because as a group, African Americans in the US have higher rates of poverty, housing and food insecurity, unemployment or underemployment, and chronic medical conditions and disabilities.” According to the Center for Disease Control and Prevention’s (CDC) own guidelines, environmental justice communities could be specifically vulnerable to COVID-19 and would probably endure more health challenges from EPA’s guidance change. As these CDC guidelines indicate, environmental justice communities could be specifically vulnerable to COVID-19 and are going to endure more health challenges.

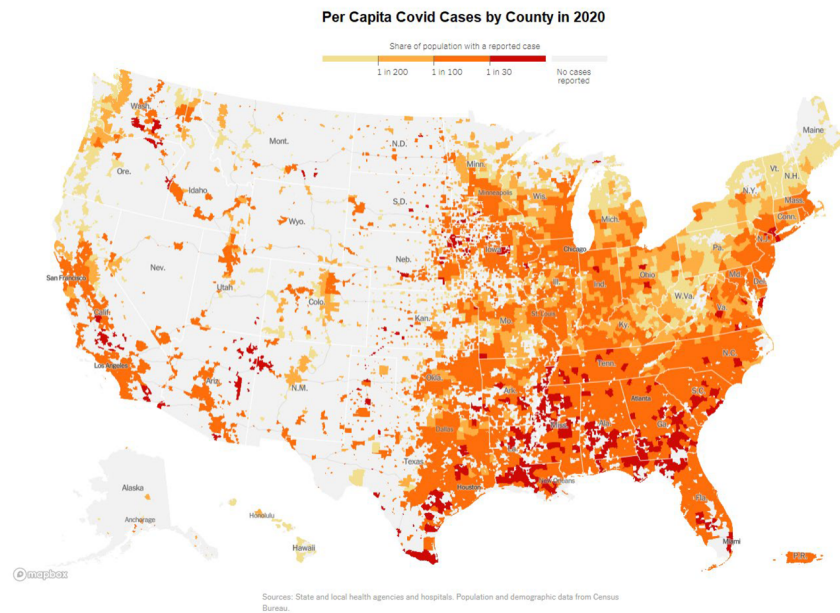


Figure 12. Share of the Population with reported COVID-19 cases.

These exposures are partially why COVID-19 is having such a hugely negative impact on these minority communities. As the report states “...while Black, Latinx and Indigenous communities have been disproportionately impacted by COVID-19, those that live in high environmental risk areas are experiencing even more significant impacts.” The deeper red areas denoted in Figure 12 are indicative of higher infections (1 in 30 people). Please note that the pattern here is also similar to that seen in previous maps. These are the factors that make up the syndemic – each issue affects the same group of people at the same time.

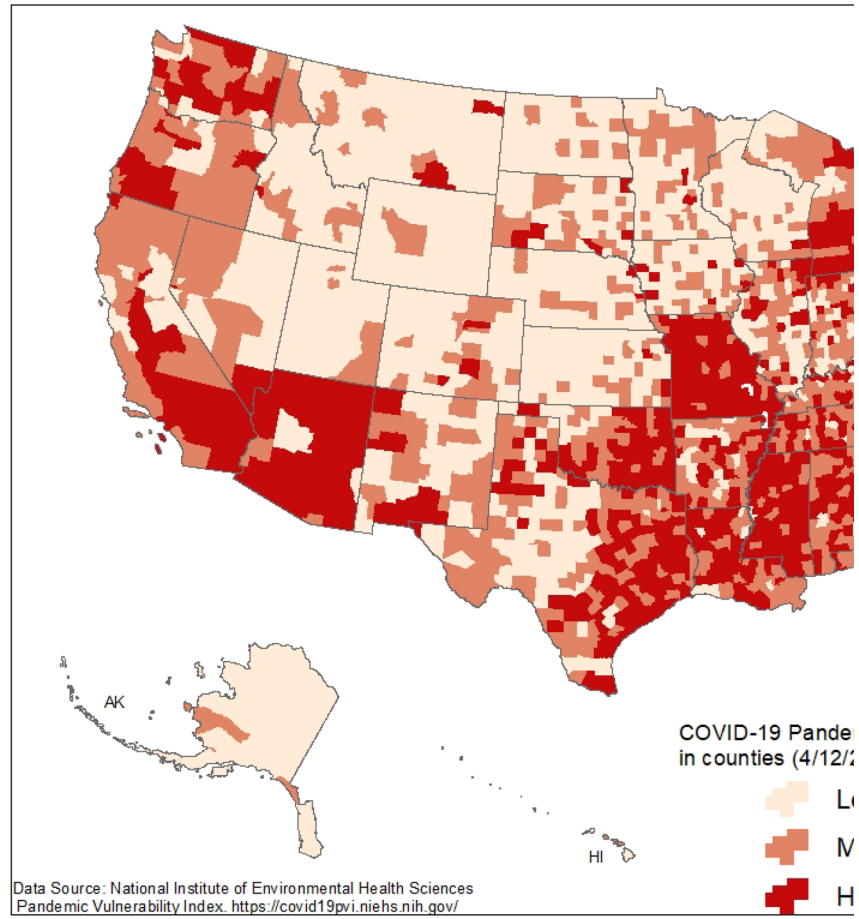


Figure 13. Pandemic Vulnerability Index

Figure 13 is the NIH's Pandemic Vulnerability Index. The NIH's Pandemic Vulnerability Index combines data on infection rates, population mobility, social distancing, COVID testing, percent Black and Native population, the prevalence of co-morbidities, health disparities, hospital beds, and advanced age, to name a few. Higher values indicate higher vulnerability of the population to pandemic impacts. As with the previous data, counties with a high Black and Latinx population also had the highest pandemic vulnerability index – the highest risk from COVID-19.

Finally, I would like to demonstrate the Syndemic in action.

The Syndemic and the Perfect Storm: Environmental Justice, Climate Change, COVID-19 and Hurricane Laura in Lake Charles, Louisiana

On March 26, the Environmental Protection Agency (EPA) issued an order—retroactive to March 13—giving polluters the power to “self-regulate,” suspending environmental enforcement and giving industry a free pass to pollute. This is the latest and most brazen act by an administration determined to remove any semblance of federal environmental oversight or protections for the public. The EPA’s order does not mention industries or facilities by name. It describes their activities, such as facilities engaged in animal feeding operations, facilities which suffer from failure of air emission control or wastewater or waste treatment systems or other facility equipment or generators of hazardous waste under the Resource Conservation and Recovery Act (RCRA). That veritable free-for-all allowed polluters potentially unfettered discretion in determining themselves whether they have violated any environmental safety guidelines. Further, when these facilities DO violate certain guidelines for air, water, and hazardous waste reporting requirements, the EPA stated that it would not fine them. And as is often the case, communities of color will be disproportionately affected. The EPA’s order stated that the EPA did not expect to penalize these facilities for violations of routine compliance monitoring, integrity testing, sampling, laboratory analysis, training, and reporting or certification obligations in situations where the EPA agreed that COVID-19 was the cause of the noncompliance and the entity provides supporting documentation upon request. Given the CDC guidelines and some facilities’ past history and performance when it comes to emissions, like the ExxonMobil Baton Rouge petrochemical complex, it would not be unreasonable to assume that those facilities would not conduct routine compliance monitoring or any of the actions listed. After all, under this new order, they would not be fined if they do not.

This is reminiscent of the mass exodus of polluting companies from the North to the South, beginning in the 1970s and early 1980s, or to areas with communities of color and/or those with low socioeconomic status, like Richmond, California, which can trace the practice of environmental racism back 100 years. Enforcement actions in these and other areas are lax. In some states like Alabama, these environmental injustices continue. This has inexorably led to more pollution in communities of color, where these companies are invariably located.

Notably, the EPA did not provide a public comment opportunity on this order but said instead that it would post a notification on its website at least seven days prior to terminating the new policy. In this way, the EPA was continuing business as usual, denying the public an opportunity

to have input in decisions that place their lives in extreme jeopardy. And the short window before the policy's termination did not give the public much time to comment on the harm it caused and why the order was a bad idea. When decisions like this are made by a federal agency, they should be based on sound scientific facts and scientific opinion focused on protecting the public, not on efforts to protect polluters. They should also allow for public input before the decision is finalized. Actions directed at assisting communities suffering adverse health effects before, during and after this pandemic are needed.

This administration is focused on fast-tracking environmental regulations, in the midst of COVID-19, that offer no protection to the public and without opportunity for public comment. As such, the EPA should consider providing opportunities for input on environmental regulations and, whenever possible, give the public the ability to comment on decisions that have the potential to adversely affect them.

Then, on August 27, 2020, a chemical fire over western Lake Charles, a Biolab chemical manufacturing plant fire, increased the public health threat environmental justice communities are already facing. The fire released chlorine gas into the air, leading to a 'stay at home' order for residents who had not evacuated in anticipation of Hurricane Laura. Because of that order, and directions to keep windows and doors closed and not use air conditioners, depending on their situations, people may have been at an increased risk of COVID-19 infection and adverse health effects from the chlorine gas, on top of the danger from Hurricane Laura. That fire burned for more than 50 hours, over three days, near Lake Charles, Louisiana, which is close to Cancer Alley. The concern was the potential release of chlorine gas into neighboring communities—almost all environmental justice communities, like Mossville, a community founded by formerly enslaved people at the end of the Civil War. As a result of the fire—during and probably after—there were very real concerns about the possibility of toxic runoff from the site as well as potential exposures to toxic chlorine gas, as the chemicals manufactured at the site could create the gas when they come into contact with water. Although the facility had shut down in advance of the storm, for most facilities, chemical releases can be a part of the shutdown process, which can lead to inhalation exposures. Most residents evacuated the surrounding areas in anticipation of Hurricane Laura, but not everyone has that option. In the communities near the Biolab fire, those remaining were under a shelter-in-place advisory by Gov. John Bel Edwards. They were told to turn off air conditioning and close their windows and doors to avoid exposure to the deadly gas and other contaminants. In the face of COVID-19, these types of measures—while warranted—were untenable.

There is no standardized federal guidance for keeping people safe from COVID-19 transmission during evacuations. If Black evacuees did contract COVID-19, they face steep odds to an uncomplicated recovery. Black people in the US are more likely to be hospitalized and to die from this disease than white people are. So folks in harm's way have to hope that their local leadership has a plan. This is rarely the case. Evacuating to a safer location during an extreme weather event is not an option for everyone. For example, Black and Latinx employment in the US fell by 16 and 18 percent between February and May of 2020, respectively, and hasn't bounced back. So, a lot of folks aren't earning income. Evacuating is expensive: you have to buy gas, pay for hotels, and eat your meals on the road.

The chemical plant fire put residents at risk of breathing in toxic air—which contributes to the underlying health conditions that make COVID-19 more likely to kill. Research shows that Black and Latinx communities in high environmental risk areas have higher death rates. And all this is on top of the danger and trauma from a climate-change-fueled storm. Hurricane Laura killed 32 people in Louisiana, and was predicted to cause, quote-unquote, “unsurvivable,” storm surges. Finally, for evacuees returning home, flood damage to their homes that they can’t afford to fix could cause even more respiratory issues as mold and mildew accumulate.

This is a perfect example of the confluence of conditions that make up a syndemic. Communities should have been made aware of the presence of dangerous, toxic chemicals and should have been part of any plan to address releases of toxic substances. This is the purpose of SARA Title III, also known as the Emergency Planning and Community Right to Know Act, (EPCRA). Under EPCRA, facilities that have accidental releases of extremely hazardous substances are required to hold public meetings to inform the public about the release and any subsequent mitigation plan. Unfortunately, EPA did not meet with community groups to discuss their plan to remove oversight. I would like to direct your attention to an April 6 letter EPA released titled “UPDATED: What They Are Saying: Public Officials and Stakeholders Voice Support for EPA’s Discretion Policy for COVID-19 Pandemic.” Based on the title, one would assume that EPA spoke with community groups (also stakeholders – which is defined as “one who is involved in or affected by a course of action”). Communities were affected by the temporary order, and yet they are not listed in the letter of support.

It is also a glaring example of the need for legislation like the Alert Act of 2020. The ALERT Act, introduced by Rep. Lisa Blunt Rochester, would require industries producing hazardous and toxic chemical, much like the Biolab plant, to engage directly with the community to ensure that residents have knowledge of any toxic release and ensure that those communities are engaged in remediation plans. This would hopefully decrease the chances of another situation like that in Lake Charles.

Closing:

In closing, I am here today both as an environmental justice and public health expert who has worked to address these issues for a long time, and as a Black person who grew up in an environmental justice community. I have seen first-hand the effects of these public health issues: systemic racism, environmental contamination and climate change, on people of color, and now with the added factor of COVID-19. I am keenly aware of the opportunities we have through this administration to address systemic racism and environmental injustice and all the multipliers that go along with those issues – and I realize that events like this important hearing today provide opportunity for education, engagement and action. Thank you for this opportunity to testify and for your leadership on environmental justice and climate action.

Mr. TONKO. Welcome, and thank you all to our witnesses. We thank you all for your participation again in your opening statements. We will now move to Member questions, and I will start by recognizing myself for 5 minutes.

Mr. Logan, I want to start with you because I believe you were named as a member of the White House Environmental Justice Advisory Council. Do you believe the Biden administration has properly elevated the importance of environmental justice in its energy, environmental, and climate policies?

Mr. LOGAN. Thank you, Chairman Tonko. Definitely, the administration has elevated environmental justice to a point that we have not seen before at this level. But really, there is a lot of work to do. And I encourage not just the administration across all the agencies but also legislators at the Federal level, the State level, and the local level to join in because this is a crisis that we really need to address in totality and as a collective effort.

So it is a good start. It is probably the best we have seen in terms of really focusing and addressing environmental justice, but there is a lot of work ahead of us and a lot of learning to do, as well.

Mr. TONKO. OK, thank you. The Justice40 initiative has been one of the priorities of this administration, and this committee has adopted a similar requirement that 40 percent of the investments in the CLEAN Future Act directly benefit environmental justice communities.

So, Mr. Logan, again, do you have any thoughts on the ongoing development of the Justice40 commitment and how we can make sure that it is implemented in a way that leads to meaningful engagement and investment in frontline communities?

Mr. LOGAN. Thank you again, Chairman Tonko. And just to be clear, I am not representing the White House Environmental Justice Advisory Council on this panel, so I just wanted to be really clear about that.

There is tons of work to do in terms of that investment, making sure that we get the amount of resources to the communities that are in most need. So developing the mapping tools, identifying the communities, identifying the resources, and making sure that those resources are not leveraged through particular mechanisms that will create more harm, in effect zeroing out the benefits of the Justice40 communities because of creating, basically, sacrifice zones. So there is, again, a lot of work to do.

I think the intention is great, but there is work to do in terms of identifying where to get those resources to what communities that are most in need.

Mr. TONKO. Right, and Dr. Hollis and Dr. McClain, is there anything that you would like to mention about the importance of the Justice40 initiative?

Either of you.

Dr. HOLLIS. Actually, I agree with Mr. Logan. I don't have anything to add.

Mr. TONKO. OK. And anything else from our other witness?

Ms. YEAMPIERRE. Yes, yes, thank you—Elizabeth Yeampierre.

So I just want to say, on behalf of the Climate Justice Alliance, that we are encouraged by the ambition in the American Jobs Act—Plan.

With that said, we are concerned about the numerous provisions included that debase the overarching intention of the plan. Last year, when Congress passed its omnibus bill to keep the Government open and functioning, nearly 10 billion was appropriated for false solutions like carbon capture and storage, carbon capture utilization of sequestration, and so-called green hydrogen. And so, when we learned that President Biden intends to double down on these fossil-fuel-backed, unproven mechanisms, we found that troubling, because we think of them simply as Big Oil bailouts at the expense of the environmental justice communities that bear the brunt of the disproportionate burden.

The other thing that is really important is that we think that the administration has made clear the difference between benefits and actual investments in EJ communities. Rather than subjecting impacted communities to subjective ideas of what qualifies as a benefit, Federal dollars should be allocated in a way that strengthens social cohesion. So we look forward to discussions about this, but we are really concerned, because there is a difference between investments and benefits.

And then finally, the last thing that I would say about that is that the 40 percent, because it comes out of New York State's Climate Leadership and Community Protection Act, was always intended to be a basement and not the ceiling, that 40 percent shouldn't be the goal. It should be the minimum of what is required to address communities that have been enduring a legacy of extraction for generations.

Mr. TONKO. Well, I know we are going to hear a lot today about energy affordability, which I agree is important, especially for people with high energy burdens. You mentioned community solar. Can you give us a sense of how community solar and weatherization projects have resulted in reduced electricity bills for people in frontline communities?

Ms. YEAMPIERRE. I was just—

Mr. TONKO. But do it quickly, so we are—I am running out of time here, so just—

Ms. YEAMPIERRE. Sure, thank you. I will try to talk fast.

You know, ours is the first community-owned solar cooperative in the State of New York. It means that both small businesses and residents are able to access renewable energy and reduce their cost, which is important for low-income communities.

We have also been able to bring offshore wind to Brooklyn and work with NYSERDA to invest \$200 million and bringing thousands of jobs to the industrial waterfront. We are looking at an industrial waterfront that has a history of not only polluting and hurting us but has the possibility of building for climate adaptation, mitigation, and resilience. And we are seeing investments already happen as a result of local legislation in New York City and at the State level.

With resources from the Federal level, we are talking about the complete transformation of sectors that in the past created environ-

mental burdens and can be building for a future that brings jobs, renewable energy, and also addresses issues of health.

So those are some of the things that we are doing, and they involve thousands of jobs.

Mr. TONKO. Thank you so much. My time is exhausted, so I now go to—recognize Mr. McKinley, our ranking member.

Five minutes for questioning, sir.

Mr. MCKINLEY. Thank you, Chairman Tonko. Look, in my opening statement, Paul, I discussed the increase in poverty and injustice as we—as the Democrats do away with fossil fuels by the year 2035. But in so doing, we have to understand—and I understand, when we go to renewables, we are going to be—it is our desired long term, but it means we will be increasingly dependent on renewables. Therefore, we need to consider the battery storage to back them up.

So, just for the sake of this conversation today, let's focus on the injustices involved with the supply chain for batteries. And I would say, Paul, no one wants to see sausage made, but they all love eating it. The same goes for batteries. Two of the key ingredients in batteries are lithium and cobalt. But have you ever seen how they source that material?

Here is—and CNN did an article, let me see if I—we got that. This is an article that CNN posted of children in Congo being forced into labor to harvest cobalt. Here is another picture of those—in another cobalt mine in the Congo. These are—we are continuing to have child labor, or enabling these dictators to use child labor.

Or what about lithium? Have you ever seen the ravaging effects of lithium? Here is a picture of a lithium mine. Look at that, look at the depth in the community. These are ravaging effects we are having on communities all across this world in our pursuit of having battery storage.

So—and for those of us that have been concerned with mountaintop mining, this is mountaintop mining on steroids. And according to Mark Mills of the Manhattan Institute, he says we are going to have—and he testified it—we are going to have to—he testified that we are going to move 250 tons of earth to produce just 1 electric vehicle battery, 250 tons. And we—and this bill—there are 650,000 cars in the Federal fleet. So just do the math, and it comes to about 163 million tons of dirt we are going to have to excavate around the world.

Now, maybe this idea of doing away with fossil fuels makes Democrats feel good. And—but keep in mind, this procurement is not going to happen in the United States. It will happen in other countries, kind of out of sight, Paul, away from us. We are exporting our guilt. It seems like environmental justice stops at the border. We don't care what is happening in other nations, what we are doing, as long as we get ours. Shame on us. We are devastating these countrysides of other nations to satisfy our thirst for batteries.

So let's stop for a minute. We are creating poverty, perpetuating child labor in China and South America, and destroying the environments of other countries. That is justice? Give me a break.

So if I could ask a question to Derrick Hollie. Last month before the committee, former Secretary Moniz said we need to do more of this mining of these critical minerals in the United States. Do you agree with him?

[Pause.]

Mr. MCKINLEY. Derrick Hollie, you are muted.

Mr. HOLLIE. Can you hear me?

Mr. MCKINLEY. Yes, now I can.

Mr. HOLLIE. Yes, sir, I agree with you, and everything that you said about the mining, and it is an absolute travesty, how we—and you said environmental justice stops here at the border, where we go and get everything we need from other countries.

Mr. MCKINLEY. Thank you. So wouldn't it make more sense to invest in innovation here in America, so that we don't—

Mr. HOLLIE. Yes, sir.

Mr. MCKINLEY [continuing]. Our fossil fuels to balance out our needs, and do it in a cleaner way? Wouldn't that make more sense?

Mr. HOLLIE. Yes, sir, it would.

Mr. MCKINLEY. So, again, with these policies, we understand—we have had testimony—our utility bills are going to increase, our neighbors are going to be unemployed, we will still have extreme weather conditions, and all the while we are alienating other nations as we ravage their countrysides. Is it worth it, Mr. Hollie? Is it—

Mr. HOLLIE. No, sir, it is not. No, sir, it is not. And we talk about the precious minerals that we need for—to produce the stuff that we need. We have one mine up in Minnesota right now that produces cobalt, and environmental groups want to shut that down. And it is just an awful travesty. It is just a shame.

Mr. MCKINLEY. And the President just stopped a mine, a copper mine that we need in Arizona. I just think this is just a hypocritical issue, in many respects on it. And I don't think we, as a country, we are doing justice to the world by what we are trying to accomplish here.

So I thank all of you, and I yield back, Paul, my—any time.

Mr. TONKO. Thank you. The gentleman yields back. The Chair now recognizes Chairman Pallone from the full committee for 5 minutes to ask questions, please.

Mr. Pallone?

Mr. PALLONE. Thank you, Chairman Tonko. I wanted to focus on the environmental justice title of the CLEAN Future Act, and just a few examples.

With regard to Superfund, the CLEAN Future Act creates several new requirements. First, it requires the Federal Government to identify all Federal Superfund sites that are vulnerable to extreme weather associated with climate change, and to clean up all of those sites within 10 years. So let me start with Dr. Hollis.

How can cleaning up those sites quickly protect environmental justice communities?

Dr. HOLLIS. Thank you, Chairman Pallone, that is a great question. What we found is that what—these facilities, these Superfund sites, have been in existence for years, and they are vulnerable to activities like climate change. We have seen that, for example, in Port Arthur, Texas, in instances of extreme flooding, where con-

taminants from the site have washed literally down the street where communities live, increasing their exposure and increasing the amount of cumulative exposure to contaminants.

And we have also seen the fact that some of these facilities, which are already unsafe, become—are exacerbated in situations of extreme weather. And we know that the—they have not necessarily been the focus of cleanup in years. And for that reason, and—we need a faster cleanup. We need to think about the communities that are located around these facilities and how impacted they are and do our best to mitigate that.

Mr. PALLONE. Thank you. And then the CLEAN Future Act also creates new financial responsibility requirements that incentivize chemical facilities to adapt for climate change to prevent toxic releases during extreme weather events like hurricanes. And we know that these facilities are often located in environmental justice communities.

So let me ask Dr. McClain, why is it important for fenceline communities to prevent these releases whenever possible?

[Pause.]

Mr. PALLONE. Is Dr. McClain—were you guys able to hear my question?

[Pause.]

Mr. PALLONE. Maybe not. I don't know if they were able—Chairman, were you able—

Mr. MCKINLEY. We can hear you, Frank. We can hear you. I am not sure where Dr. McClain is.

Mr. PALLONE. Dr. McClain isn't there.

Mr. TONKO. Chairman Pallone, you might—we have having some technical difficulties. You might direct your question to Dr. Hollis, please.

Mr. PALLONE. OK. Dr. Hollis, do you want me to repeat that for you?

So under the CLEAN Future Act we create new financial responsibility to adopt for climate change to prevent toxic releases during extreme weather. We know that these facilities are located often in environmental justice communities. So could you explain why it is important for fenceline communities to prevent these releases when possible?

Dr. HOLLIS. Yes, and a quick answer would be the example that I gave earlier about the syndemic, what happened in Lake Charles, Louisiana, when the community, which is a fenceline community, was potentially impacted from chlorine gas, if it had been released at higher amounts, in addition to the exposure that communities face when facilities shut down for either maintenance, or in anticipation of extreme weather conditions.

So it is important that we, once again, stop that exposure. Some of it is immeasurable. We don't know the quantity, but we do know that people at the fenceline and in the communities are becoming ill. Thank you.

Mr. PALLONE. Thank you. The bill—

Ms. YEAMPIERRE. May I add something to this?

Mr. PALLONE. Who is that?

Ms. YEAMPIERRE. It is Elizabeth again. May I add something to this, please?

Mr. PALLONE. Yes, but then I wanted to ask you a question too, so we are running out.

Ms. YEAMPIERRE. OK.

Mr. PALLONE. Let me go to you next, all right?

Ms. YEAMPIERRE. All right.

Mr. PALLONE. I just wanted to mention that, under the bill, facilities that did not adapt will pay user fees into the Superfund Trust Fund, which supports the Superfund cleanups. And that funding is important, because it would build on the President's effort in the American Jobs Plan to reinstate the Superfund tax.

But on brownfields I wanted to ask you, with regard to brownfields, the CLEAN Future Act includes 6 billion over 10 years for brownfields redevelopment. And that has long been, as I said before, a bipartisan issue. So what I wanted to ask Dr. Yeampierre is—I mean Ms. Yeampierre—based on your experience, how could this brownfields investment help environmental justice communities build back better?

And if you want to mention the other two, that is fine, but I wanted to ask you—

Ms. YEAMPIERRE. Yes, so—thank you so much. So quickly, I served as chair of the National Environmental Justice Advisory Council and predicted that industrial waterfronts will be hit by extreme weather events. And we saw that happen in Katrina. We saw it happen in New York. We saw that happen in Puerto Rico with Hurricane Maria, a place that has 23 Superfunds, a tiny island like that. So those investments really need to work to prevent toxic exposure, the exposure to toxics and toxicants.

These—when this happens, when a cat 5 hurricane hits one of these islands, or one of our communities, those toxicants and those toxics are released in the air and the ground water. They land in people's buildings. They literally are everywhere. And there is no baseline research to determine what the exposure is. There is no way of comparing it.

So that resource—those resources have to be investing in not only redeveloping those properties and using them as vehicles for economic development in our community but addressing the kind of environmental harm that has actually cost lives already.

And there is a study that came out of that year—it happened before—right after Superstorm Sandy—that documents all of the different communities all over the United States where that was possible. And then we saw it happen in Houston. So I would urge you to look at that study, and make sure that we operationalize the recommendations that came out of that advisory group, because I always feel that we are starting from scratch, but we have been—

Mr. PALLONE. I am going to have to—

Ms. YEAMPIERRE [continuing]. Talking about this.

But thank you so much for the question, it is an important one.

Mr. PALLONE. Thank you.

Thank you, Chairman.

Mr. TONKO. Oh, you are welcome. The gentleman yields back.

The Chair now recognizes Mrs. Rodgers, Representative Rodgers, for 5 minutes. She is our full committee ranking member.

So welcome.

Mrs. RODGERS. Thank you, Mr. Chairman. I wanted to start with some questions for Dr. Hollie, or Mr. Hollie.

I appreciated you outlining how important affordable energy is for people, and especially for people most in need. And that has been a key focus, as we are reviewing the bills before us.

My State of Washington, the State of Washington, enjoys some of the lowest electricity rates in the country, and that is thanks to abundant hydropower. Nearly 70 percent of our electricity comes from hydropower, and we hope to keep it that way. You know, it helps families and it helps us grow our economy. It is an economic advantage to us, a competitive advantage.

You know, but as you look across the country, low rates are not everywhere. And in those places where not, it creates burdens for low-income communities. A review of Department of Energy data shows that States with the highest low-income energy burdens are in the southeastern United States. And this is where most of our electricity is used for heating and cooling. Low-income households in those States use almost 40 percent more electricity than the national average for low-income households.

The good news is that in these southeastern States they also enjoy some of the lowest electricity rates in the nation. So, Mr. Hollie, what happens to low-income households in Mississippi, Alabama, Georgia, or South Carolina if climate policies force them to pay the same rates as residents in California or even Connecticut, where prices are nearly twice as high?

Mr. HOLLIE. Yes, I can't speak—because I am not in everyone's household, I don't know what everybody's income is, but it will certainly drive up the electricity rates for everyone in these communities.

And I would also add, Ranking Member, that the same—these same communities that are screaming environmental justice are the same communities that are being impacted by energy poverty.

Mrs. RODGERS. Well, and maybe speak a little bit to the economic opportunities that would also be harmed if businesses and industries had to pay those higher rates.

Mr. HOLLIE. No, I don't think anyone can afford these rates. And just as a small business owner, I know how we have been impacted right now with COVID. And so I don't think it would be prudent to implement any of these policies that will essentially raise the rate for consumers and business owners.

Mrs. RODGERS. So there is provisions in the legislation before us where it would mean that projects will not be able to get permits if they are "overburdened," if they are found in one of these overburdened census tracts, even if it doesn't contribute to—even if they aren't the ones contributing to the burden. So what is your view of that?

Mr. HOLLIE. I just think, you know, with the Federal Government, we need to leave some of this responsibility to the States. They know what they need in these areas. So I think that, when we start—the Federal Government starts meddling in the States, sometimes that creates an overburden because, again, they know what they need down there in those States more so than we do.

Mrs. RODGERS. Thank you.

Mr. Hawkins, the White House Council of Economic Advisers analyzed the potential for opportunity zones last year. Can you talk about what they estimated those impacts on poverty would be, and how many people would be lifted out of poverty with good-paying jobs?

Mr. HAWKINS. Sure. And so the Council of Economic Advisers estimates that over a million Americans would be lifted out of poverty over the next 10 years as a result of this policy.

They also estimate that the residents—you know, when we look at opportunity zones, and kind of isolate those census tracts across the country, that the poverty rate in opportunity zones will drop by 11 percent.

Mrs. RODGERS. That is great, that is great, I just really appreciate your work on it too.

So the Republicans on this committee have released a package of bills. We call it Securing Cleaner American Energy.

Mr. HAWKINS. Yes, yes.

Mrs. RODGERS. It is part of our agenda, and it is focused on creating cleaner, more affordable, more secure energy, which is so important from a national security perspective but also an economic perspective, and also about creating jobs and lifting people out of poverty.

Mr. HAWKINS. Sure.

Mrs. RODGERS. Would you just speak to what you see in that bill and how you believe it may impact distressed communities?

Mr. HAWKINS. Yes, I think the most exciting parts are the parts that deal with innovation, so the CCUS Innovation Act, the Clean Energy Hydrogen Innovation Act, those policies both have elements where you are partnering with the loan guarantee program at DoE and you can see that kind of across-agency coordination that we have seen possibly—potentially, between DoE and opportunity zones, similar to what we saw from EPA around brownfield remediation in opportunity zones. So that—those elements were very exciting.

Mrs. RODGERS. Yes, I completely agree. American ingenuity leading the way, bringing down carbon emissions, creating more opportunities.

Mr. HAWKINS. Absolutely.

Mrs. RODGERS. I have exceeded my time. I yield back. Thank you, Mr. Chairman.

Mr. TONKO. You are welcome.

The gentlelady yields back. The Chair now recognizes the gentlelady from Colorado Representative DeGette, who serves as our chair of the Subcommittee on Oversight.

So Representative DeGette?

Ms. DEGETTE. Thank you so much, Mr. Chairman. This is a really important hearing, and I just want to say the name of the hearing, because I think my colleagues on the other side of the aisle may have forgotten about what this hearing is about. It is called “Protection from Cumulative Emissions and Underenforcement of Environmental Law Act.” And that is my bill, and then there is a bunch of other bills that are included in the hearing that are talking about environmental justice, and how we clean up environmentally contaminated sites.

In my congressional district I have some neighborhoods, Swansea, Elyria, and Globeville. These neighborhoods are classic environmental justice communities. They suffer from highways going right through the middle, from railways, refineries, other historical polluters. They are neighborhoods full of working-class Americans who have suffered incredible health damage and other damages from this pollution.

Now, I—so what my bill does is it requires the EPA to develop and implement a protocol for addressing cumulative health impacts of multiple sources of pollution.

I can understand how my colleagues on the other side of the aisle would like to talk about renewable energy versus traditional energy and how they would like to debate that and how they would like to change the subject. I guess I can understand that. But what I really can't understand is how not either of their witnesses or one of the Members is willing to talk about how we address cleanup of these environmental justice areas.

Now, I must say Mr. Hawkins did talk about opportunity zones, and he did do some good work with his former boss, Senator Scott, on that. I support opportunity zones, but those are about economic development. It is not talking about cleanup of environmental contamination in these neighborhoods. And that is what we need to talk about. And so I want to—I have some questions, and I want to ask the witnesses about what this hearing is about.

Dr. Hollis, I am going to start with you. When the EPA develops a standard for a given pollutant, does the Agency typically consider the other pollutants that a community might be exposed to?

Dr. HOLLIS. No, that is not necessarily the way EPA does their calculation when they—

Ms. DEGETTE. Yes.

Dr. HOLLIS [continuing]. Establish standards.

Ms. DEGETTE. OK. Now, when the EPA or State environmental agency issues a permit, are they required to issue—to consider the other pollutants the community be exposed to? Same thing?

Dr. HOLLIS. Same thing.

Ms. DEGETTE. Now, is it possible that, if you have different pollutants, they can interact with each other or even make each other worse in attacking our health?

Dr. HOLLIS. Absolutely.

Ms. DEGETTE. And are you familiar with the—I think you talked about this a little bit in your opening statement—the Harvard study about the relationship between chronic exposure to air pollution and COVID.

Dr. HOLLIS. Yes.

Ms. DEGETTE. Can you talk to us for a minute about that study?

Dr. HOLLIS. The study from Harvard, which was also done in Beijing and Italy, suggests a relationship between particulate matter and COVID-19, that the virus particles actually sort of hitch a ride on the particulate matter. And particulate matter is found at higher concentrations, of course, in the environmental justice communities from emissions, from polluting facilities like that. So communities who are already at risk because of where they live are more at risk because the particulate matter allows the COVID-19 to embed itself deeper into the lung.

Ms. DEGETTE. Right. And we know that multiple sources of pollution are a hallmark of environmental justice communities. And what complicates that is EPA actually only carries out a relatively small number of enforcement actions.

And so what my bill does is it says, "EPA, identify 100 communities nationwide where there appears to be chronic underenforcement, and work with State and local agencies to figure out what needs to happen to clean that up." Would you agree that under-enforcement of environmental laws is a classic example of an environmental—of environmental injustice?

Dr. HOLLIS. Absolutely.

Ms. DEGETTE. And why do you think that happens? What do you think the reasons for that are?

Dr. HOLLIS. Gosh, I don't know the answer to that question.

Ms. DEGETTE. You have got 26 seconds, OK?

[Laughter.]

Ms. DEGETTE. OK, let me move on. Do you think that this hurts the ability of the local neighbors to actually move forward in supporting their communities, when they see that the Government just doesn't even care?

Dr. HOLLIS. Absolutely.

Ms. DEGETTE. OK, thank you very much, Mr. Chairman. I yield back.

Mr. TONKO. The gentlelady yields back. The Chair now recognizes the gentleman from Ohio.

Representative Johnson, you are recognized for 5 minutes, please.

Mr. JOHNSON. Well, thank you, Mr. Chairman. Before I start, I ask unanimous consent to enter an article into the record. This article from Politico, published a week ago, is entitled, "The wage gap that threatens Biden's climate plan."

Mr. TONKO. Mr. Johnson, we will do all the requests at the end of the hearing, and we will recognize your request.

Mr. JOHNSON. OK, thank you. I am going to quote a couple of excerpts from this article. And I quote, "Energy industry workers employed by solar and wind power companies earn significantly less than those who mine coal or drill for natural gas. Energy workers on the whole earn more than the typical American, but the highest-paying positions are skewed heavily toward nuclear utility and natural gas and coal industry workers, the new data shows. The wind, solar, and construction jobs that would surge under Biden's policies were well below them on the median pay scale."

When we are faced with the facts presented in this article, I can't help but ask my Democratic colleagues and their witnesses today, is this what my constituents in an oil, gas, and coal-producing district have to look forward to?

If the legislation we are discussing today was to become law, thousands of men and women I represent, millions across our nation, will be forced to take a significant pay cut. Now, I don't know about you, but that doesn't sound very just to me.

So, Mr. Hollie, let me start with you. When we review the legislation in front of us today, the CLEAN Future Act doesn't hide its bias against fossil fuels. There is a title in the bill itself, title 10, that actually lists out the fossil energy jobs that will be lost under

this green transformation. These include resource production, power generation, and manufacturing.

So, Mr. Hollie, the shutdown of these industries would mean the loss of thousands of good-paying blue-collar jobs that would be replaced with vague promises of lower-paying green jobs in far-off places. Would this help or hurt the communities you advocate for?

Mr. HOLLIE. Oh, it would totally hurt them, devastate these communities, Mr. Johnson.

Mr. JOHNSON. OK. Section 902 of that CLEAN Future Act would halt permitting for the domestic manufacturing of plastics, including their feedstocks, which we all know is natural gas and the petrochemical products harvested in the extraction process of natural gas.

So your testimony talks about energy poverty, that idea that low-income Americans suffer the most when policies are enacted that raise the cost of gasoline, electricity, and natural gas to heat their homes and cook their meals. So, Mr. Hollie, would you agree that this same concept of energy poverty could be realized if there is reduced access to the thousands of affordable products derived from petrochemicals or plastics that Americans rely on every day, those materials used in clothing, food packaging, electronics, transportation, common home furnishings, and other basic necessities?

Can you talk about what happens if we devastate the plastics manufacturing sector?

Mr. HOLLIE. Yes, sir. Yes, sir, and I couldn't include all that in my testimony in 5 minutes, but that is—I think a lot of times people don't understand just how much the oil and gas industry provides to us, and petrochemicals, but all the things that we need to supply us and that we need to function daily, even down to, like I said, your yoga mat. And I think, at the end of the day, when you start taking away these jobs, taking away the industry, it will ultimately drive up the cost for all these goods that we need and that are a part of our life every single day.

Mr. JOHNSON. Absolutely. You know, I—one of the things that my Democratic colleagues are pushing so hard for is all-electric vehicles. And, you know, I am not opposed to all-electric vehicles. But I wonder, do my colleagues realize how much plastics manufacturing goes into the process of making an all-electric vehicle? It is possible because plastics are lightweight, and much of the material that goes into an all-electric vehicle is plastic.

And a lot of the components of solar panels and wind turbines are also made out of petrochemical products. So I think we are missing the point here in many, many cases. But, Mr. Hollie, I thank you for your responses.

I yield back, Mr. Chairman.

Mr. JOHNSON. Well, thank you, the gentleman yields back. The Chair now recognizes the gentlelady from Illinois, Representative Schakowsky, who also chairs our Subcommittee on Commerce and Consumer Protection.

Representative Schakowsky?

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. So nearly a decade ago I met with a young constituent who was concerned about the impact of oil and gas operations on drinking water. And as a result, I introduced the SHARED Act—of course, that is an acronym, and

it is called the Safe Hydration is an American Right in Energy Development—to require testing of water sources near hydraulic fracturing operations, and then the public disclosure of their results. It is a very simple and commonsense way to protect communities from environmental harm, and I believe that it is a valuable addition to the environmental justice conversation.

The SHARED Act—that is H.R. 2164, I keep introducing it, and hopefully it will be part of the—all the bills that we are passing now, but—and it would require oil and gas companies to report on the impact of their fracking activities, and how—what they—how they—what impact they have on the water. And companies would be required, then, to test the water sources within a half-mile radius of fracking sites. And those results would have to be made publicly available to the community.

So, Dr. Hollis, I am wondering if you could discuss the importance of both monitoring pollution—polluting causes such as fracking by fossil fuel operations, and publicly disclose that information. What do you think of that?

Dr. HOLLIS. I can do that. I will do it quickly.

Ms. SCHAKOWSKY. OK.

Dr. HOLLIS. The issue with hydrofracking is that evidence has shown that it contaminates the water, the groundwater, the drinking water wells. It also contaminates the environment, the air. The methane is released into the environment. And the issue is that a number of the ingredients that we do know of are carcinogens, are very toxic.

And then there are those that we don't even know are included in hydrofracking fluid because of the—a trade secret, so that facilities aren't required to provide that information to communities, which is ridiculous because, you know, it goes against common sense that people should know what they are being exposed to, because when you fracture the soil, when you fracture the ground, you are releasing—you are creating cracks. And through those cracks, eventually, this fracking fluid will get into the water supply, and has gotten into the water supply.

Ms. SCHAKOWSKY. And has, thank you very much. And it is not just common sense, but I think we are talking about the health of our families and our communities. And every American family really does deserve to know whether the water that they use to cook and bathe and drink is safe, especially from contamination due to fossil fuel energy production.

We can't forget that oil and gas operations are also major drivers of the climate crisis, and specifically as the country's primary source of harm from methane pollution. So I wanted to ask Ms. Yeampierre, can you speak to the importance of controlling dangerous methane pollution, especially for frontline communities?

Ms. YEAMPIERRE. Well, thank you, thank you for that question. I want to make it personal for a second. I want to share with everyone that a year ago this week I almost went into cardiac arrest because of COVID and lost four family members within 2 weeks. All of us were born and raised in the midst of environmental burdens right next to power plants, waste transfer stations, brownfields. We have all of those things in common from the front line.

And so these protections are tremendously important. They land on our—in our lungs, in developing—while women are pregnant. They affect the ability for children to function in school. They disrupt work. So all of these protections are tremendously important. And so I want folks to know that we are not talking about people out there, some question mark of folks. We are literally talking about our aunts, our grandmothers, our children.

And so anyone who cares about children, and anyone who cares about families and who is invested in making sure that we live healthy, thriveable lives will invest in making sure that we are moving away from extraction and investing in regenerative economies and putting in those protections.

And people, for example—

Ms. SCHAKOWSKY. I am going to—my time is almost expired, but I just wanted to say how important it is, and this hearing in general, and bringing it home, bringing it home to our families, as you were talking about, talking about your aunts, that we need to make that a top priority when we consider how we develop our energy future. And I just appreciate this hearing so much.

Thank you, and I yield back.

Mr. TONKO. The gentlelady yields back. I next have Mr. Carter. I don't see him on our screen, so if he does return we will reinsert him on our list. So let's go to the gentleman from South Carolina.

Representative Duncan, you are recognized for 5 minutes, please.

Mr. DUNCAN. Thank you, Chairman Tonko. I first want to say that it is time for fear tactics like Ms. Hollis was talking about to stop. Most drinking water wells are—deep drinking water wells—300 feet. Most fracking happens at hundreds, if not thousands, of feet below the depth of a drinking water well. It has been proven time and again that fracking fluids are not flowing up from a fracking operation into drinking water wells. So just stop with the misinformation that is out there to put fear tactics and fear in the hearts and minds of folks across America.

I want to shift gears. Mr. Hawkins, Shay, it is great to see you. Thanks for all the work that you did with Tim Scott, Senator Scott, on the opportunity zones. I want to start by saying I appreciate that. I appreciate the opportunity zones in general. And low-income communities will be the last to recover from economic instability.

As we work towards relief for American families and businesses to return to pre-COVID conditions, I think the opportunity zones should play a vital role. I know they have already benefited many communities in my home State of South Carolina. How can incentivizing investment in distressed areas establish longer-term quality-of-life benefits for those residents in the communities, compared to direct Government benefits, Shay?

Mr. HAWKINS. Yes, so absolutely. So, you know, when we look at what is going on in opportunity zones, particularly around job creation—so there are multiple benefits.

One benefit that potential opportunity zone residents see is in direct jobs. That is obvious. But we also see benefits around better access to goods and services that weren't previously available. Significant numbers of designated opportunity zones are in food deserts. And so, you know, food security becomes an issue.

But then you also see that opportunity zone residents benefit from higher real estate prices, and the majority of opportunity zone real estate—the majority of opportunity zone residents own real estate in the opportunity zone. And so, you know, there is a plethora of potential benefits.

Representative DeGette indicated that environmental cleanup was the topic of the hearing and that we hadn't offered much from our side on that. So if you will allow me, Representative Duncan, I will just talk a little bit about brownfield remediation, and the fact that EPA worked closely with opportunity zones in designating the areas they—151 areas that they laid out for brownfield remediation; 118 of those were in opportunity zones.

And so, you know, it is critical, both on the cleanup side for frontline communities, but both on the long-term quality-of-life side that you laid out.

Mr. DUNCAN. Yes, well, that is great. I want to shift gears a little bit and, Mr. Hawkins, I appreciate all the work on opportunity zones, as well.

This move toward higher-priced and more expensive electricity generation through wind and solar, it has been proven time and again that that is more expensive than traditional, 24/7/365 power supplies that exist today. And that is nuclear power, that is coal and natural gas-fired power plants. The higher-priced electricity generation affects the lower-income populations more than it does anyone, because they now have to pay more, as a percentage of their discretionary income, for utility rates because of the high-priced electricity generation.

So, as we move toward more higher-priced electricity, just keep in mind that those that are on a very limited and fixed income—and that is the lower-income side of the scale—will pay more out of their pocket for electricity. That means they have less money to spend in the economy on other things that they need, whether that is education of their children, clothes, food, rent, taxes, other things that they have to pay for in life. They will have less money to do that. So let's just keep that in mind.

Mr. Chairman, I appreciate the committee hearing and the comments from the witnesses, and with that I yield back.

Mr. TONKO. Thank you, the gentleman yields back. We now recognize the gentleman from Maryland.

Representative Sarbanes, you are recognized for 5 minutes, please.

Mr. SARBANES. Mr. Chairman, thank you for holding the hearing, and I want to thank the witnesses that you have assembled here today for their testimony. I certainly appreciate the work this committee has been doing to bring environmental justice to the forefront of the conversation. It is really, really critical.

One of the bills that we are discussing today is the Ensuring Safe Disposal of Coal Ash Act, which would establish stronger protections against unsafe coal ash disposal. As we know, coal ash, or coal combustion residuals, is one of the largest types of industrial waste in the United States that is generated. And according to the EPA, in 2012 about 110 million tons of coal ash was generated. Power plants have disposed of this waste, including many times in unlined coal ash ponds.

The coal ash is filled with toxic levels of several pollutants, including mercury and arsenic, and exposure to coal ash can lead to cancers, cardiovascular issues, developmental defects, and nervous system damage. If disposed of in an unsafe manner, coal ash poses significant risk to neighboring communities. I have seen that in Maryland. We have had some real challenges there, and I have witnessed firsthand the impact of coal ash pollution on residents and the dangers associated with unsafe disposal. In my prior district I represented previously, this was a real concern.

The Obama administration issued the 2015 coal ash rule to protect communities and water resources in the United States from toxic coal ash contamination. Unfortunately, rather than strengthening that rule, the Trump administration took action to weaken the critical provisions that were contained within it. So it is of little surprise now to know that an estimated 60 percent of coal ash disposal sites are located near low-income communities. So I am very pleased to see H.R. 2396 is being considered today.

Dr. Hollis, in your testimony you discuss how systematic racism is a public health issue. I certainly agree with that. And as you know, this week the head of the Centers for Disease Control also issued a statement, and the CDC is now going to be examining that link in a more systematic fashion. Could you elaborate a little bit more on how locally undesirable land uses—and taking coal ash on as an example of that—can disproportionately burden communities of color and low-income communities, as well as their resources?

And talk a little bit about the fact that there is a double hit on these communities. On the front end they are getting this environmental injustice; on the back end there is often a gap in terms of them being able to access the health care and resources they need to actually help them cope with the impact of that environmental justice. So if you could speak to that, I would appreciate it.

Dr. HOLLIS. Sure. Traditionally, mostly in the south, communities have been inundated with coal ash. It is mostly unregulated, which is a big problem. I live in—I am currently in Alabama—I live in Maryland, and I have worked with communities in Alabama, in Florida, and so forth, where coal ash was illegally dumped not only in the residences, in the yards, but also in schools. Traditionally, these are low-income communities, and they don't necessarily have the resources to protest the dumping of coal ash.

They also don't have the resources to routinely test their drinking water and/or their soil. And they often, as you said, lack access to adequate medical resources and also to legal assistance. And that is part of the systemic racism that I had alluded to earlier.

The issue with coal ash, which as we know is very toxic—highly toxic, almost to the point of being radioactive—is that these communities don't have representation, and only—you know, their voices are—have traditionally been unheard or often ignored. And normally you see facilities in these—near these communities who truck these—this coal ash residue through the community uncovered and, you know, unprotected from community exposure.

So when it comes to the challenges, these communities are indeed faced with multiple challenges, including healthcare, legal resources, and the ability to stop this unregulated practice.

Mr. SARBANES. Thank you very much, Mr. Chairman. That was a very powerful statement of why we need the legislation as part of the bills we are looking at today, and I yield back.

Mr. TONKO. I agree with your sentiments, and the gentleman yields back. We now recognize the gentleman from Alabama, Representative Palmer.

You have 5 minutes now for questioning, please.

[Pause.]

Mr. TONKO. Mr. Palmer, you need to unmute, please.

Mr. PALMER. Thank you.

Mr. TONKO. OK, now we can—

Mr. PALMER. I can't wait until we get back to live hearings so we can see each other and hear each other.

Mr. Hollie, I really appreciated your testimony. I think it is time that people begin to speak up for energy and economic justice for all people, all low-income people, in particular. And I want to focus on a couple of things, and I will ask you to comment.

I want you to respond about the impact of energy injustice. Low-income families face tremendous disadvantages in the cost of household energy. And not only that, they suffer health consequences. I grew up dirt poor in northwest Alabama. We heated our house with a coal-fired heater, a big heater that had a stovepipe that ran out from it, out the side of the house, and it sat in the kitchen. And so I understand what it—what energy poverty means.

Right now households earning the average salary pay about 2½ percent of their salary in energy costs. But households earning less than 20,000 a year pay almost 3 times as much, and households earning 16,000 a year pay almost 4 times as much. And there is another study that showed that, when you look at the top 20 percent in wage earners versus the bottom 20 percent in terms of disposable income, the bottom 20 percent pay almost 5 times as much.

Then you have the—in terms of the energy insecurity injustice, you have Jesse Jackson and Al Sharpton and other civil rights leaders literally working, campaigning for greater access to natural gas, which is much less expensive, much cleaner. You take Pembroke Township in Illinois, a town of about 2,100, 80 percent of those residents are African-American, and they are literally using propane in wood-burning stoves to heat their homes in the winter-time. Jesse Jackson is leading an effort there to get them a natural gas pipeline.

And then, in terms of jobs, if we were to shut down fracking, it would cost us over 7 million jobs and would add increased costs for the average family by over \$5,000.

And then the whole health aspect of this, because—particularly in cold weather—a British medical journal, *Lancet*, reported that there are—17 times more people die from the consequences of living in colder homes than from heat.

And so I am just so encouraged that you are speaking up for energy and economic justice for low-income families. I would like you to comment on that.

Mr. HOLLIE. Yes, sir, and I would just share that it has been a passion of mine for a long time, for years, and I have had the opportunity to speak to several people in your State, and up and

down the Atlantic coast, who all suffer from energy poverty. And I think a lot of times they are misled about the information that they are getting that actually is causing energy poverty. And when you speak to these individuals and you share with them about different policies and different regulations that are impacting them—now, granted, they are all about cleaning up the air, clean up where they live. But at the same time, they are equally just as concerned about the energy poverty and their—and the cost that they incur every single month with the high cost of energy.

Mr. PALMER. I would like to see a show of hands of the other witnesses, since I can see on the screen, how many of you support Reverend Jackson's efforts to get a natural gas pipeline into Pembroke Township to alleviate the energy injustice those people are suffering?

Oh, man, none of the Democrat witnesses. That is shocking.

Mr. Hawkins, thank you for your testimony and particularly for the work that you are doing to alleviate poverty and to create opportunity. I would like for you to comment on these—on energy and economic injustice.

Mr. HAWKINS. Sure. There are—just in terms of context, frontline communities are served with cleaner energy, you know, energy that has less emissions. Frontline communities are served with more affordable energy. Frontline communities are served with secure sources of energy.

And so, you know, as we look to serve these communities, you know, we have to have that as our framework and as our outlook for approaching this. And so there are bipartisan solutions that can serve those communities in all of those ways without creating harm in the process.

Mr. PALMER. I thank the witnesses, and thank the chairman. I yield back.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the gentlelady from my home State of New York, and the former vice chair of the full Committee of Energy and Commerce, Representative Clarke.

You are recognized for 5 minutes, please.

Ms. CLARKE. Thank you very much, Mr. Chairman, and I thank our Ranking Member McKinley for convening this very important and timely hearing. But let me also thank all of our witnesses for your testimony here today.

Make no mistake about it, the climate crisis is happening right now, and its impacts are being felt most profoundly by marginalized communities throughout this Nation. We see these disparities when we look at the impacts of climate change on people's health, on their livelihoods, and on their homes and neighborhoods.

Ms. Yeampierre, it is so nice to have a fellow Brooklynite at our hearing today. What do you see as the connection between climate change and racial injustice?

And how does this relationship inform the climate justice movement?

Ms. YEAMPIERRE. Well, thank you. It is wonderful to see you, as well. It feels like a blessing to be in a space with you.

You know, this is part of a history of extraction on the backs of our communities. The siting of environmental burdens has always happened in low-income communities and communities of color. Our communities are the ones that are suffering a disproportionate share of the public health crisis. But we are also working at solutions, and which is why your legislation is so important.

We are operationalizing a just transition, and we are passing the benefits—not just the health benefits, but the economic benefits—to our communities so that they pay less for energy, and they don't have to do it at the expense of their health. All of this is connected. It is a long history.

And so what I see today is a collective effort to try to move away from a history that has harmed generations and generations of communities. We are, as I have mentioned before, the descendants of enslavement and colonialization.

And it is not just happening in the United States, it is happening in Puerto Rico, where you have got ash plants that were hit by Hurricane Maria. Those ashes ended up miles from where people—from where the facility was located, and they have cancer clusters all around those facilities. So there is a connection.

And so we really can't even talk about climate change without talking about racial justice. Anyone who doesn't understand that is someone who doesn't—who is basically pretending that history has not taken place.

So thank you for asking me that question.

MS. CLARKE. Thank you, Ms. Yeampierre. The inequitable impacts of the climate crisis are exactly why I recently introduced the Climate Justice Act, modeled after New York State's recent landmark climate legislation, which will establish a Federal climate justice working group to address the inequitable burdens of climate change on the front line.

MS. YEAMPIERRE. Could you briefly describe your experience serving on the New York State's Climate Justice Working Group, and share what your group is seeking to accomplish?

MS. YEAMPIERRE. The Climate Leadership and Community Protection Act was created to move resources to frontline communities so that there would be investments in operationalizing a just transition. And the working group is making recommendations. It is a multidisciplinary group, it is cross-sectoral, working to try to figure out what is the language, what is the framework, how do we do it? How do we move away from extraction, and how do we create 150,000 jobs in the State of New York that put people on a track to economic justice and move them away from extraction?

We have got several committees that have been set up to do that. We work diligently every week, and, you know, we—just because it hasn't existed doesn't mean that we don't create it, right?

So a lot of the members are coming from New York Renews. It is a coalition of up to 300 members across the State, rural, urban, different ethnic and—race and ethnicities, different class backgrounds, working together to move New York State to be carbon neutral by 2050.

And so that is the bulk of the work that is happening in those committees.

Ms. CLARKE. Thanks again. And I think it is important to note that the Federal climate justice working group in my legislation will be comprised of representatives from community-based organizations, as well as States, cities, and indigenous nations.

Ms. YEAMPIERRE, could you please explain why it is so important, when we are talking about addressing climate injustice, that the voices of frontline communities are helping to lead this conversation?

Ms. YEAMPIERRE. Because the people who are exposed to the problems are the ones who have the solutions. We are not sitting around complaining. We are coming up with mechanisms, economic frameworks, recommendations for infrastructure, developing leadership, and passing policy to move us away from a history of extraction. We have got solutions.

And you have seen that happen even in our neighborhoods. I mentioned earlier that in Sunset Park we launched the first community-owned solar cooperative in the State of New York, with economic benefits being passed on to people who have lost their businesses as a result of COVID, who were really dealing with the economic pressures of COVID.

And then we are also working on—you know, we have successfully brought offshore wind to south Brooklyn, and we are talking about thousands of jobs and training and working with unions and workers to train them on how to do something that is radically different. And, even while talking about bringing offshore wind—because the parts will be coming from Europe—we are also talking about how do we manufacture it here? How do we bring those jobs? How do we make sure that the United States is actually engaged in building for offshore wind, so that we don't have to import the ships from Europe?

We have negotiated agreements so that the ships, when they come into Brooklyn, aren't spewing diesel, and they basically start operating off electricity. All of this are—all of these are solutions where you have got people from communities talking about infrastructure, about science, about health, and about reclaiming spaces so that we are ready to address the impacts that climate change is bringing.

Ms. CLARKE. This is exciting. Mr. Chairman, I yield back, and I thank you for the opportunity.

Mr. TONKO. The representative from Brooklyn yields back. We caught that Brooklyn theme there. So next we will recognize the gentleman from Utah.

Representative Curtis, you are recognized for 5 minutes, please.

Mr. CURTIS. Thank you, Mr. Chairman. Well, a very long ways away from Brooklyn is Utah and my district. And right on the southern part of my district, we have been blessed with the Navajo Indian Reservation. Recently there was a Navajo generation station that was coal-fired, a power plant. Just a little over a year ago, it was a victim of the villainization of coal. It was closed. That plant and mine paid out \$100 million in direct wages in that part of my district, and \$50 million in leases and royalties that are now gone.

A nearby Tribe who provided the coal lost 80 percent of their revenue for the entire Tribe because of that closing.

Along with the Native Americans, other parts of my district have a long history of uranium mining and processing that supported the Cold War. Many of those impacts are still looming today. We have heard about them in other testimonies: higher cancer rates, abandoned mine cleanups, counties overly reliant on extraction industry for their tax base.

Coal and uranium mining technology has advanced and had its place in these communities, but these communities still tell me their greatest export is their children. And they are working desperately to keep a way of life, and to keep their children in the area, and economic stability.

These are resilient residents. They are proud. They don't like to hear that they don't need to worry because we are going to teach them to code. Instead, they want to be self-reliant and stand on their own and chart a path forward. And I am really pleased that the opportunity zones created from the Tax Cuts and Jobs Act played a very significant role in their efforts. They don't—they want to look to the future and not get stuck in these issues of the past.

And these opportunity zones have been a tool to empower these communities to help themselves instead of being reliant on Federal dollars. We are all familiar with the saying that if you give a man a fish, you feed him, but if you teach him to fish, you feed him for a lifetime. To me, Federal dollars to a distressed area are a little bit like a fish, and these opportunity zones are a little bit like a fishing lesson.

Mr. Shaw—Mr. Hawkins, can you speak—and you have done such a great job at speaking to opportunity zones, but particularly in rural areas, and the impact that they can have on lifting these rural areas?

Mr. HAWKINS. Thank you, absolutely, Representative Curtis.

About—of the 8,700 designated census tracts that were designated by Governors as opportunity zones that are eligible for this great benefit, 25 percent, or just under 25 percent, are in rural areas. And so they are critical in rural areas because the most attractive portion, the most attractive benefit of opportunity zones, goes from—goes to folks who are investing in operating businesses, and where they hold that investment, job-creating investment, for greater than 10 years.

And so a disproportionate amount of the operating business investments that we are seeing happen in rural areas. A lot of the urban areas tend to attract real estate investment. But in the rural areas we see operating businesses, a lot of things that are very important around rural broadband. But then also, you know, again, like I said, we have seen significant investments in clean energy, as well, and other job-creating industries.

Mr. CURTIS. Yes.

Mr. HAWKINS. So opportunity zones are a great tool for community development in rural areas.

Mr. CURTIS. Excellent. Last Congress I partnered with Representative Cuellar, and we introduced a bipartisan—

Mr. HAWKINS. Yes.

Mr. CURTIS [continuing]. Opportunity zone bill to help small businesses struggling. Utah, I am very proud, has one of the lowest

unemployment rates in the country, but our rural areas are struggling.

And we just got a few seconds left. Anything, any advice you have for Congress on how to make these more impactful in rural parts?

Mr. HAWKINS. Absolutely. First we need a transparency and reporting bill that lets us know where opportunity zone investments are happening, how many direct jobs are being created, and where they are being created. And now—that will allow us to know if we need to tailor the program to more carefully target rural areas.

Next we could look to codify the coordination that we have seen across Federal agencies with opportunity zones to kind of put that policy and prioritize opportunity zones in Federal community development.

Mr. CURTIS. I wish we had more time, and I regret that I am out of time. Mr. Chairman, I yield.

Mr. TONKO. The gentleman yields back. The next person we had was Dr. Ruiz, but we don't see him on the screen, so we will go to the gentleman from California.

Representative Peters, you are recognized for 5 minutes, please.

Mr. PETERS. Thank you. The other gentleman from California. Thank you, Mr. Chairman. Thanks for having the hearing.

I wanted to talk with Dr. Hollis a little bit about lead poisoning. I think that one of the most pernicious and really tragic contaminants that we see affecting disadvantaged communities is heavy metals. Sometimes it is mercury or cadmium, but most often it is lead, and often from the pipes that deliver water.

And I was able to visit Flint with Mr. Kildee and with Elijah Cummings back in 2015 to see some of the devastation that has been brought on that community. But that is, in many ways, just the most famous example of something that happens all too often. And Dr. Hollis, I wanted to see if you would opine, if you would, on how do you think the proposal deals with this, and is this what you would like to see? Are there other things we should be doing? Is this the right approach, or would you do—would you take a different approach?

Dr. HOLLIS. Thank you, Representative Peters. I do think that, as you say, lead is a serious toxic, toxic substance, and there is no safe level.

And I do think that the issues that we see with lead are only going to be exacerbated by climate change: one, from the water that is run off or from flooding and extreme weather; also, because the pipes are—that were originally put in place are, in some instances, corroded or rusted, and that is released through whatever is in the water, as we talked about earlier with Superfund sites and that runoff. We don't know how these chemicals interact, but the thought is that there could be extracting lead from the pipes.

So any regulation, any legislation that is considered that addresses that issue is the right legislation, in my opinion.

Mr. PETERS. OK, so I think that there is an attempt—and, you know, one of the difficulties we have in the Federal Government is that a lot of these systems are managed by State and local governments. And, you know, we are trying to figure out ways to help, you know, the communities—like, Flint is not a wealthy one, for

example—ways to incentivize and to assist them in replacing those pipes.

Also one of the problems in Flint is that there is disinvestment from people moving out, which means that the water systems just don't function as well without people there.

So I am very interested in supporting this part of the bill, in particular. And for me, I think fighting lead pollution is an infrastructure priority.

And I appreciate the witnesses for being here, and I yield back.

Mr. TONKO. The gentleman yields back. The Chair now recognizes the gentlelady from Michigan.

Representative Dingell, you are recognized for 5 minutes, please.

Mrs. DINGELL. Thank you, Chairman Tonko. As we move towards long-term economic recovery from COVID, this COVID pandemic, we need to be bold and we need to go big and we need to be focused on frontline communities that have borne the brunt for too long to achieve lasting economic renewal. That is the key pillar of the THRIVE Agenda that I am also proud to be one of the leaders of.

There have been a lot of important points that have been made by my colleagues today and many worthwhile provisions in these bills that will make a real difference for the communities that I represent and so many of us do. But I am going to pick up on what my colleague Mr. Peters was just talking about. I want to focus in on one provision. I do come from Michigan, and we really do understand what lead and water does to our children, let alone others. So I want to focus on funding for lead service line replacement.

Lead exposure is a deeply serious environmental justice issue which impacts across generations. And that is why I am so pleased to see that President Biden is committed to replacing lead service lines in the American Jobs Plan, and pleased that there is language in the CLEAN Future Act to put that plan into action.

With lead service line replacement, the details really matter if we are really going to get it done. So I want to ask a few questions about the specific language in the CLEAN Future Act.

Dr. McClain, the CLEAN Future Act would create just one factor for prioritizing lead line replacement funding, and I am quoting here: "Priority for the use of funds should be given to projects that replace lead service lines serving disadvantaged communities and environmental justice communities." Dr. McClain, just yes or no, do you agree that replacing lead service lines serving disadvantaged and environmental justice communities should be the absolute top priority for these funds?

Mr. TONKO. Representative Dingell, we may have lost Dr. McClain because of technical difficulties, so you might direct that—

Mrs. DINGELL. I will give it to the other witnesses, then.

Mr. TONKO. OK, thank you.

Mrs. DINGELL. And I hope somebody—do either of the two witnesses left that I see want to answer—three—

Dr. HOLLIS. Yes.

Mrs. DINGELL [continuing]. Four—answer?
[Laughter.]

Mrs. DINGELL. Sorry we are all having technology—we all can't wait until we are back in person again.

OK, so let me—I was going to ask Dr. McClain this. I don't know if any of you can answer this: What level or estimate of investment will this require from the Federal Government?

And I am asking this question because I don't think we got enough in here, so what do you all think?

Nobody?

Dr. HOLLIS. I do not have an answer for that question, Representative Dingell.

Mrs. DINGELL. OK, you know what, Chairman Tonko? I think that with a—my questions are really focused, nitty gritty, on this. I should yield back and submit my questions for the record.

Mr. TONKO. OK, thank you. The——

Ms. YEAMPIERRE. OK, I would——

Mr. TONKO. Excuse me?

Ms. YEAMPIERRE. I was going to try to answer the question, because I am on my way out.

Mrs. DINGELL. That would be great.

Ms. YEAMPIERRE. From the Climate——

Mr. TONKO. OK, please do.

Ms. YEAMPIERRE [continuing]. Justice Alliance, thank you. First, thank you for supporting THRIVE. Senator Schumer has been a great ally for us in the State of New York.

We are talking about \$10 trillion, about a trillion a year, 2 more than is being recommended.

We are also talking about a 40 percent that has to be a baseline, and not a goal. There are different communities that have different needs. They are all different, and they have all been dealing with a legacy of extraction for generations. And so the needs, whether it is Indian country versus a coastal community, may be radically different.

We are happy to provide you with more information at some point, and I really want to thank everyone for inviting me. I feel deep gratitude for this conversation and for being invited. Thank you so much.

Mrs. DINGELL. Thank you, and it is important.

And I will yield back, Mr. Chair, and do my questions for the record.

Mr. TONKO. OK, the gentlelady from Michigan yields back. We next had Representative Barragán on our list, but we don't see her on the screen. So we will now move to the gentleman from Virginia.

Representative McEachin, you are recognized for 5 minutes, and thank you for your input on this important topic.

Mr. MCEACHIN. Thank you, Mr. Chairman. And thank you to—both to you and Chairman Pallone for convening this hearing, and the work that we are all doing on the notion of environmental justice for all.

I am going to skip a lot of my introductory comments for the sake of time and just sort of focus on H.R. 2021 and the notion of cumulative impacts. And I would like to start off by asking Dr. Hollis, how does the current permitting process disproportionately

hurt low-income communities, communities of color, and Tribal and indigenous communities?

Dr. HOLLIS. Thank you, Representative McEachin. The current permitting process doesn't account for or take into account the different ways that communities are exposed to different pollutants and the different mechanisms, different routes of exposure.

Mr. MCEACHIN. Thank you. And is it—now I am going to—I had a question for Dr. McClain, but I want to shift it over to—is it Dr. Yeampierre? Help me out with the pronunciation of your name. I am so sorry, ma'am,

Dr. HOLLIS. I think Ms. Yeampierre had to leave.

Mr. MCEACHIN. Yeampierre, is she still on?

Dr. HOLLIS. No, I think she had to leave.

Mr. MCEACHIN. Well, Dr. Hollis, I guess it is just you and me, then.

Dr. HOLLIS. But Mr. Logan is here.

[Laughter.]

Mr. MCEACHIN. Well, either Dr. Hollis or Dr. Logan, whichever one—either one of you all can try to tackle this question.

How could requiring consideration of cumulative impacts—implementing decisions impact and benefit the environmental justice communities?

Mr. LOGAN. If I may?

Mr. MCEACHIN. Please.

Mr. LOGAN. Thank you, Representative McEachin. The environmental justice communities are overburdened with a concentration of polluting facilities in very small geographic areas. In some cases there are concentrations of lead smelters, for instance.

When there is that type of infrastructure that helps to service lead smelters, for instance, in a concentrated geography, the tendency is that companies continue to want to serve that area or to be placed or sited in that area. When the permitting process starts to run through, it only examines the permit on its own merits, not taking into account the multiple other effects or multiple other facilities.

So it is important that, as we address environmental justice, that the cumulative impact policies really incorporate the permit denial as a strategy, as it looks at the potential of harm in these communities. These communities are already overly burdened. Another ounce of lead is just detrimental to the community and continues to harm the community.

So permitting is critical, not just examining, not just studying, not just enforcing, because in most cases these permitting processes are following the letter of the law.

Mr. MCEACHIN. Thank you for that, sir.

Dr. Hollis, as we have seen throughout the COVID-19, communities of color have been some of the hardest hit. How does environmental pollution and cumulative health impacts connect to the current pandemic, and the cumulative impacts approach to permitting have potentially prevented some of the health disparities that we have seen?

Dr. HOLLIS. Thank you, Representative McEachin. With—communities are exposed, as I mentioned earlier, to numerous contaminants. And when we talk about COVID-19—so these contaminants

make them more at risk already; we see increased cardiac issues, we see increased respiratory issues, all of these things that make them predisposed to issues, and breathing issues, and just having, I guess, a healthy environment. And so that makes them more susceptible to things like COVID-19, and not just COVID-19.

So when it comes to permitting, as Mr. Logan said, it is—you know, it is important that we look at all of the contributors to pollution, because we don't know which particular combination of contaminants will make a person more at risk, will put a person more at risk for attacks of viruses like COVID-19.

Mr. McEACHIN. Thank you, ma'am. And I want to thank you both. I look forward to working with you all and my colleagues on this committee to ensure that we pass legislation that protects EJ communities from environmental health hazards.

Before yielding back, I am proud that our EJ for All Act has earned the support of many of my colleagues and organizations across the country. I would ask unanimous consent to introduce letters of support for the Environmental Justice for All Act into the record, including a letter from some of our Senate colleagues.

With that, Mr. Chairman, I yield back.

Mr. TONKO. We will be glad to deal with the request at the end of the meeting, and thank you for the request to enter the document into the record.

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

Mr. TONKO. OK, the gentleman yields back. I see we have been rejoined by Representative Carter. The gentleman from Georgia will be recognized next, to be followed by Dr. Ruiz, who has also rejoined us.

So to the gentleman of Georgia, you are recognized for 5 minutes, Mr. Carter.

Mr. CARTER. Thank you, Mr. Chairman, and thank all of you for your presence here today and your participation.

Mr. Chairman, I would like to submit for the record a letter from the Georgia Ports Authority, the economic engine of the southeast, and entailing their work and the environmental work that they are doing at the ports.

Mr. TONKO. They will deal with that request, Representative Carter, at the end of the hearing, but thank you for submitting it.

Mr. CARTER. OK, all right. Mr. Chairman, as I mentioned, locally the Port of Savannah has been extremely engaged in working with the local community and outside groups to invest in forward-looking decisions that benefit the port and surrounding areas. In fact, Georgia Ports Authority has made tremendous investments in the port to benefit the community. They have used the DERA program to replace old trucks, they have electrified their gantry cranes, and they have upgraded their rail infrastructure to take additional trucks off the road, and a lot more.

However, I am worried that programs like the port electric—
[Audio malfunction.]

Mr. TONKO. Mr. Carter, it seems like we have lost you with technical difficulties here. Why don't we go to Dr. Ruiz for 5 minutes, and we will return to you, if you don't mind.

Mr. RUIZ. Thank you. Thank you, Mr. Chairman. Today's hearing about environmental justice is personal to me and my constituents.

To achieve true environmental justice, our Government must offer equal protection from environmental health hazards and provide equal access to decision making that affects the public's health. Environmental justice can look differently depending on the community, whether it is low-income housing next to an interstate, or farmworker communities in desperate need of clean air and clean water.

In the eastern Coachella Valley, where I grew up initially in a farmworker trailer park, my constituents face numerous and staggering environmental justice challenges. For decades, trash companies illegally dumped human waste at a site known as Mount San Diego in my district. In 2019 new illegal dump opened at that same site, where mulch fires sickened local schoolchildren, closing schools for a week and sending kids to the emergency department. Lax environmental enforcement allowed these hazards to persist, at the expense of my constituents' health. Other residents of Polanco parks and mobile home communities like the Oasis Mobile Home Park get their drinking water from suspect wells, drawing water from aquifers with naturally occurring arsenic.

True environmental justice means that our Government is looking out for these communities with the same intensity as they would for those with money, access, and power. That is why I am so pleased that we are considering two of my bills here today.

First, the Voice for Environmental Justice Act, which would provide funding for frontline communities to speak out against polluters seeking to set up shop in their neighborhood. This bill is included in the CLEAN Future Act under section 602 and 510

Second, my bill the Environmental Justice Act of 2021, codifies Executive Order 12898 on environmental justice, which instructs agencies to establish a process to consider environmental justice in the agency's actions. And it also requires consideration of cumulative impacts in certain clean air and clean water permitting decisions.

Dr. Hollis, I would like to ask you about this bill that would impact frontline communities. What does it mean to you to assess cumulative impacts of permitting decisions on EJ communities?

And how can communities get involved in assessing those cumulative impacts? How do we empower communities to get involved in assessing those cumulative impacts?

Dr. HOLLIS. Yes, thank you, Representative Ruiz. It means a great deal, because communities finally are—you know, the concerns that they have been talking about for years are finally being addressed. And the way to get involved is to have community members at the table, to have—as equal stakeholders, to get their input and to recognize community science as a valid source of information, an important source of information.

Mr. RUIZ. How about having a community-based air quality monitoring?

Dr. HOLLIS. Absolutely. Not just at the fence line but in the community, because communities can tell you where they are experiencing, where they have seen damage from air pollution or weather, where there are certain areas—for example, when I visited a community, we were—I became ill in certain parts of the commu-

nity. That is where we need air monitors, and we need community input to determine where those areas are.

Mr. RUIZ. Ms. Yeampierre, one of the challenges my constituents have faced over the years is the attempted opening of new dumps and waste facilities in their communities, oftentimes illegally. In your opinion, do frontline communities currently have the resources to stand up to polluters seeking to do business near their homes?

Ms. YEAMPIERRE. Yes, they do and they have. Just this week we received a proposal about a waste company wanting to bring CND to our EJ community, and we are already organizing, and we have already shared with our community what the different chemicals and particulate matter—

Mr. RUIZ. Do you think that is enough for the Nation and for environmental justice communities, or do we need more?

Ms. YEAMPIERRE. We need more. And I think we need to strengthen our relationship with the National Institute of Environmental Health Sciences and the National Institutes of Health and engage in interagency coordination, invest in participatory research from communities.

Mr. RUIZ. My—

Ms. YEAMPIERRE. Yes.

Mr. RUIZ. My focus is to empower local communities, and the grants provided in my Voices for Environmental Justice Act enable communities to hire their own experts and participate in permitting decisions of waste facilities. Democracy is about participating in the decisions that affect your lives. And there is no more truer democracy than empowering communities to be part of the decisions that affect their public health and their environmental health.

So with that, I yield back my time. I ran out of time, and so I thank you all for being here. It is a very important topic.

I appreciate you, Chairman, for holding this hearing, and let's get this done.

Mr. TONKO. The gentleman yields back.

Mr. Carter, Representative Carter, we are sorry we lost you. We want to hear from you. Let's give it another try, OK? So you are recognized for five—

Mr. CARTER. Thank you, Mr. Chairman. I appreciate your indulgence, Mr. Chairman.

Again, I want to mention the letter from GPA to be considered for unanimous consent afterwards.

Mr. TONKO. Thank you.

Mr. CARTER. Thank you, sir.

Again, I want to mention I have the honor and privilege of representing one of the great economic engines of the southeast, and that is the Georgia Ports Authority. In my district alone we have two major seaports, the Port of Savannah and the Port of Brunswick.

And they—both of these ports have done a yeoman's work with outside groups and with the local community to invest in forward-looking decisions that benefit the port and the surrounding areas. They have made tremendous investments in the port that benefit the community. They have used the DERA program to replace old

trucks. They have electrified their cranes, and they have upgraded their rail infrastructure to take additional trucks off of the road, and a lot more.

However, I am worried that programs like the Port Electrification and Decarbonization Program under the CLEAN Future Act could potentially hamstring the progress that is being made by ports to upgrade older technology. And I wanted to ask you, Mr. Hollie, shouldn't we be focusing on making sure all these ports get the assistance they need to advance environmental and public health outcomes?

Mr. HOLLIE. Yes, sir, we should.

Mr. CARTER. Good, thank you. Do we need to be careful, Mr. Hollie, about putting too many requirements in place to participate?

Mr. HOLLIE. Absolutely, yes, sir, Mr. Carter.

Mr. CARTER. Good, thank you again. Mr. Hollie, previous—in previous testimony in front of the Natural Resources Committee, you talked about a specific project that could have benefited an environmental justice community but was canceled: the Atlantic Coast Pipeline. What lessons should we be taking away from this about inhibiting or stopping industries from moving forward with construction or upgrades when those investments will benefit the communities?

Mr. HOLLIE. My goodness, that was a plan that had—they had—the restrictions—what they had done, in terms of just requirements and regulations, they had gone 10 times the amount, in terms of what the—what they were asked to do, in terms of putting it together for safety regulations. And so many people right now are still suffering because of the lack of natural gas that that pipeline was going to produce.

Mr. CARTER. Well, if the goal is to create jobs and to get money out to people, shouldn't we be predicating grants and other forms of money on issues like whether or not the employees had previously been incarcerated, or if they have ties to the foster care system?

Mr. HOLLIE. Yes, sir. Yes, sir.

Mr. CARTER. Thank you. Thank you, Mr. Hollie.

Mr. Hawkins, I want to go to you next, because you mentioned something in your testimony that I am very interested in, and that is the opportunity zones. And you have talked about the benefit of opportunity zones to bolster disadvantaged and low-income communities. And yes, I have a lot of low-income communities in my district, and I am very concerned about them and want to help them as much as I can.

What is the best adjustment, Mr. Hawkins, that we can make to the policy to spur more investment in operating businesses like energy projects?

[Pause.]

Mr. CARTER. I think you are muted.

Mr. HAWKINS. I appreciate the question, Representative Carter. And the best adjustment that can be made is to allow any type of capital, not just capital gains, to be used for the purposes of the 10-year, 100 percent step up.

So briefly, the opportunity zone policy has three levels of benefit, one based on deferring capital gains and another one based on a step up in basis on your initial capital gain. But the largest benefit goes to investors that make a long-term—10 years or more—commitment to an investment. And so, for those purposes, we should allow noncapital gains to be invested. That way we can democratize the capital that is coming in, but also greatly increase the resources that come in and fund those operating businesses.

And so, you know, it is—if I could wave a wand, that would be the primary adjustment I would make to this policy and this next round of legislation.

Mr. CARTER. Thank you, Mr. Hawkins. I know I am out of time, but I do want to mention, Mr. Hawkins, that your opportunity zones have been in line with EPA to deal with brownfields, and that is something that is very important in my district. I appreciate you bringing that up, and I appreciate your work on that, as well.

Mr. Chairman, again, I want to submit this letter, and I will yield. Thank you.

Mr. TONKO. OK, the gentleman yields. The Chair now recognizes the gentlelady from California.

Representative Barragán, you are recognized for 5 minutes, please.

Ms. BARRAGÁN. Thank you, Chair Tonko, for holding this important hearing on environmental justice legislation.

My district is majority minority, almost 90 percent Latino, African-American, working class. It is right next to three freeways and the Port of Los Angeles, urban oil drilling, and oil refineries right next to parks where children play. This is—it results in a dangerous level of air pollution, with asthma rates twice the national average and high rates of cancer and respiratory illnesses. It is unacceptable.

We must invest to clean up and transform our communities. I am proud that my bill, the Climate Smart Supports Act, is included as part of today's hearing and that another one of my bills, the Climate Justice Grants Act, is part of the CLEAN Future Act's environmental justice section. Both offer significant resources to communities hit hard by pollution and the climate crisis.

Mr. Logan, first I want to thank you for your advocacy on behalf of the Moving Forward Network to fight for clean air in port communities, including south Los Angeles, where you have done amazing work.

Can you describe the Climate Smart Ports Act? Mostly, how would it make a difference for air quality in Los Angeles and poor communities across the country?

Mr. LOGAN. Thank you, Representative Barragán, and thank you for all the work that you have done to advance environmental justice in your district and the districts surrounding you.

The Ports of LA and Long Beach, for instance, is a major source of not just toxic pollution, but also climate pollutants. As you all may know, Los Angeles Basin is one of the most polluted, if not the most polluted, regions in the country. The number-one source of air pollution in the Los Angeles Basin is the two ports. The two ports of LA and Long Beach have done tremendous work at cleaning up their pollution. But with the constant growth and the constant ac-

tivity of the ports, with all the trucks, the trains, the ships, the equipment, the amount of pollution continues to increase.

So we have to stop the incremental improvements and really get down to zero pollution, zero emissions. So investment in zero-emissions technology, in infrastructure is essential for the community's health and well-being.

And if you can't breathe, you can't work. If you can't breathe, you can't go to school. If you can't breathe, you just can't be a part of our society. So the quality of life and livelihood of our communities depend on getting to zero pollution, zero emissions in our community.

I also appreciate the fact that there are certain requirements for receiving these funds, making sure that it does not displace workers at the waterfront. Automation, it does not mean—I am sorry, zero emissions does not mean automation. If it displaces workers, that is not the right kind of investment.

Also, having folks at the table, making sure that we are engaged in a way that is meaningful and making sure that we are investing in communities that need that investment, but in a real way, not just a—this kind of—the benefit—side benefit, but direct investment with real benefits that you can see in communities.

Ms. BARRAGÁN. Well, thank you, Mr. Logan. Just to follow up on that. I know you spoke a little bit about it. An important part of the Climate Smart Ports Act is the support for zero-emissions technology.

You know, in addition, the Green Ports Program established in the CLEAN Future Act takes that approach based on my bill.

Can you tell the committee how important it is for environmental justice communities that our investments to green ports focus on zero-emissions technology rather than, let's say, low-emissions technology?

Mr. LOGAN. Absolutely. To your point earlier, our communities are inundated with multiple impacts: refineries, urban drilling, all types of impacts from the fossil fuel industry, as well as many others. And so, when we are talking about these false types of solutions such as what they call near-zero or renewable natural gas, what happens is we don't just see the impacts from the production of that, those fuels in our communities. We also see the impacts of the production of those fuels in other communities across the country.

The other part of that is with these natural gas vehicles and products, the particles of natural gas are so fine that they are toxic within themselves, that the particles, the ultrafine particles, penetrate the bloodstream and have major impacts on the body, not just on the Earth and the climate impacts.

Ms. BARRAGÁN. Thank you, Mr. Logan, for that testimony, again, for all the work that you are doing and all our panelists are doing.

I just wanted to quickly mention a UCLA study that just came out. It tied COVID-19 deaths linked to poor air quality, and showed that those in communities that had poor air quality were dying at much higher rates. And so, when we talk about devastation to communities, air pollution is devastating our communities and it is killing our communities, which is why this is so important.

Mr. Chairman, thank you so much for this hearing. And with that, I yield back.

Mr. TONKO. The gentlelady yields back. The Chair now recognizes the gentleman from Arizona. Representative O'Halleran, you are recognized for 5 minutes, please.

Mr. O'HALLERAN. Thank you, Chairman Tonko.

There are over 520 abandoned uranium mines on and around the Navajo Nation in Arizona. These mines have gone unaddressed since the Cold War—actually, the late 1940s, despite the well-known health impacts of the exposure to uranium.

Minerals from these dangerous sites were used in the construction of homes, children's play area, and some of the sites are still used by children to play on. None of the sites, according to the EPA, are safe. And livestock are also grazed. This exposure has led to uneven health outcomes and even Federal programs to compensate miners through the Radiation Exposure Compensation Act.

I think we must ask ourselves: What would happen if these mines had been anywhere else?

While I am heartened that the EPA recently added the Navajo abandoned uranium mines to the Administrator's Superfund list, with a focus on being completed in the next 10 years, I believe we must do more.

Since 1994, the EPA and Navajo EPA have worked hand in hand to build the Navajo Nation's cleanup capacity, and the American Jobs Plan represents an opportunity, a meaningful opportunity, to invest in that workforce and get these sites addressed so hard-working families do not have to worry about toxic exposure on a daily basis.

Additionally, water infrastructure remains an area where there is a large disparity between Indian country and the rest of the Nation. My legislation to address the Indian Health Services sanitation facilities construction program backlog is a part of the solution with several agencies, including the Bureau of Reclamation, Bureau of Indian Affairs, Indian Health Service, USDA, and EPA, can play an important role in building up reliable water systems and in getting this uranium problem cleaned up.

Environmental justice needs may look different in rural and Tribal areas, and I am optimistic that a whole-of-government approach can help address the unique needs like access to clean water of these communities.

Dr. Hollis, the question is going to be, in a situation like this, where the DoI and the HHS and EPA would all have a hand in addressing dangerous sites, why is it that critical for us to codify the longstanding Clinton-era Executive order to make environmental justice a part of agency missions and require interagency cooperation to maintain public health and safety?

Dr. HOLLIS. Thank you, Representative O'Halleran. It is important to codify Executive Order 12898 to give it the strength that it needs in order to clean up these sites and reduce pollution in communities and reduce exposure to hazardous substances, as well as reducing the effects of facilities releasing chemicals into the environment, particularly—mostly in communities of color, in our environmental justice communities, be it Black, brown, indigenous, Native American, whatever.

Mr. O'HALLERAN. Thank you for that answer. Just to wrap things up a little bit, over 1,000 homes have uranium in their walls. This has been ongoing for over 75 years in this one site. These are all surface mines, and there is money from a trust fund of \$1.7 million, but that is not going to address 520 sites. And why hasn't that been used for over 15 years?

And so, in a community where infrastructure has been ignored for decades, how can interagency coordination speed up delivery of critical infrastructure projects like clean water delivery systems, Dr. Hollis?

Dr. HOLLIS. Well, I think the main reason is by working with communities, is by having them at the table, because that is how you are going to identify priority areas, and that is how you are going to identify what is needed.

And I think it is important to listen to what communities have to say, and to work with them as partners, and so that—to ensure that you are addressing their needs.

Mr. O'HALLERAN. Thank you, Dr. Hollis.

And Chairman, I yield.

Mr. TONKO. The gentleman yields back. We next had Representative Soto on our list, and I don't see him on our screen. We will go to the ever-patient Representative, the gentlelady from Delaware, Representative Lisa Blunt Rochester, for 5 minutes, please.

Ms. BLUNT ROCHESTER. Thank you so much, Mr. Chairman, and especially for calling this critically important hearing. And thank you to all of the witnesses for your testimony today.

While the ongoing COVID-19 pandemic has exacerbated environmental justice concerns in communities across the country, as has been made clear through your testimony today, these concerns are not new. Generations of inequalities and injustices have placed a disproportionate environmental burden on our Black, brown, and indigenous communities. For decades, low-wealth communities and communities of color in Delaware have faced higher risks of cancer and respiratory diseases due to their proximity to facilities that produce harmful pollutants.

We need to expand all of our communities' access to information, and we need to better prepare our communities in the face of a toxic release. Earlier this year I reintroduced the Alert Act, which requires facilities that produce hazardous and toxic chemicals to engage directly with the communities where they are located and to ensure that residents have real-time knowledge of any toxic release.

My first question is for Dr. Hollis. The Alert Act requires facilities that process extremely hazardous substances to hold public meetings at least once a year. Do you support that requirement, and how can it promote environmental justice?

Dr. HOLLIS. I absolutely support it, Representative. Absolutely. And it can support environmental justice by letting communities speak for themselves, first and foremost, and giving them the opportunity that they already have, giving them that chance to be heard, and to provide input and guidance where needed.

Ms. BLUNT ROCHESTER. Thank you.

And Mr. Logan, first I want to thank you and the Moving Forward Network for your expertise and support that you provided

during the drafting of my Climate Action Planning for Ports Act. Something that you said was, "If you can't breathe, you can't work." And I think that needs to stay at the forefront of all of this. If you can't breathe, you can't work, you can't learn, as you said.

Why are climate action plans like the ones outlined in the Climate Action Planning for Ports Act so critical to advancing cleaner air in our near-port communities?

Mr. LOGAN. Well, thank you, Representative Blunt Rochester. You know, at the end of the day, what we are really doing here is problem-solving, right?

We have a crisis in our hand, our—and it has multiple issues that we are contending with. Specifically when we are thinking about ports, ports are complex facilities. They have many, many different types of operations and pieces of equipment.

So with the community leading the planning process to identify what the problems are, what the solutions are, and what the action items are, we are able to identify and work towards resolving those problems that we are contending with so that we can breathe, so that the workforce can go to work and still breathe when they get home and during their work hours. And so really, problem-solving is really important for the health and well-being of the local community.

And as we are trying to tackle the climate crisis, again, we need to have a living wage on a living planet. We can't ignore these extreme impacts to local communities and to the planet.

And so starting off with a community voice and a planning process is essential. And we know that, when we come together, we can really find the solutions to solve the problems that we are addressing.

Ms. BLUNT ROCHESTER. Thank you. I recently had an opportunity to meet with the folks from the Port of Wilmington in Delaware and hear about their efforts at electrification but at the same time maintaining the union jobs that they had. And it was a really good partnership. And my last question is for Ms. Yeampierre.

First of all, I want to thank you so much, not only for your professional testimony but for your personal testimony. And I think that that was really powerful to make this real for people.

One of the things that I noticed in doing this work is that major environmental groups lack representation from low-wealth communities or communities of color. And as a result, environmental justice priorities are often excluded from the discussion. How do we ensure that the environmental justice communities are represented and included in the decision making in major environmental groups?

Ms. YEAMPIERRE. Well, thank you for that question. I think that we need to start thinking about governance differently.

Climate change is going to disrupt governance, and we need to start thinking as—of communities as the brain trust of decision making, the folks that have the answers to complex questions, because they have been living in the midst of all of the isms.

Instead of being thought of as people whose problems we solve, they should be thought of as people who have the solutions and as added value. And I think that oftentimes Government always thinks that they are the recipients of their good intentions, instead

of—and expectations have to be managed. And the truth is that, in partnership, we can solve very complex, big problems. But we have to be in partnership with each other.

Ms. BLUNT ROCHESTER. Thank you so much.

And Mr. Chairman, I was very proud that our ports legislation was included in the CLEAN Future Act. And I thank you so much again for all of your leadership in saving our planet. I yield back.

Mr. TONKO. Well, you are most welcome, and thank you. And the gentlelady yields back.

I am very pleased to see that the representative from Florida, the gentleman from Florida, has returned, and we welcome him for 5 minutes of questioning.

Representative Soto?

Mr. SOTO. Thank you, Chairman.

Mr. TONKO. The floor is yours.

Mr. SOTO. Thank you, Chairman. We face a climate crisis that is an existential threat to the human race. Fossil fuels are destroying our Earth, and we are going to do something about it. Our American Jobs Plan and our CLEAN Future Act will finally upgrade our infrastructure, including creating national electric vehicle systems, boosting clean energy such as renewable energy and modular nuclear, and use natural gas as a bridge fuel.

On our march to carbon net-neutral by 2050, to my colleagues across the aisle, what is the plan? If it is just criticizing our plan, that is not possible, because the cost of inaction is too great. Nothing is not an option.

In my home State of Florida, we face rising seas. We face intensifying hurricanes. When—by 2050 we will face over 1,000 extremely hot days. This will condemn Floridians and other Sunbelt Americans to become climate refugees, and it will decimate our local tourism and agriculture industries.

We have been down this road before. We have seen it before, and we are going to work together. In our area of Florida we have seen over 12 billion pounds of toxic coal ash, with over 6.1 million tons being generated each year. There was a major issue of coal ash being accumulated by some of our local municipal utilities like OUC and KUA. I applaud them for stepping up by setting a timetable to shutter their coal plants by 2025, 2026, because they don't know where to put the coal ash anymore.

And we have seen issues with health in East Orange County. We have seen issues of storage in Osceola County, in central Florida. And on my family's native island of Puerto Rico, they even were trying to store some coal ash in central Florida, which, while we work with them on many things, was a huge issue, because where are you going to put all this coal ash at the end of the day?

With natural gas, with renewables, with nuclear, you don't have this byproduct issue. There are over 42 of these dangerous coal ash ponds, 33 of which are in unlined impoundments or landfills, leading to widespread groundwater contamination in the Sunshine State.

Mr. Chairman, I would like to enter into the record a letter from 13 groups supporting my colleague Rep. Cohen's Ensuring Safe Disposal of Coal Ash Act.

Mr. TONKO. It will be entered into a request at the end of the hearing, sir.

Mr. SOTO. Thank you. From the letter: "The Ensuring Safe Disposal of Coal Ash Act builds off the committee's CLEAN Future Act coal ash provisions, rectifying deficiencies in the 2015 coal ash rules, and directing EPA to strengthen the coal ash protections." We know coal ash is toxic, and it hurts both our brains and our nervous system, respiratory disease, cancer, and other developmental defects. And it would allow local communities to be more involved in the decision making.

Dr. Hollis, is banning the storage of toxic chemicals in unlined pits after they have been found to contaminate water supplies a proper step forward to protect the public?

Dr. HOLLIS. Yes.

Mr. SOTO. And the bill requires plant owners to provide financial assurances for cleanup costs in the event of hazardous spills or disasters.

Dr. Hollis, should facilities be required to financially plan for future cleanups that become even more likely as climate change worsens floods and storms?

Dr. HOLLIS. That is a great question, and it is sort of a tricky question. I don't want them to plan for cleanup. I want them to use the best available technology to prevent that from ever happening.

Mr. SOTO. Well, thank you so much. And we know that the Ensuring Safe Disposal of Coal Ash Act is a significant step forward to combat coal ash in the Sunshine State and around the Nation.

We are moving towards getting beyond coal, getting beyond oil, using gas, natural gas, as a bridge fuel, and boosting renewables. And that is what the American Jobs Plan is all about. That is what the CLEAN Future Act is all about. We will take action. We will help out all States, and we will provide jobs to communities in transition. Everyone can be lifted up if we think big and bold and we work together.

And I urge our colleagues across the aisle, let us not think of the past and what can bring us back, but let us look to the future, because I believe we as Americans can do everything, anything if we work together. We know that, President Biden has said that many times.

With that, Mr. Chairman, I yield back.

Mr. TONKO. The gentleman yields back, and I believe that completes the list of colleagues that chose to question our witnesses today.

So we thank everyone for their participation, and in particular our witnesses. And we thank you for joining us at today's hearing. Thank you for your input.

I remind Members that, pursuant to committee rules, they have 10 business days by which to submit additional questions for the record to be answered by our witnesses. And I would please ask that our witnesses respond promptly to any such questions that each might receive.

Before we adjourn, I have a list of documents here that have been requested to be entered into the record. So I request unanimous consent to enter the following documents into the record:

A statement from the Environmental Technology Council; a letter from the Solar Energy Industries Association; a policy platform from the Solar Energy Industries Association; a letter from 13 environmental organizations in favor of H.R. 2396, the Ensuring Safe Disposal of Coal Ash Act; a letter from the Association of Metropolitan Water Agencies and the National Association of Clean Water Agencies; a letter from the Wilderness Society in favor of H.R. 2021, the Environmental Justice for All Act, and H.R. 516, the Environmental Justice Mapping and Data Collection Act of 2021; a letter from Senators Duckworth, Wyden, Murphy, Blumenthal, Padilla, and Durbin in favor of H.R. 2021, the Environmental Justice for All Act; a 2016 report from the U.S. Commission on Civil Rights entitled "Examining the Environmental Protection Agency's Compliance and Enforcement of Title 6 and Executive Order 12,898"; a letter from Our Children's Trust; a letter from the Port of Long Beach; an article from Politico entitled "Biden's green energy plans clash with pledge to create union jobs"; an article from Bloomberg entitled "Secrecy and Abuse Claims Haunt China's Solar Factories in Xinjiang"; a dissenting statement of Commissioner Gail Heriot to the U.S. Commission on Civil Rights Report on Environmental Justice, examining the Environmental Protection Agency's compliance and enforcement of title 6 and Executive Order 12898; a letter from Georgia Ports; a letter from the Ground Water Protecting Council; a letter from the Independent Petroleum Association of America; a letter from the mayor of Petersburg, Indiana; an article from Politico entitled "The Wage Gap That Threatens Biden's Climate Plan"; a letter from the mayor of Gillette, Wyoming; a 2019 report from Ash at Work entitled "CCPs: Not Just for Concrete09Coal Ash Makes the Grade in Highway Construction"; a 2020 report from the Executive Office of the President, Council of Economic Advisors, entitled "The Impact of Opportunity Zones: An Initial Assessment"; a fact sheet from the American Coal Ash Association entitled "Coal Ash Regulation and Unencapsulated Beneficial Use"; a letter from the Alaska Community Action on Toxics; a letter from the Breast Cancer Prevention Partners; a letter from Black Millennials for Flint; a letter from Chesapeake Bay Foundation; a letter from Coming Clean; a letter from Creation Justice Ministries; a letter from Earthjustice; a letter from the Environmental Defense Fund; a document of support from 13 environmental justice organizations; a letter from the Moving Forward Network; a letter from the National Wildlife Federation; a letter from the Sierra Club; a letter from the Union of Concerned Scientists; a statement from the Western Environmental Law Center; a letter from the mayor of Hazard, Kentucky, to Representative Tonko; and a letter from the mayor of Hazard, Kentucky, to Representative McKinley.

And that list is, I believe, totally complete for today's hearing. And without objection—do I hear any objection?

VOICE. No.

Mr. TONKO. Without objection, so ordered.

[The information appears at the conclusion of the hearing.¹]
 Mr. TONKO. And with that, the hearing is adjourned.
 [Whereupon, at 1:28 p.m., the subcommittee was adjourned.]
 [Material submitted for inclusion in the record follows:]

¹The U.S. Commission on Civil Rights and Council on Economic Affairs reports, the dissenting statement, and the Our Children's Trust letter have been retained in committee files and are available at <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=111450>.



Environmental Technology Council

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April 15, 2021

The Honorable Paul Tonko
Committee Chairman
House Energy & Commerce
Subcommittee on Environment &
Climate Change
2125 Rayburn House Office
Building
Washington, DC 20515

The Honorable David B. McKinley
Ranking Member
House Energy & Commerce
Subcommittee on Environment &
Climate Change
2125 Rayburn House Office
Building
Washington, DC 20515

Statement for the Record

House Energy and Commerce Subcommittee on Environment and Climate Change Hearing – H.R. 1512 “Climate Leadership and Environmental Action for Our Nation’s Future Act”

Chairman Tonko, Ranking Member McKinley and Members of the Committee, the Environmental Technology Council (ETC) would like to express its appreciation for the opportunity to submit a statement for the record on H.R. 1512 the “Climate Leadership and Environmental Action for Our Nation’s Future Act”.

The ETC is the national trade association for the commercial hazardous waste management industry. ETC member companies provide technologies and services to customers for the safe and effective recycling, treatment, and secure disposal of hazardous wastes through high-temperature incineration and other advanced technologies. Our member companies must comply with the safety, security and environmental regulations of the Resource Conservation and Recovery Act (RCRA), the Department of Transportation, the Chemical Facilities Anti-Terrorism Standards program and the Risk Management Program, just to name a few. As part of their business practices ETC member companies are continuously engaging with the communities in which they operate and work with these communities to ensure that their facilities are operating in a responsible, safe and secure manner to protect against environmental injustices (EJ).

While ETC and its member companies understand and appreciate the importance of protecting communities of color, indigenous communities and low-income communities from environmental injustices we believe some of the sections set forth in H.R. 1512 would limit, and in some cases would completely eliminate, the ability of our

member companies to safely and securely treat and dispose of RCRA hazardous waste that has the potential, if not properly managed, to negatively impact low-income communities of color. Therefore, ETC is proposing the following changes to sections 606, 607, 608(a) 608(b) and 903:

Section 606 – Prohibits the granting of CAA permits for proposed major sources located in overburdened census tracts and, after January 1, 2025, prohibits the renewal of permits for proposed major sources located in overburdened census tracts. Section 606 defines “overburdened census tracts” as tracts that have a greater than 100 in 1 million (1×10^{-4}) total cancer risk or an annual mean concentration of $PM_{2.5}$ of greater than 8 microns per cubic meter.

ETC Recommendation – Prohibiting the issuance of a CAA permit, and especially denying renewal of an existing facility permit, will cost jobs and substantially harm businesses, especially because a facility that needs a permit renewal may not be the only, or even a significant, contributor of risk or emissions. Additional concerns include:

These CAA permit prohibitions would undercut a successful Title V permit program. Section 606 does not take into account the exorbitant cost associated with moving or building a new facility to replace one that does not get its permit renewed. There would be a significant carbon footprint and substantial waste generated during the building of a new facility particularly when an existing facility is adequately doing the job and meeting the requirements of its Title V permit.

Section 606 could have unintended negative impacts on other EJ communities. For example, denial of a CAA permit renewal for a RCRA-permitted disposal facility would mean that the waste would have to go elsewhere. It could potentially be dumped in EJ communities as opposed to being properly and safely disposed of at a CAA and RCRA regulated facility.

* * * * *

Section 607 – Prohibits EPA from authorizing a state to administer and enforce a hazardous waste program unless EPA determines that the state program does not create or exacerbate disproportionately high or adverse health or environmental effects on communities of color, indigenous communities, or low-income communities.

ETC Recommendations – RCRA directs EPA to authorize states to administer their own hazardous waste programs, provided the state program is consistent with and no less stringent than the Federal program. Withdrawal of EPA approval of an entire state program is a draconian penalty, and EPA does not have the resources and capability to administer the Federal program in multiple states. State programs have been able to adapt to specific local issues related to the types of industries and local environments.

Rather than prohibiting EPA from authorizing a state program, section 607 should direct EPA to ensure that states have “policies and procedures in place” to prevent the creation or exacerbation of adverse effects, and direct EPA to disapprove only those provisions of a state program that are creating or exacerbating adverse effects.

* * * * *

Section 608(a) – Requires that not later than 72 hours after a release the facility shall publish a notice in a local newspaper, with at least 24 hours notice, of a public meeting. The facility must provide information on the chemical(s), quantity, time and duration of release, known or anticipated health risks, etc., “to the extent such information is known at the time of the meeting and so long as no delay in responding to the emergency results.”

ETC Recommendation – Once the community has been notified of the release, the facility should have 30 days to complete its investigation. This time frame will allow for a thorough investigation that will allow the facility to provide accurate information to the public regarding the release. This will decrease the possibility of incomplete information being given to the community.

* * * * *

Section 608(b) – Adds a new section 306 to EPCRA that requires facilities to hold an annual meeting at which they inform the community of the name of each chemical present that is on EPA’s hazardous substances list, the amount that is in excess of the threshold planning quantity at any time in the preceding year, an estimate of the maximum amount of each chemical present at such facility during the preceding year, and the methods and procedures to be followed in the event of a release of such chemical.

ETC Recommendation – The addition of section 608 (b) is unnecessary as it is redundant with existing Tier II reporting requirements under the EPCRA. Additionally, the section fails to take into account protection of confidential business information or the listed information getting in to the wrong hands.

* * * * *

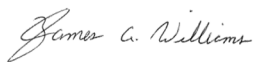
Section 903 – Requires that any proposed permit under the Clean Air Act (CAA) be accompanied by an EJ assessment of the direct and disparate economic, environmental and public health impacts on frontline communities with proposed changes to the proposed permit that would eliminate or mitigate those impacts to the maximum extent practicable.

ETC Recommendations – As written it is not clear how the EJ assessment relates to the permitting process. Under the CAA, EPA or a state with delegated authority is

responsible for preparing the draft permit for public comment. Section 903 directs that the proposed permit should be “accompanied” by the EJ assessment, but it is not clear whether the state permitting authority, or EPA, should prepare the EJ assessment. The EJ assessment must include proposed changes to the proposed permit that would mitigate adverse impacts, but it is not clear whether the proposed permit itself or just the EJ assessment would include those provisions for public comment. Section 903 further directs that public meetings be held prior to the beginning of the public comment period on the proposed permit, but it is not clear why a separate public hearing on the EJ assessment is advisable rather than a hearing as part of the public comment period on the proposed permit. In order to avoid two sets of hearings on the EJ assessment and the proposed permit with the added burden to both the facility and the affected community, we recommend that section 903 better integrate the EJ assessment into the permit process and be limited to direct impacts caused by a facility’s operations and not tangential ones.

In closing, ETC and its member companies would like to thank the Chairman and Ranking Member for allowing us to submit a statement for the record on this important hearing and we look forward to working with the Committee as the process moves forward.

Sincerely,

A handwritten signature in cursive script that reads "James A. Williams".

James A. Williams, II
Vice President of Government Affairs

April 2021



Congressman Frank Pallone
Chairman, House Energy & Commerce
Committee
2107 Rayburn HOB
Washington, DC 20515

Congresswoman Cathy McMorris Rodgers
Ranking Member, House Energy &
Commerce Committee
1035 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Pallone and Ranking Member McMorris Rodgers,

The Solar Energy Industries Association (SEIA) submits this letter in support of your Committee's Environment and Climate Change Subcommittee hearing "The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities." SEIA applauds the Committee for holding this critical hearing. Any new economic or infrastructure agenda must, at its foundation, take into consideration the impact of these investments on vulnerable and historically underserved communities. SEIA stands ready to work with Congress in crafting policy that integrates these values.

Founded in 1974, [SEIA is the national trade association](#) for the solar and solar + storage industry, building a comprehensive vision for the Solar+ Decade through research, education and advocacy. To support our core values of diversity, equity, inclusion and justice, we have developed a policy platform to advocate for clean energy policies at all levels of government that achieve environmental justice objectives and increase equitable access to solar energy.

As an industry that deploys clean, reliable, affordable electricity, SEIA recognizes the critical role for environmental justice in infrastructure policy discussions, and the need for climate solutions to take into account the disproportionate impacts felt by frontline communities. To that end, we have developed with our board the attached Solar Industry Policy Principles on Environmental Justice and Equity, which I am pleased to share with you today.

The solar industry stands ready to support the Committee to advance these principles. Thank you for your leadership on this critical issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Abigail Ross Hopper".

Abigail Ross Hopper
President & CEO
Solar Energy Industries Association

April 13, 2021



Solar Industry Policy Principles on Environmental Justice & Equity

About SEIA

Founded in 1974, [SEIA is a national trade association](#) building a comprehensive vision for the Solar+ Decade through research, education and advocacy. To support our core values of diversity, equity, inclusion and justice, we have developed a policy platform to advocate for clean energy policies at all levels of government that achieve environmental justice objectives and increase equitable access to solar energy.

Introduction

Public policy and government action, whether at the local, state, or federal level, will be critical to tackling the climate crisis and building a clean energy future in America. As an industry that deploys clean, reliable, affordable electricity, SEIA recognizes the critical role for environmental justice in these policy discussions, and the need for climate solutions to take into account the disproportionate impacts felt by frontline communities.

The transition to a clean energy economy must be centered around justice and equity for all Americans and support communities that have historically been left behind by environmental policies. But we can only achieve this just and equitable transition through intentional advocacy that prioritizes environmental justice and creates regenerative, sustainable economic wealth in local communities.

To this end, we have developed principles for advocacy and a policy platform that SEIA and our members will follow as we work with elected officials and other stakeholders to create the equitable energy future we so badly need.

Foundations for the Clean Energy Industry's Advocacy

In our community engagement and advocacy, the solar industry will draw on the [Principles of Environmental Justice](#) developed by the First National People of Color Environmental Leadership Summit held on October 24-27, 1991. The core values of mutual respect, informed consent, self-determination, workers' rights, and decision-making equality will be foundational to our work. In addition to these principles, the industry will focus on the following areas:

- **ENGAGEMENT**
 - SEIA and our members will conduct consistent and meaningful engagement with environmental justice advocates and organizations that represent frontline and fenceline communities

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- **COMMUNICATION**
 - SEIA will communicate regularly with our members and other companies in the clean energy industry about environmental justice priorities and opportunities to engage
- **RESPONSIBILITY**
 - SEIA and the industry will not rely on government intervention or policy mandates to take proactive steps that leverage our resources and power to support communities that have been left behind
- **MEASUREMENT**
 - SEIA will analyze the efficacy and reach of the policies that we advocate for, and share results with policymakers to inform future success

Policy Platform to Advance Environmental Justice & Equity

- **Providing career pathways to underserved communities**
 - The solar industry is committed to providing high-quality jobs that support American families. With many tens of thousands of jobs projected to be created by the growth of solar over the next decade, the industry must create opportunities within our workforce for people of diverse backgrounds, those in marginalized communities, workers in the fossil fuel industry, formerly incarcerated individuals, and returning service members. The solar industry supports well-paying jobs across the country, and according to a recent E2 study, solar wages are 28% higher than the national median.
 - Government programs that fund skills training, apprenticeship programs, placement services and other workforce development initiatives in underserved, low-income, frontline and transitioning communities can help facilitate these career pathways. It is critical that these programs are informed by current and projected demand for clean energy trades and job positions to develop talent pipelines that can accelerate the industry's growth and ensure lasting careers.
 - There are many solutions available to support workforce development and provide career pathways for clean energy, and all of these tools should be considered to expand job opportunities and ensure underserved communities have access to enter the workforce. Unions and organized labor, flexibility in job classification, prevailing wage policy, increased community college training programs, additional public funding for training and workforce development all have a role to play. When designing workforce development programs and initiatives, it's important to avoid creating barriers to entry that are difficult for those looking for careers to overcome.
 - Workforce development is a local process that requires localized solutions, and active participation by employers and industry stakeholders. Federal

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and state funding for workforce development should seek to provide resources and flexibility to local institutions and be targeted towards clean energy careers.

- The government can also play a role in supporting entrepreneurs and fledgling businesses through incubators and other efforts designed to help small businesses enter and grow in the clean energy industry. These incubators should prioritize diversity and ensure that entrepreneurs of all backgrounds have access to startup capital and mentorship for establishing their business in the marketplace.

- **Utilizing solar to expand access to low-cost clean energy**

- Community solar is a powerful tool to provide solar benefits to those without easy access to the property or upfront capital needed to install a solar system. Many states have implemented community solar programs, but getting beyond the pilot stage and ensuring that these programs are designed to reach underserved communities is critical.
- In addition, onsite solar creates a pathway for historically disadvantaged communities to reduce monthly energy costs and maintain homeownership, which is critical to building generational wealth. Programs that target these communities to provide incentives for installing rooftop solar systems can provide long-term financial stability and community wealth. Furthermore, increased rooftop solar adoption can reduce overall electricity costs for all ratepayers, and help accelerate the retirement of fossil fuel generation facilities, providing environmental and economic benefits to underserved communities.
- Net metering (NEM), virtual net metering (VNEM) and other electricity rate design measures that compensate residential solar customers for the energy and other benefits they provide to the grid are essential for expanding access to low-income communities.
- The Low Income Home Energy Assistance Program (LIHEAP) and Weatherization Assistance Program (WAP) have historically been useful policy vehicles for supporting underserved communities, but they are a missed opportunity when it comes to creating lasting generational wealth and advancing environmental justice priorities. These programs should be reformed to allow funds to be used to install distributed energy resources such as rooftop solar and energy storage, which can lower utility bills while enhancing property value and reducing overall electricity demand.
- Governance of these programs must involve community experts to ensure that equitable distribution of benefits is achieved. Installers and industry players who help implement these programs must be screened and vetted to ensure clarity of intent. Where possible, programs should include local hiring provisions for installers to create positive workforce outcomes in addition to energy access benefits.

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- SEIA and the solar industry are committed to increased consumer protection. For solar to realize its full potential as an American economic engine, and provide Americans with competitive power choices, customers must fully understand solar transactions. SEIA has developed model contracts and other standardized information for solar customers to ensure transparency and education for potential customers.
- **Leveraging government procurement and infrastructure to create economic opportunity for low-income communities**
 - Federal, state and local governments have significant purchasing power when it comes to energy, and should use this tool to invest in renewable energy projects that benefit local communities, passing savings on to the communities they serve.
 - In addition, public buildings and other infrastructure can provide low-cost opportunities to install community solar projects or other clean energy investments that directly support frontline communities. Public multi-family housing developments, libraries and other municipal buildings, and public schools should all leverage their rooftops, land and other resources to provide affordable, clean solar energy to be used either onsite or offsite.
 - Clean energy goals should be aligned with energy security and energy burden challenges, and public initiatives to address the affordable housing crisis must contemplate the energy aspects of these goals.
- **Tax policies and programs that remove barriers to access financing for rooftop solar**
 - The federal solar investment tax credit and other state-level tax incentives often require the customer to have significant tax liability to take full advantage of the incentive. Creating refundable options for residential solar tax credits would help increase their effectiveness with lower-income communities and increase solar deployment in these underserved areas. Providing a refundable option for clean energy tax credits should go hand in hand with community engagement and funding for outreach campaigns to ensure that these financing mechanisms are adopted by their target audience - those in lower income brackets without the tax appetite to monetize a tax credit for installing solar.
 - Targeted credit enhancement and access expansion programs can help to provide communities that have been left behind with financial tools to install solar energy and make efficiency upgrades. Financing programs should directly target non-profits, governments, tribal lands and other entities without a tax base to take advantage of the ITC.
 - In addition to tax incentives, third-party ownership models can help expand access to lower-income families and small businesses. Leases and third-party ownership should be available nationwide to allow customers to take advantage of the benefits of rooftop solar without being required to

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take on new financial liability. As these financing models are developed and promoted, they must be presented with full transparency and clarity to ensure that customers in all communities are able to make informed decisions.

- **Climate resilience and disaster preparedness programs that include onsite solar, storage, other electricity resilience measures**
 - As climate-related weather events increase in scale and frequency, energy resilience and reliability becomes even more critical. After the devastation caused by Hurricane Maria in Puerto Rico, many solar companies reacted quickly to deploy onsite solar and solar + storage systems, enhancing energy autonomy and resilience for residents on the island that were impacted by the storm. As governments develop climate resilience plans, solar and energy storage should be a key component of creating energy security in the wake of natural disasters. Deploying onsite solar and energy storage capacity for critical infrastructure, including hospitals, is a key contributor to building local climate resilience in underserved communities and can raise awareness about the benefits of clean energy more broadly.
 - Climate-related events are already having severe and often devastating effects on low-income and underserved communities. Evacuations, property damage and other impacts from natural disasters are disproportionately harmful for these communities. Increased solar deployment can help mitigate future climate events by lowering carbon emissions, and locally-sited energy generation increases resilience and reliability for local populations. In responding to natural disasters, governments should prioritize lower-income and frontline communities for resilience centers and increase funding for repairs, restoration and relocation for these communities.
 - Due to restrictions within the Stafford Act, federal funding to rebuild communities after natural disasters is currently underutilized when it comes to installing next generation technologies that increase community resilience to weather events and mitigate climate change. Rebuilding infrastructure in the wake of harmful weather events should be done using technology solutions like solar and energy storage that help prevent and adapt to future climate-related disasters.
- **Siting and permitting processes for large-scale renewable energy projects that are conducted in consultation with impacted communities**
 - Project siting must involve consultation from fenceline communities and relevant tribal governments, and permitting must balance responsible community engagement with the need to rapidly increase renewable energy deployment.

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- While large solar projects and other renewable energy development do not have the same harmful pollution or environmental impacts on local communities as traditional energy generation, the construction and maintenance of these projects still impact local populations and landowners.
- Solar projects also provide significant economic benefits for the fenceline communities in which they are sited, including generating tax revenue for local governments, creating direct and indirect jobs, and [increasing local property values](#). State and local governments should fund research that demonstrates the positive local impacts of renewable energy development to ensure communities have access to information about available benefits. Publicly funded studies will help to ensure that climate mitigation strategies can successfully address historic inequities
- Where possible, clean energy growth should take advantage of aging fossil fuel infrastructure by replacing or reclaiming decommissioned facilities with clean energy projects. It's critical that financial support for remediation is made available before the project development phase for reclaiming brownfields or other decommissioned sites begins. To effectively incentivize solar deployment on brownfields and reclaimed land, clear and transparent liability measures must be in place that do not place undue burdens on solar developers.
- The U.S. Department of Interior and Bureau of Land Management should play a more active role in facilitating consultation with tribes and indigenous populations. Under-resourced and understaffed tribes need support from government entities to ensure they have an opportunity to weigh in meaningfully on siting decisions.
- **Clean energy curricula for K-12, trade/technical/vocational schools, community colleges, and higher education, with an emphasis on HBCUs, tribal colleges and other minority-serving institutions**
 - Enhancing public education around solar and clean energy, and the technologies, markets, and policies that drive these industries, can help build a strong career pipeline, as well as a wider customer base of informed energy citizens. Focusing this education on historically-black colleges and universities, tribal colleges and other minority institutions will ensure that the next generation of solar workers and customers represents the diversity of the nation. State and federal curriculum development that includes dedicated courses on energy systems, as well as incorporating more specific energy content into STEM learning, will help build a foundation for this important growth.
 - Additionally, because many good-paying solar jobs with opportunities for advancement do not require a 4-year degree, solar is uniquely positioned

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to work with technical and trade schools to develop a pipeline of qualified graduates.

- The solar industry is not often seen as a traditional career trajectory for those students studying fields such as finance and investment, which is a key component of the solar supply chain. Conveying to institutions and students that they can take a non-traditional, high potential role in a growing sector should be a key effort looking beyond installation/construction roles.
- **Fostering environmental justice expertise in agencies with jurisdiction over energy, climate and environmental policy**
 - Federal agencies such as EPA, the Departments of Energy and Interior, and similar state agencies, should employ experts in environmental justice in positions of leadership to ensure these considerations are built into decision making.
 - At the state and local level, energy offices and other responsible entities should be reformed to ensure that funding for increased clean energy deployment in low-income communities is implemented in a collaborative manner with communities and that the programs achieve their desired outcome. Regulatory bodies that oversee electric utilities and customer ratemaking should strive for maximum transparency and allow for local grassroots participation.
 - The solar industry supports equitable and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

Acknowledgments

This platform benefitted from the input and engagement stakeholders including:

- 100% Network
- Clean Energy States Alliance
- Data For Progress
- Greenpeace
- GRID Alternatives
- Interstate Renewable Energy Council
- National Association for the Advancement of Colored People
- National Renewable Energy Laboratory
- Vote Solar

April 13, 2021



Glossary of Terms

Diversity

Diversity is the range of human differences, including but not limited to race, ethnicity, gender, gender identity, sexual orientation, age, social class, physical ability or attributes, religious or ethical values system, national origin, and political beliefs.

Equality

Equality means each individual or group of people is given the same resources or opportunities.

Equity

Equity recognizes that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.

Inclusion

Inclusion refers to the behaviors and social norms that ensure people feel welcome.

Environmental Justice

Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

Frontline Communities

Frontline communities are those that experience “first and worst” the consequences of climate change. These are communities of color and low-income, whose neighborhoods often lack basic infrastructure to support them and who will be increasingly vulnerable as our climate deteriorates. These are Native communities, whose resources have been exploited, and laborers whose daily work or living environments are polluted or toxic.

Fenceline Communities

A fenceline community is a neighborhood that is immediately adjacent to a company and is directly affected by the noise, odors, chemical emissions, traffic, parking, and operations of the company.

Transitioning Communities

Local communities proactively preparing for an oil-scarce future in a warming world by reducing their dependence on fossil fuels and helping mitigate climate change by re-localizing, shifting production closer to home and creating functioning communities with the idea that strong neighborhood networks will help towns to weather future energy shocks. Transition towns address the issues of peak oil, climate change and economic instability by creating a strong, connected, self-sufficient community.

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*Informed Consent*

Informed consent is a process for getting permission before conducting an activity that directly impacts that person.

Self-Determination

This term refers to each person's ability to make choices and manage their own life. This ability plays an important role in psychological health and well-being. Self-determination allows people to feel that they have control over their choices and lives.

Generational Wealth

Generational wealth refers to any kind of asset that families pass down to their children or grandchildren, whether in the form of cash, investment funds, stocks and bonds, properties or even entire companies.

Underserved Communities

Refers to populations which are disadvantaged because of ability to pay, ability to access services, or other disparities for reasons of race, religion, language group or social status.

Low-Income Communities

A Low-Income Community (LIC) is defined by the U.S. Department of the Treasury as a census tract with a poverty rate of at least 20 percent or a median family income 80 percent or less than the area it is benchmarked against (metropolitan area for metropolitan tracts, state for rural tracts).

HBCUs

HBCU stands for Historically Black Colleges and Universities. This is a college or university that was originally founded to educate students of African American descent.

Minority-serving institutions

MSIs are institutions of higher education that serve minority populations. They are unique both in their missions and in their day-to-day operations. MSI's include Historically Black Colleges and Universities (HBCUs), Hispanic-Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs), and Asian American and Pacific Islander Serving Institutions (AAPISIs).

Regenerative Wealth or Regenerative Capital

These terms encompass eight elements:

1. Right Relationship: It holds the continuation of life sacred and recognizes that the economy is embedded in human culture and the ecosphere.
2. Entrepreneurialism: A Regenerative Economy draws on the innate ability of human beings to innovate and "create anew" across all sectors of society.

April 13, 2021



3. **Wealth Viewed Holistically:** True wealth is defined in terms of the well-being of the “whole,” achieved through the enhancement and harmonization of the multiple forms of capital—social, ecological, manufactured, and financial.
4. **Shared Prosperity:** Wealth is equitably (although not necessarily equally) distributed in the context of an expanded view of true wealth.
5. **Real Economy Circularity:** Ultimately solar powered, the economy strives continually to minimize energy, material, and resource throughput radically at all phases of the production cycle. Products are remanufactured, recycled and composted, with natural outputs safely composted to the biological world, while minerals and human made substances return to the industrial cycle.
6. **“Edge Effect” Abundance:** Creative, diverse collaborations increase the possibility of value-adding wealth creation through relationship, exchanges, and resiliency.
7. **Resiliency:** The whole system develops the long run ability to adapt and learn from shocks; adaptability to change is valued over current brittle concentrations of power and hyper-efficiency.
8. **Honors Place:** A Regenerative Economy operates to nurture healthy, stable communities and bioregions, both real and virtual, in a connected mosaic of place-centered economies.



April 14, 2021

The Honorable Frank Pallone, Jr.
Chairman
Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman Pallone and Ranking Member McMorris Rodgers:

We write in support of the *Ensuring Safe Disposal of Coal Ash Act* (H.R. 2396), introduced by Representative Steve Cohen. Given the repeated rulemakings in less than three years attempting to gut the only safeguards in place against the harms of coal ash – the second largest industrial waste stream in the United States, we urge committee members to support and advance this legislation as soon as possible.

The *Ensuring Safe Disposal of Coal Ash Act* builds off of the committee's CLEAN Future Act coal ash provisions, rectifying deficiencies in the 2015 Coal Ash Rule (CCR Rule) and directing the EPA to strengthen coal ash protections. Coal ash is the toxic waste left when power plants burn coal to generate electricity. Filled with dangerous pollutants, coal ash is directly linked to devastating harms such as cancer, brain swelling, nervous system damage, respiratory disease, and developmental defects.

Ignoring these impacts, the coal power industry has for decades utilized the cheapest disposal methods with little regard to the enormous public health and environmental risks. Utilities often dump their toxic waste into unlined ponds, allowing pollutants from coal ash to freely leach into drinking water sources. Coal plants generate about 100 million tons of coal ash each year, and environmental justice communities, low-income communities, communities of color, and tribal and indigenous communities experience disproportionate levels of exposure to coal ash pollution. They are more susceptible to inhalation of airborne ash and ingestion of drinking water polluted by coal ash toxins.

To address these issues, the bill requires new limits on fugitive dust emissions, prohibits the continued use of unlined impoundments, requires improvements to groundwater monitoring and testing, and strengthens minimum requirements for EPA-approved state coal ash programs. It further requires plant owners to provide financial assurance for cleanup costs in the event of hazardous spills or disasters, with the latter occurring much more frequently due to climate change. In addition, the bill requires

regulation of the many coal ash ponds and landfills at closed power plants, as well as old dumps at operating plants, and prohibits the use of coal ash as a substitute for clean soil at building sites without essential safeguards.

Notably, the bill would give communities more influence over the decision-making processes for permits and other projects that directly impact their health and surrounding environment. It requires EPA to establish meaningful public participation requirements and directs corrective action as needed to protect public health and the environment.

The *Ensuring Safe Disposal of Coal Ash Act* is a significant step forward to combat coal ash contamination in our air and water, to ensure polluters are held accountable for cleanup costs, and to empower and protect communities most vulnerable to coal ash harms by necessarily including them in the decision-making to clean up contamination at these sites that directly impact their lives.

We urge you to support this legislation. Thank you for your attention.

Sincerely,

Christine Santillana
Earthjustice

Jennifer Peters
Clean Water Action

Victor Alvarado
Comité Diálogo Ambiental

Lisa Hallowell
Environmental Integrity Project

Jeffrey Hammons
Environmental Law & Policy Center

Tim Maloney
Hoosier Environmental Council

Patricia Schuba
Labadie Environmental Organization

Madeleine Foote
League of Conservation Voters

Julia Mignucci
Mayagüezanos por la Salud y el Ambiente

Andrew Rehn
Prairie Rivers Network

Dalal Aboulhosn
Sierra Club

Nat Mund
Southern Environmental Law Center

Bart Mihailovich
Waterkeeper Alliance



April 15, 2021

The Honorable Paul Tonko
Chairman
Subcommittee on Environment and
Climate Change
U.S. House of Representatives
Washington, DC 20515

The Honorable David McKinley
Ranking Member
Subcommittee on Environment and
Climate Change
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tonko and Ranking Member McKinley:

The Association of Metropolitan Water Agencies (AMWA) and the National Association of Clean Water Agencies (NACWA) appreciate the opportunity to jointly submit comments for the record of today's hearing entitled "The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities." Together our organizations represent a wide range of publicly owned drinking water and wastewater systems across the United States, and we greatly appreciate that Congress has demonstrated growing interest in turning its attention to reauthorizing a number of critical drinking water infrastructure assistance programs.

Last month, AMWA wrote to this subcommittee as it held a hearing on the "LIFT America Act," legislation that includes a number of drinking water policy provisions similar to those in the CLEAN Future Act. These include reauthorizing the Drinking Water State Revolving Fund and funding for initiatives to support lead service line replacements and PFAS remediation activities. AMWA made a number of constructive suggestions relating to the LIFT America Act language that are also applicable to the CLEAN Future Act, such as ensuring that any funding for lead service line replacements do not require community water systems to use ratepayer dollars to subsidize the replacement of privately-owned lines, and enabling the use of PFAS remediation grant funding to be used to implement PFAS remediation technology that is actually available today.

AMWA also notes that like the LIFT America Act, the CLEAN Future Act bypasses an opportunity to reauthorize and expand the Drinking Water System Infrastructure Resilience and Sustainability Program – EPA's only authorized initiative focused on helping drinking water systems adapt their infrastructure to withstand natural hazards associated with global climate change. That omission should be rectified as the subcommittee works to create a truly comprehensive piece of climate and infrastructure legislation.

However, AMWA and NACWA are writing jointly today to ask the subcommittee to work with us to develop a workable and effective solution to one increasingly important challenge: water and wastewater affordability for low-income households. While the federal government has long maintained programs to help low-income individuals access essentials like food and home energy, drinking water and wastewater service has never been subject to similarly dedicated federal aid, even though water is just as essential to life as are these other needs. We therefore believe that a permanent low-income water and wastewater customer assistance program should be incorporated into the federal safety net.

The Honorable Paul Tonko
 The Honorable David McKinley
 April 15, 2021
 Page 2 of 2

Many drinking water and wastewater utilities currently operate their own local-level ratepayer assistance programs, but adequately funding these efforts is often a challenge because many states prohibit public utilities from using ratepayer revenues to subsidize the rates of other customers. As a result, utilities must find other sources of funds to support their assistance programs, but these sources – like fundraising initiatives or leasing space on utility assets like water towers – are limited.

Critical to sustaining and expanding low-income water and ratepayer assistance is a robust federal investment. Fortunately, Congress recognized this as a particularly acute need in the context of the economic fallout of the COVID-19 pandemic. This led to the creation in December of a \$638 million Low-Income Household Water Assistance Program (LIHWAP) led by the Department of Health and Human Services (HHS), which was subsequently supplemented by an additional \$500 million in the American Rescue Plan Act.

We believe this \$1.1 billion investment is a strong start, and we look forward to HHS acting soon to stand up the program. But even after the COVID-19 pandemic fades into history, uninterrupted access to affordable, clean, and safe water will remain essential to America's public health and sanitation systems. That is why AMWA and NACWA urge Congress to make a LIHWAP-like program a permanent and reliable feature of the federal government's water policy and social safety net. We are eager to work with you to incorporate this concept into the CLEAN Future Act or another appropriate legislative vehicle.

Thank you again for working to improve the nation's water infrastructure. We look forward to working with you to achieve this objective.

Sincerely,



Diane VanDe Hei
 Chief Executive Officer
 Association of Metropolitan Water Agencies



Adam Krantz
 Chief Executive Officer
 National Association of Clean Water Agencies

cc: Environment and Climate Change Subcommittee members



April 15, 2021

The Honorable Paul Tonko
Subcommittee Chairman
Committee on Energy and Commerce
Subcommittee on Environment & Climate
Change
U.S. House of Representatives
Washington, DC 20510

The Honorable David McKinley
Ranking Subcommittee Member
Committee on Energy and Commerce
Subcommittee on Environment & Climate
Change
U.S. House of Representatives
Washington, DC 20510

Dear Chairman Tonko, Ranking Member McKinley, and all Members of the Subcommittee on Environment and Climate Change of the Committee on Energy and Commerce:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to share our views on, and enthusiastic support for, two bills being heard before the Subcommittee on Environment and Climate Change of the Committee on Energy and Commerce on April 15, 2021, H.R. 2021, the Environmental Justice for All Act and H.R. 516, Environmental Justice Mapping and Data Collection Act of 2021.

H.R. 2021, Environmental Justice for All Act

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 towards 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. 2021 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 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 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.

H.R. 516, Environmental Justice Mapping and Data Collection Act of 2021

Introduced in January, this bill would take ground-breaking steps toward identifying and connecting environmental justice communities with policy outcomes. Supported by a broad coalition of over 70 grassroots environmental organizations and 40 leading environmental justice scholars, this legislation aims to create and authorize funding for a system to identify the demographic factors, environmental burdens, socioeconomic conditions and public health concerns that are related to environmental justice and collect data through community engagement and a government-wide interagency process, including the EPA, Commerce, HHS, DOI, USDA, HUD, DOE, DOT and others in consultation with an advisory council of relevant stakeholders. This data would be used to build an interactive layered mapping tool depicting which communities experience environmental injustices.

This interagency supported tool will be essential in following through on the Biden-Harris Administration's commitment to direct at least 40% of funding for a clean and climate-safe future into communities burdened by environmental injustices. TWS supports this evidence-based method for identifying communities overburdened by environmental injustices and likewise agrees with the need to prioritize directing funding for a clean energy and climate-safe future towards these communities. For these reasons, TWS supports the Environmental Justice Mapping and Data Collection Act of 2021 and urges all Members of the Committee to support H.R. 516

Thank you for considering our views.

Sincerely,

Dan Hartinger
Director, Government Relations
The Wilderness Society

United States Senate
WASHINGTON, DC 20510

April 14th, 2021

The Honorable Frank Pallone
Chairman
House Committee on Energy and
Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
House Committee on Energy and
Commerce
2322 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone and Ranking Member McMorris Rodgers:

We deeply appreciate the House Committee on Energy and Commerce's inclusion of H.R. 2021 the Environmental Justice for All Act in the legislative hearing on Thursday, April 15, 2021 entitled, "The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities." In light of President Biden's commitment to furthering environmental justice, we are writing in support of the Environmental Justice for All Act.

The Environmental Justice for All Act is comprehensive legislation focused on achieving health equity and climate justice for all, particularly underserved communities and communities of color that have long been disproportionately harmed by environmental injustices and toxic pollutants. This bill builds on existing provisions such as the Civil Rights Act of 1964 as well as the Clinton Administration's Environmental Justice Executive Order, while also pushing for new measures such as including the consideration of cumulative impacts and establishing environmental justice grant programs.

In order for our Nation to emerge from this deadly pandemic stronger than we were before, we must confront the fact that communities of color face public health challenges—which also make them more susceptible to the effects of the deadly COVID-19 virus—at alarming rates while too many in power look the other way. This comprehensive approach to environmental justice is what makes this bill essential legislation. We thank you in advance for considering the Environmental Justice for All Act, and your help in getting H.R. 2021, and its Senate companion, S. 872, to President Biden's desk.

Sincerely,



Tammy Duckworth
United States Senator



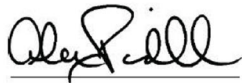
Ron Wyden
United States Senator

Handwritten signature of Jeffrey A. Merkley in blue ink.

Jeffrey A. Merkley
United States Senator

Handwritten signature of Richard Blumenthal in blue ink.

Richard Blumenthal
United States Senator

Handwritten signature of Alex Padilla in blue ink.

Alex Padilla
United States Senator

Handwritten signature of Richard J. Durbin in blue ink.

Richard J. Durbin
United States Senator



April 14, 2021

The Honorable Frank Pallone, Jr.
Chair, Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

RE: Support – CLEAN Future Act

Dear Chairman Pallone:

The Port of Long Beach is proud to support the Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act. In particular, we strongly support efforts to reduce emissions at ports and to provide grants for ports and their business partners to purchase zero emission equipment and vehicles.

The Port of Long Beach is the premier U.S. gateway for trans-Pacific trade and a trailblazer in innovative goods movement, safety, environmental stewardship and sustainability. As the second-busiest container seaport in the United States, the Port handles trade valued at \$200 billion annually and supports 2.6 million jobs across the nation, more than 575,000 in Southern California, and more than 50,000 jobs – or 1 in 5 – in Long Beach. In 2020, in spite of the pandemic, the Port of Long Beach moved over 8 million twenty-foot equivalent units, also known as containers.

The San Pedro Bay Ports Clean Air Action Plan (CAAP), approved by the Port of Long Beach and Port of Los Angeles (Ports), is a model for sustainable goods movement around the world. Originally adopted in 2006, the plan's programs have reduced diesel particulate matter by 88%, sulfur oxides by 97%, nitrogen oxides by 58%, and greenhouse gas emissions by 19%. In 2017, the San Pedro Bay Ports, which together move 40% of the waterborne goods in the United States, jointly updated the CAAP. The update contains ambitious goals of zero emissions cargo handling by 2030 and zero emissions drayage truck fleet by 2035 with an estimated cost between \$12.6 billion and \$14 billion for demonstration, infrastructure and equipment.

The Port shares your commitment to addressing climate change, clean transportation and energy resiliency and we remain committed to reducing air quality impacts associated with goods movement. We look forward to working with your staff to collaborate and provide any support you may need from our subject matter experts. If you have any questions or if we may be of any assistance, please do not hesitate to contact Eleanor Torres, Director of Government Relations, at 562-756-8383 or eleanor.torres@polb.com.

Sincerely,

Mario Cordero
Executive Director



EMPLOYMENT & IMMIGRATION

Biden's green energy plans clash with pledge to create union jobs

Labor groups are cautioning that the president's plan to hitch the jobs recovery to massive green energy investment could backfire.



The blades of wind turbines catch the breeze at the Saddleback Ridge wind farm in Carthage, Maine, on March 19, 2019. The Biden plan would require the construction of vast numbers of solar, wind and battery projects, along with potentially new pipelines for carbon dioxide and hydrogen.

By REBECCA RAINEY and ERIC WOLFF
04/02/2021 06:55 PM EDT



President Joe Biden touted his \$2 trillion infrastructure plan as a "once-in-a-generation" effort to tackle climate change while creating millions of "good

paying jobs." Some unions warn that it may ultimately cost a lot of jobs, too.

Labor groups, echoed by Republicans in Congress, are cautioning that Biden's plan to hitch the jobs recovery to massive green energy investment could backfire because of the quality of employment it will create and the economic devastation it could cause on rural communities.

The president's push to decarbonize the economy will mean eliminating the kind of steady, fixed-location jobs that come with coal mines or fossil fuel power plants. The Biden plan would require the construction of vast numbers of solar, wind and battery projects, along with potentially new pipelines for carbon dioxide and hydrogen. But construction jobs are temporary and require mobility, and once those projects are complete, they'll need few workers to maintain them and keep them operating.

"The jobs that he talked about yesterday were construction jobs," said Phil Smith, a spokesman for the United Mine Workers of America, a day after the Biden speech. "We're not seeing anything concrete that our members can look at and say, 'OK, that's where I'm gonna fit in.'"

The complaints underscore the difficulty Biden will have in pursuing his two most ambitious goals: reviving the labor market by generating millions of jobs for unions — which traditionally thrive in old-line industries — and transforming the U.S. into a clean economy where electric vehicles and battery storage replace coal, natural gas and oil as energy sources.

Environmentalists defend the plan as a necessary move away from old technologies to battle climate change. And others say Biden's plan does include tax incentives for manufacturing and a vision for developing a supply chain that could provide the kind of blue-collar, high-skill jobs that used to be in power plants.



ENERGY & ENVIRONMENT

Biden squeezed between promises to go green and bolster unions

BY ERIC WOLFF AND REBECCA RAINEY

“My American Jobs Plan will put hundreds of thousands of people to work ... paying the same exact rate that a union man or woman would get,” Biden said from a union hall in Pittsburgh on Wednesday when announcing his proposal. “It also works to level the playing field, empower workers and ensure that the new jobs are good jobs that you can raise a family on, and ensure free and fair choice to organize and bargain collectively.”

While unions are strongly supportive of the administration's pro-labor stance, they worry that the end-goal — if not executed properly — could have devastating effects on their members.

“From our perspective, if the jobs aren't there when the mine closes, this plan fails,” Smith said. “There's a very large disconnect between what the aspirations are here and what's going to end up actually happening on the ground.”

Biden fought to bring white, blue-collar workers back into the Democratic fold after the party lost them to Donald Trump in the 2016 presidential race, and the administration is seeking to prove that this can be both the most pro-labor and anti-carbon presidency in history. But the reality may prove troublesome. Once the build-out of no-carbon power sources is complete, the steady jobs in power plants will have largely vanished.

Power generation jobs have declined 50 percent in the last 20 years, as renewable technologies have taken hold, according to data from the Bureau of Labor Statistics. Renewable power in that time rose to 18 percent of the energy mix from 6 percent, while labor-intensive coal generation went from half of all generation to 18 percent, according to data from the Energy Information Administration.

“Right now, if you're looking at traditional renewables, you know, it hasn't historically been a hopeful place for American workers to go into these sectors of the economy to work, to have family-sustaining jobs,” said Roxanne Brown, international vice president for the United Steelworkers. “That has not been the American story — yet.”

Some labor economists say that because of the long-term nature of Biden's

plan — investments are to be spread out over eight years — the interruption won't be as abrupt.



“If we do a serious level of transformation needed to really decarbonize the economy, that's not something that gets done in five years, that's a decades long thing, and so we're going to be building new things all the time,” said Josh Bivens, director of research at the left-leaning Economic Policy Institute.

Bivens said the more pressing concern should be the quality of jobs created as a result of the infrastructure push.

“Basically the fossil fuel sector has historically been pretty unionized; it's been a place that has provided quite good jobs, especially for the types of workers in it,” he said.

Biden's infrastructure proposal tries to address these worries by creating incentives to bring manufacturing to the U.S. Offshore wind components come to the U.S. from Europe, and most of the battery and solar panel supply chains are in China and Southeast Asia. The president hopes to persuade companies to build new factories through a series of tax incentives, particularly an expanded manufacturing credit initiated by Sens. Debbie Stabenow (D-Mich.) and Joe Manchin (D-W.Va.) that would encourage companies to build on the site of shuttered coal mines and coal plants.

The administration is aiming to keep union support by tying labor standards to these and other clean energy tax credits, and by offering full-throated support for the Protecting the Right to Organize Act, which would smooth the path for workers trying to unionize. Officials say labor will be part of an ongoing conversation about policy.

"The labor movement has been and will continue to be a partner when it comes to the policy initiatives prioritized by the administration," said an administration official. "The policy and goals are crafted in partnership and in conjunction with a variety of stakeholders, including labor. There is continuous engagement about the impacts of these proposals. And the jobs plan's ability to create good paying union jobs across the board has been very key."

And some unions do back the plan, particularly those poised to build out the no-carbon grid.

"The American Jobs Plan would make good on Joe Biden's promise to the American union worker," Lonnie Stephenson, international president of the International Brotherhood of Electrical Workers, said in a statement.

But some of Biden's most pro-labor policies are vehemently opposed by the business lobby and Republicans — who say they are restrictive to workers' free choice and harmful to companies — and are likely to spur a contentious fight in Congress.

Already Republicans are slamming the proposal as a new Green New Deal, and trying to move the administration toward a narrower, bipartisan bill.

"President Biden's so-called 'jobs' proposal is a clear attempt to transform the economy by advancing progressive priorities in an unprecedented way. The proposal would aggressively drive down the use of traditional energy resources and eliminate good-paying jobs in West Virginia and across the country," Sen. Shelley Moore Capito (R-W. Va.), the top Republican on the Environment and Public Works Committee, said in a statement. "I stand ready to be a partner in advancing infrastructure legislation in a bipartisan way—just as we have in the past."

The First 100 Days

Joe Biden entered the White House with an expansive agenda that includes taming the coronavirus, reshaping the economic recovery, overhauling climate policy and rethinking the power of tech companies.

Follow along as we track the administration's first 100 days. »

Environmentalists say that looking beyond the coming boom is getting ahead of the problem. There are still millions more unemployed Americans than before the pandemic struck, and the short-term spending built into the package is intended to get the economy rolling again. But even in the long term, the package aims to spur an overhaul of the economy, including providing incentives to construct offshore wind and battery supply chains in the U.S.

"The main technology story of the 21st century is the enormous shift that the global economy is undergoing to decarbonize, and driving the innovations on the new technology that will get us there," said Nat Keohane, senior vice president at the Environmental Defense Fund. "The economy is not made up of a fixed number of sectors. The economy is incredibly dynamic and the economy of 2030, 2040, 2050 will look very different. And so the question is, are we positioning the U.S. economy to compete, or not?"

FILED UNDER: GREEN JOBS, JOE BIDEN, JOE BIDEN 2020, BIDEN'S FIRST 100 DAYS

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Secrecy and Abuse Claims Haunt China's Solar Factories in Xinjiang

The world's green power surge depends on polysilicon made in China's remote

Northwest. No one really knows what's going on inside the facilities.

By Dan Murtaugh in Singapore, Colum Murphy and James Mayger in Xinjiang, China, and Brian Eckhouse in Los Angeles

April 13, 2021



In the wilderness of the Gobi Desert sit two factories that churn out vast quantities of polysilicon, the raw material in billions of solar panels all over the world. It's a four-hour drive from Urumqi, the capital of the Xinjiang region at the center of China's crackdown on Uyghurs and other Muslim minorities. The only structures that rise up among miles of rolling snow-covered fields are the chimneys of coal-fired power plants, belching white smoke.

Almost no one outside China knows what goes on inside these factories, or two others elsewhere in Xinjiang that together produce nearly half the world's polysilicon supply. State secrecy cloaks the raw material for a green boom that researchers at BloombergNEF project will include a nearly tenfold increase in solar capacity over the next three decades. Solar is set to grow by about a quarter this year after record installations in 2020 backed by almost \$150 billion in investment. That means millions of homeowners buying solar panels everywhere face moral uncertainty: Embrace the green future, and you have no way of knowing if you're purchasing products made by forced labor and dirty coal.

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Companies and governments are also growing uneasy about their reliance on a region rife with allegations of human-rights abuses. Three owners of Xinjiang's polysilicon refineries have been linked to a state-run employment program that, according to some foreign governments and academics, may at times amount to forced labor. China denies such accusations and recently insisted

that journalists and diplomats are free to go see for themselves.

That's why two Bloomberg reporters went to Xinjiang in March, after weeks of unsuccessful requests for factory tours. Such visits aren't unusual elsewhere in China. But this time a security apparatus sprang into action. Upon our landing in Urumqi, two police officers boarded the plane, one with an automatic weapon slung across his chest and a photo identifying one of the reporters in hand. After questioning on the tarmac, we left the airport. For the next three days agents followed us everywhere, obstructing all attempts to speak to locals and deleting our photos.

The veil over Xinjiang has made the search for answers about the links between China's labor program and its solar industry a job for outside researchers—who, it turns out, have found potentially telling details just by combing through public records.



Residents stop for a chat nearby the Xinjiang International Grand Bazaar in downtown Urumqi.

Photographer: Colum Murphy/Bloomberg



Shoppers walk past the Xinjiang International Grand Bazaar in Urumqi, capital of China's Xinjiang province.

Photographer: James Mayger/Bloomberg



The barricaded square in front of the Erdaogiao Mosque. All visitors must pass a security checkpoint.

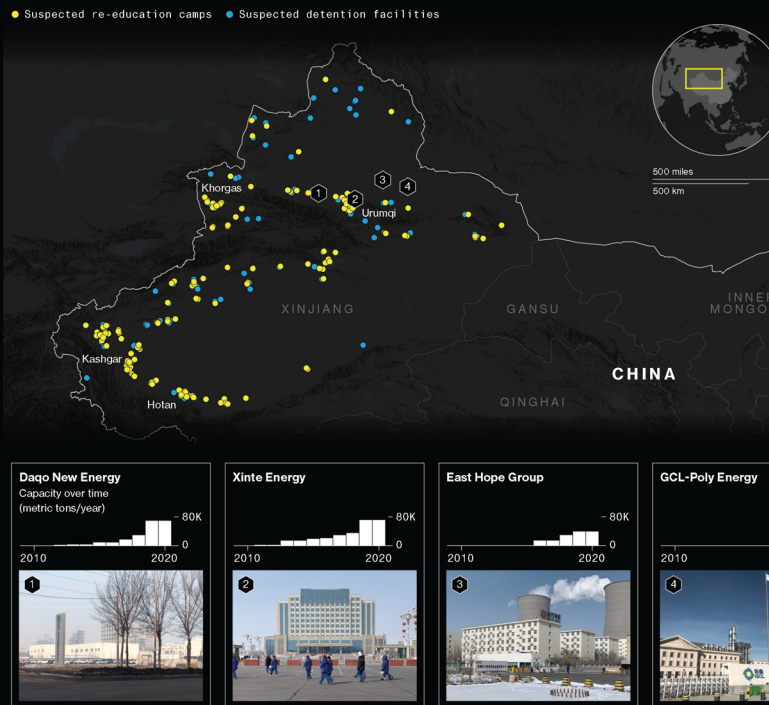
Photographer: James Mayger/Bloomberg

The owner of one polysilicon factory, GCL-Poly Energy Holdings Ltd., said in a 2019 report that it had accepted 121 poor minority workers from the Uyghur heartland in southern Xinjiang. Photos posted by the local government in June 2017 show workers, lined up in blue uniforms, about to be sent by the labor program to companies including East Hope Group Co., an aluminum smelter that in recent years also started producing polysilicon in Xinjiang. The previously unreported document was found by Adrian Zenz, a German researcher based in Minnesota who's become a chief source of data about the labor program in Xinjiang—and thus a focus of China's wrath.

The documents are troubling, because the solar power surge that's one of the great hopes in the race against global warming depends on the crucial supply of Xinjiang-made polysilicon. Some of the Western nations leading the transition to cleaner energy have also accused the Chinese government of committing genocide in Xinjiang. In March, the U.S., U.K., European Union, and Canada put new sanctions on China over alleged human-rights abuses. The U.S. has already banned imports of cotton and tomatoes from the region. The substance needed for solar panels could be next.

Xinjiang's Polysilicon Factories

Four of the world's biggest producers are based in the region



Note: Suspected re-education camps and detention facilities identified by ASPI.

Sources: Australian Strategic Policy Institute, Bloomberg reporting

With national leaders committing to carbon-neutral futures, a new record for solar panel installations is expected this year—more than 185 gigawatts, according to BNEF, or enough to power all of Brazil when the sun is shining. Xinjiang will produce about half of the polysilicon in these panels, based on BNEF projections, and China will account for more than 80% of the overall supply. But consumers can't track the provenance of their panels, since raw materials from multiple factories mix together along the solar supply chain. Even if they did find a link to Xinjiang, what goes on inside the four factories remains unknown.

On the second day in Xinjiang, a solicitous propaganda official from the economic zone that houses the GCL-Poly and East Hope facilities trailed behind our car, even at a petrol station. At East Hope, he told us that executives from the headquarters in Shanghai had left instructions not to host journalists in Xinjiang. A representative for the GCL-Poly plant said pandemic health regulations made a visit unsafe.

It didn't matter that China's coronavirus outbreak has been largely contained, and we'd tested negative for Covid-19 just hours before.

The Chinese government says that accusations of forced labor in Xinjiang are lies invented by rivals intent on sabotaging the world's second-biggest economy. "If it were that simple, I think at this point you'd have these companies allowing in third-party auditors alongside international journalists to give scrutiny of what they're doing," says Nathan Picarsic, co-founder of Horizon Advisory, a Washington-based consulting firm.

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Picarsic's team in January released an analysis of the Xinjiang solar industry's ties to the government's labor transfer program. Horizon's findings dovetail with many of the documents retrieved by Zenz, as does an October report by S&P Global Market

Intelligence. All three relied on information that had been out in the open, in state media reports and company statements mentioning the program.

China says its labor transfer program trains workers and sends them to factories as part of an effort to help poor ethnic minorities find better employment. But academics and activists identify the practice as part of a long history of using coercive state structures to oppress China's Muslims, strip them of their culture, and separate them from their families. The state's repression in Xinjiang intensified in the 2010s after a series of deadly terror attacks by Uyghurs seeking greater political and cultural autonomy. Chen Quanguo, the Communist Party secretary appointed by President Xi Jinping, has pursued a policy that a United Nations panel has said may have led to more than 1 million Muslims being placed in internment camps. Uyghurs who've been through the camps describe harsh conditions, including physical and sexual assault.



The Solar Industry's Xinjiang Problem

Video: Suma Hussien/Bloomberg Quicktake

"It has become almost impossible to talk of voluntary labor among a group of people who are in immediate danger of being incarcerated for no reason whatsoever," says Rune Steenberg, a Xinjiang expert based in Berlin who works with the Uyghur diaspora.

Those who participate are sometimes given wages and a degree

of autonomy to choose the type of work they do. But there's no freedom to refuse to sign factory contracts. "There would be repercussions against your family and potentially against you," Steenberg says. "You would be marked as someone who's uncooperative." The International Labour Organization's convention on forced labor, which China has yet to ratify, defines the practice as work done "under the menace of penalty."

Researchers such as Picarsic and Zenz have been trying to peek into the black box of Xinjiang for some time. Zenz's findings have already helped exacerbate a clash over human rights that's pitted China against the U.S. and Europe. Corroboration by academics, activists, and former Uyghur prisoners has provoked the Chinese government into a personal confrontation. In March it held an almost three-hour press conference to rebut claims about human-rights abuses made by Zenz, and authorities say they support lawsuits against him by several Xinjiang-based companies.

"It has become almost impossible to talk of voluntary labor among a group of people who are in immediate danger of being incarcerated"

Zenz doesn't have access to any hidden government archives or whistleblowers regarding forced labor. He and his researchers simply search for companies or products they suspect might be tied to the labor program using Google and Baidu, China's most popular search engine. Sometimes the researchers use Google's cache function, which saves copies of websites that might be blocked or taken down.

Yet this basic method has turned up an [April 2018 statement](#) on the Xinjiang government's website with a reference to TBEA Co., parent company of the Xinte Energy Co. polysilicon factory, accepting as many as 300 poor workers from Hotan. This is an area with a large Uyghur population that's been targeted by the government's assimilation policies. Another TBEA document, from [August 2019](#), indicates the company's open participation in the labor transfer program. It's an upbeat account of a corporate

official who'd been stationed in Hotan for two years, with details about how he aided government agents by going into villagers' houses to "spread the Party's policies" and "prescribe the right medicine" to alleviate poverty.

"It shows the company not only accepting transferred laborers but being directly implicated in the coercive and intrusive recruitment usually done by the government," says Zenz. "The No. 1 medicine prescribed is the labor transfer program."



Sources: Satellite image via Maxar Technologies, Bloomberg reporting

That corporate pride about uplifting the poor people of Xinjiang turns to secrecy when journalists show up. A policeman stood at the government office near the Xinte facility, and two men carrying leather briefcases stepped out from a gray car following behind. A guard at the complex said all the polysilicon executives were busy in a meeting. "Don't take any pictures," he said.

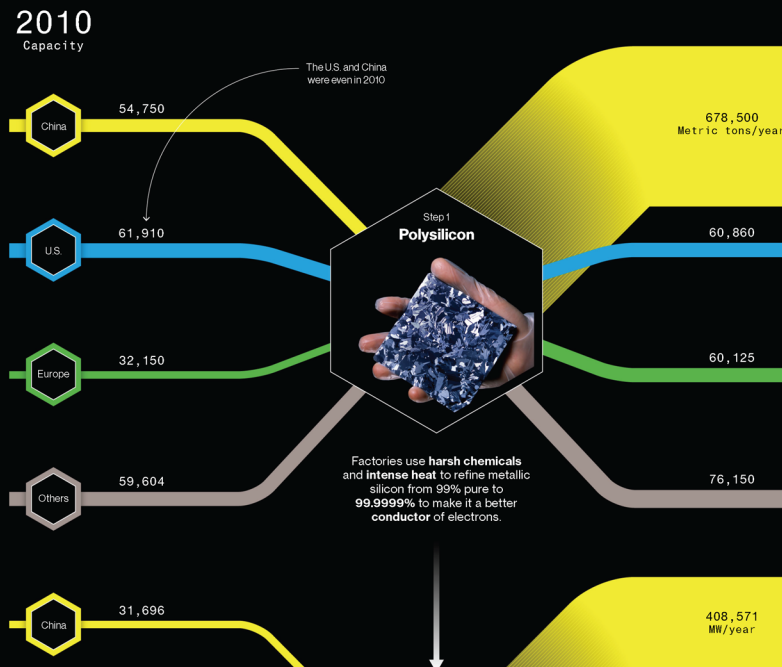
Back in Beijing, Xu Guixiang, a spokesman for the Xinjiang

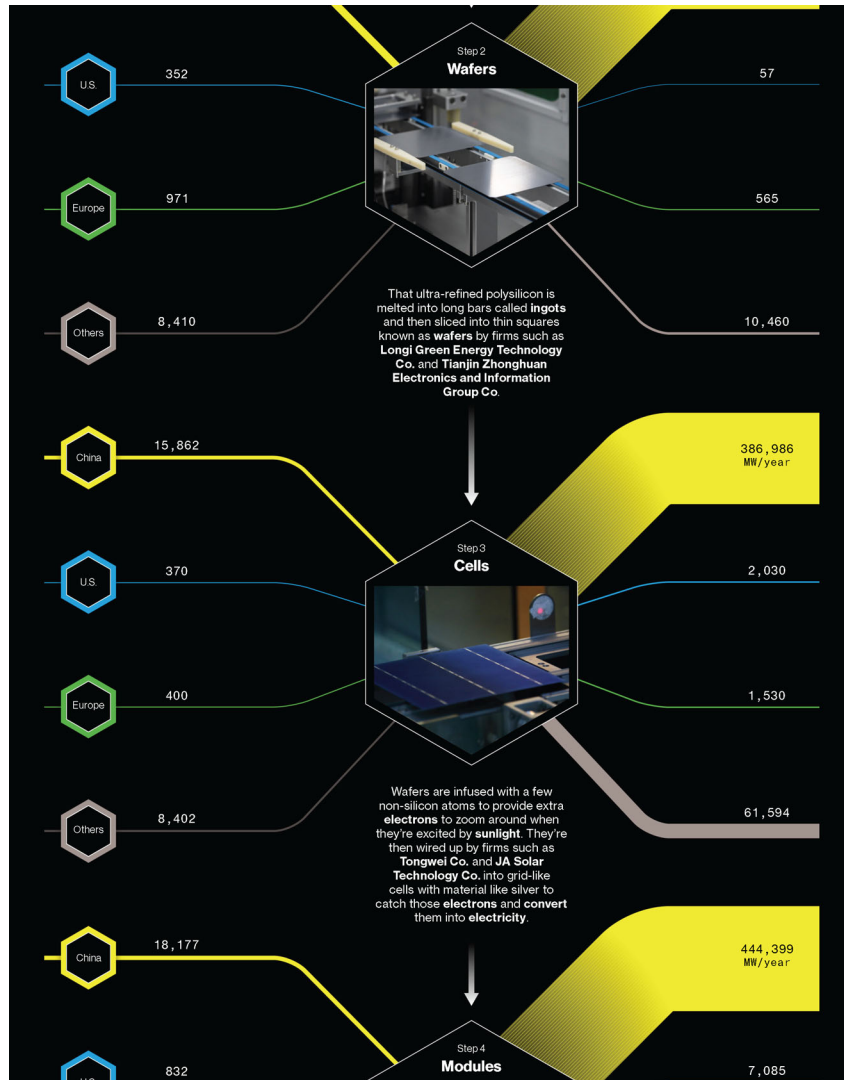
government, said at a briefing that the government “would never” interfere in journalists’ reporting. “I don’t think such things exist,” he said of the armed officers who met us on the plane and cars that followed us around. “If you encounter any of the scenarios you mentioned, please let us know.”

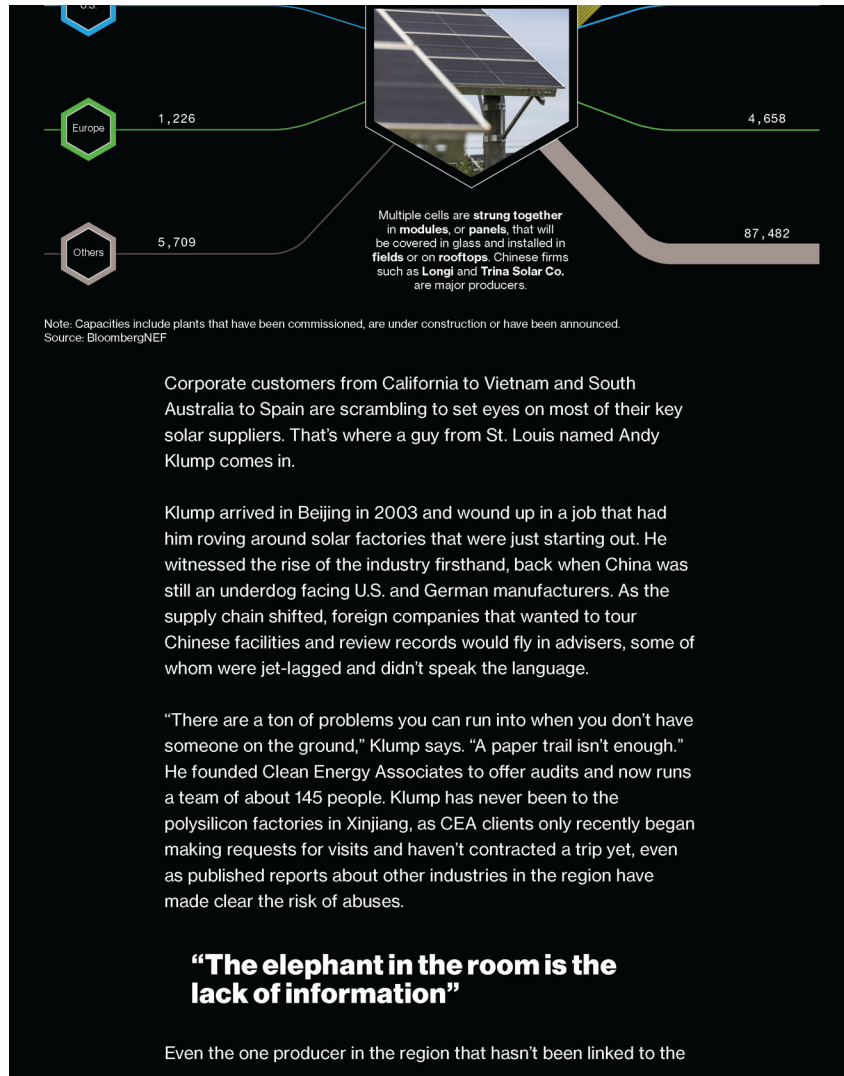
No nation produces as much as China along every step of the solar supply chain. And because the global solar industry needs all the polysilicon it can get, it won’t be able to turn its back on Xinjiang anytime soon. “Any silicon-based solar panel may have at least a small amount of Xinjiang silicon,” says Jenny Chase, head of solar analysis at BNEF. “Only a few modules can be guaranteed free of it.”

China's Solar Dominance

Its manufacturers have far surpassed other countries' at every step of the supply chain







labor transfer program by researchers rebuffed our efforts to get a clearer view. Daqo New Energy Corp. is a U.S.-listed company that has [described its Xinjiang subsidiary](#) as a pilot program of Xinjiang Production and Construction Corps, a government-run organization that's been sanctioned by the U.S. for ties to alleged human-rights abuses including mass arbitrary detention.

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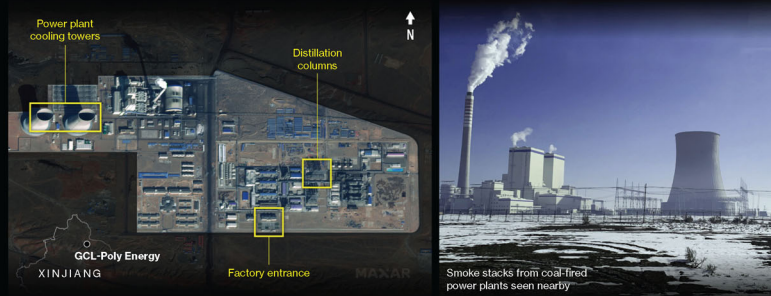
At the Daqo facility, about an hour outside Urumqi by train, guards in brown camouflage ordered away would-be observers. Daqo, along with the other three polysilicon companies, didn't respond to multiple attempts to seek comment on our trip and the documents uncovered by researchers. (In [an earlier statement](#) the company said it has a "zero-tolerance policy" toward forced labor.)

The murkiness of working conditions in Xinjiang is reason enough for solar companies and investors to be wary. A further complication comes from why those factories are in the region in the first place: an abundance of cheap coal power.

Turning sand into polysilicon is an extremely energy-intensive process. Electricity accounts for about 40% of a factory's operating costs, which is what makes Xinjiang so appealing. It has some of the cheapest power rates in the country, even if burning the dirtiest fossil fuel taints the climate benefits of the solar panels eventually produced. All four factories are located near coal power plants in Xinjiang, where cities such as Urumqi and Kashgar have at times had some of the [worst air quality](#) in China.

Cheap Coal

Xinjiang has some of the lowest power rates in China



Sources: Satellite image via Maxar Technologies, Bloomberg reporting

Unable to determine the working conditions in these Xinjiang factories, some governments and companies have decided it's safer to steer clear of the region altogether. At least 175 companies, including global utility giants Duke Energy Corp. and Engie SA, have signed a nonbinding pledge by a U.S. trade association to avoid forced labor. The same organization has urged members to move supply chains out of Xinjiang.

Units of Chinese solar giants Longi Green Energy Technology, JA Solar Technology, and JinkoSolar Holding also signed the document; all three had multiyear contracts to buy polysilicon from Xinjiang-based manufacturers at the time. The companies didn't respond to questions about the agreements.

The supply chain is already shifting as scrutiny increases. Xinjiang's polysilicon producers are planning new factories outside the region. Firms are setting up tracing networks so companies can document whether their solar panels contain Xinjiang polysilicon. That would allow for a two-track export system: one for countries that don't want any polysilicon from the region, the other for those that don't mind it.

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This might merely be a fix on paper. There are many ways for polysilicon from Xinjiang to find its way into the final product. Some wafer companies that buy the material operate huge factories that might mix it up with polysilicon from elsewhere in China. Even if the supply chains are kept completely separate, profits ultimately flow back to the four polysilicon companies—meaning they'd face little economic punishment for any participation in the labor transfer program.

Global demand will keep growing. Prices for the material have more than doubled since a year ago, and previous supply

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factories in Xinjiang, it's not going to come from trying to speak to the workers there now. Only at Xinte's plant near Urumqi did we even see a group of workers as they streamed in for afternoon shifts, dressed in hard hats and dark-blue overalls. Some stopped to listen to questions. They all gave the same response: The company wouldn't allow them to speak to outsiders.

—With assistance from Saijel Kishan and Philip Glamann

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Additional photography from Xinjiang: James Mayger and Colum Murphy

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APRIL 9, 2021

A Hidden Bond-Market Problem



APRIL 7, 2021

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MARCH 17, 2021

Trump's Ailing Empire: His Fortune Slips to \$2.3 Billion as Covid and Riot Take a Toll



MARCH 15, 2021

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April 14, 2021

The Hon. Frank Pallone, Jr.
The Honorable Cathy McMorris
United States House of Representatives
Energy and Commerce Committee
Washington, DC 20515

Dear Chairman Pallone and Ranking Member McMorris,

Understanding that you will be holding hearings this week regarding Environmental Justice initiatives, including testimony from Dr. Mildred McClain with the Harambee House in Savannah, Georgia, I thought you may be interested in some of the efforts that the Georgia Ports Authority (GPA) has been engaged with in that regard.

Perhaps the most significant effort we have been directly involved with has been the *Savannah Community-Port Collaboration Project*. For this, the Harambee House was selected in 2016 to receive EPA technical assistance and pilot a draft Community-Port Collaboration Toolkit. This pilot project was one of four pilots that were collectively known as the Near-Port Community Capacity Building Project. Harambee House applied to participate in the pilot program to strengthen collaboration between near-port communities, Georgia Ports Authority (GPA) and other Port of Savannah terminal operator/owners. Following the selection of this project and beginning in 2017, the EPA convened the first of a series of in-person Needs Assessment meetings involving GPA, community leaders and the City of Savannah. The Needs Assessment included the following: boat and bus tours of the Port of Savannah and GPA terminal facilities; tours of the near-port communities; and sharing of experiences and views on the status of their working relationships.

Subsequently, in May 2017, the EPA enlisted a technical assistance provider to convene a series of in-person Needs Assessment meetings with stakeholders. This process included facilitated discussions with GPA senior staff, Hudson Hill, West Savannah, and Woodville Neighborhood leaders (community leaders) and City of Savannah elected officials and staff. The Needs Assessment also included a narrated boat tour of the Port of Savannah, a bus tour of GPA's terminal facilities and a community tour of near-port neighborhoods. Participants shared their experiences and discussed their views on the status of their working relationships. They also completed self-assessments and discussed their goals for the pilot. Based on this input, the technical assistance provider created a collaboration plan with shared goals and

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outcomes to guide the pilot process. The plan outlined three site visits with in-person training and facilitated meetings aimed at creating a shared action plan to improve air quality for Savannah's near-port communities.

The in-person collaboration process included the following trainings:

- Port Operations 101: to help community leaders better understand how the Port of Savannah and GPA operate, who to contact with questions and concerns, and what role GPA plays within the Port of Savannah.
- Effective Community Engagement: to help Port facility owners/operators learn the history of environmental injustice and Executive Order 12898 on Environmental Justice, understand common environmental justice concerns, discuss implications of persistent inequities, and explore tools to engage communities effectively and include their input in decision-making.
- Leadership Skills-building: to help community leaders develop powerful elevator speeches to utilize when networking or in dialogue with other stakeholders, explore collaborative problem-solving approaches to resolve differences of opinion, examine air quality data and enhance community collaboration needed to design an air quality monitoring protocol. The series of facilitated meetings focused on the community leaders' goals to improve air quality in near port neighborhoods and build relationships between community leaders and implementation partners who could contribute to action plan development.

Outcomes of this training included:

- Increased awareness of air quality-related health risks and truck and rail traffic health and safety concerns,
- Shared understanding about past air quality levels, current air quality trends and opportunities for continued improvement,
- Increased community understanding of technical and scientific information related to Port activities,
- Development of an environmental/public health working group of residents,
- The Air Quality Improvement Action Plan for Savannah's Near-Port Communities, which addresses community concerns through tangible action steps,
- Increased trust and expanded partnerships between community leaders, the City of Savannah, GPA and port-related, industry and agency partners,
- And additional Lessons Learned, including:
 - Renew relationships and build intentional partnerships,
 - Be flexible and persistent with unexpected challenges,
 - Understand local environmental justice history,
 - Provide accurate information on existing conditions and empower community leaders to gather data,
 - Address participation barriers for community leaders; and
 - Invest in expanding partnerships that align actions with community-defined needs and goals.

In addition to the *Savannah Community-Port Collaboration Project*, the GPA is proud to have taken steps to constantly modernize our facilities in order to provide for the efficient flow of international trade for

our nation. In doing so, we have expanded gate facilities to reduce congestion and emissions from idling vehicles. We have a fully electric fleet of ship-to-shore cranes. All cranes serving our new Mega Rail facility, the largest on-dock intermodal facility in the United States and partially funded by a USDOT FASTLANE Grant, are fully electric gantry cranes. Further our rail expansion efforts, including inland rail hubs, has eliminated hundreds of thousands of truck miles and provided greater access to trade for communities throughout the Southeast and U.S. heartland.

The GPA has further partnered with the EPA, the Harambe House and other local community groups on initiatives:

- multiple EPA Diesel Emission Reduction Act grants totaling more than \$9 million to replaces older, high-emission trucks with newer, cleaner alternatives
- supported the Environmental Careers Program of the Harambe House
- donated to the community garden of Hudson Hill community
- donated equipment and tools over multiple years to the students of Harambe House Environmental Careers Worker Training Program
- hosted and invited the Harambe House and other neighborhood organizations to attend Job fair opportunities

It has been our pleasure to work with multiple organizations in and around our communities to support improved quality of life and economic opportunities for current and future generations. The Georgia Ports Authority looks forward to continuing these ongoing efforts.

Respectfully Submitted,



James C. McCurry, Jr.

CC: The Honorable Buddy Carter (GA-01)



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 Oklahoma City, OK 73142

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April 14, 2021

The Honorable Paul Tonko
 Chairman
 Subcommittee on Environment and Climate
 Change
 Committee on Energy and Commerce
 U.S. House of Representatives
 Washington, DC

The Honorable David McKinley
 Ranking Member
 Subcommittee on Environment and Climate
 Change
 Committee on Energy and Commerce
 U.S. House of Representatives
 Washington, DC

Chairman Tonko and
 Ranking Member McKinley:

The Ground Water Protection Council (GWPC) has reviewed the text of the Clean Futures Act (H.R. 1512) and has developed the following comments concerning sections in Title 6 of the legislation. GWPC is a nonprofit organization whose members consist of state groundwater regulatory agencies that come together within the GWPC organization to work toward mutually beneficial programs and initiatives that lead to the protection of the nation's groundwater resources. The purpose of GWPC is to promote and ensure the use of best management practices and fair, but effective, laws regarding comprehensive groundwater protection.

Founded in 1983, the GWPC has focused on the role of underground injection control (UIC) in protecting our water supplies. As such, we have unique expertise in technical issues pertaining to UIC and are qualified to provide the following comments on this legislation.

Sec. 621. ENHANCING UNDERGROUND INJECTION CONTROLS FOR ENHANCED OIL RECOVERY.

Carbon dioxide enhanced oil recovery (EOR) wells, which fall under the Class II UIC designation, are effectively regulated by the states that have been delegated primacy from the US EPA for this program. Removing these wells from the current Class II program would do nothing but put undue burden on the states to regulate the wells as a new or separate accounting entity. Under current UIC Regulations in place at both the Federal and State levels, the wells are operated in a manner that protects potential sources of drinking water. Additional legislation that reclassifies current Class II carbon dioxide EOR wells will only add unnecessary burden to the States while not improving any regulatory outcomes relative to the protection of potential sources of drinking water.

Additionally, when carbon dioxide is injected into oil reservoirs, it is done under volume and pressure regimes that are specifically designed to enhance oil recovery. In many cases, increasing the injected volume of CO₂ in an existing EOR well strictly for the purpose of increasing the sequestered volumes of CO₂ volumes could prove detrimental,

operationally and economically, to the primary purpose at hand--increased oil and gas production.

Sec. 623. SAFE HYDRATION IS AN AMERICAN RIGHT IN ENERGY DEVELOPMENT.

The nature of pressure dynamics occurring immediately after a hydraulic fracturing job completion and natural laws of fluid flow through porous media demonstrates no need for additional monitoring or testing. Such monitoring or testing would provide little to no benefit to the protection of underground sources of drinking water. Once a hydraulic fracturing job is complete and the well is opened for production, the majority of fluids used during the job will be returned to the surface. A baseline capture of the groundwater quality prior to the job and subsequent testing of the same sample location at a later date is already part of protocol in a number of state programs and is being encouraged in more. We do not believe that additional monitoring or testing would provide any incremental environmental benefit relative to the hydraulic fracturing procedure.

Any effort to address baseline water quality should occur at the state level, where the requirement for addition testing, if appropriate and needed, can be mandated as part of the approval of drilling permits. No change in federal regulation is needed at this time in that many states have already addressed this issue relative to needs within their jurisdictions.

SEC. 502. SUPPORTING CARBON DIOXIDE GEOLOGIC SEQUESTRATION

AUTHORIZATION OF APPROPRIATIONS – The GWPC supports the deep geologic storage of carbon dioxide as an effective method for long term sequestration. While we support the authorization of \$ 5,000,000 for fiscal years 2022 through 2026 for the US Environmental Protection Agency we believe that an additional \$ 8,000,000 over the currently enacted \$3,000,000, for a total of \$11,000,000 will be necessary for the USEPA to implement a robust Class VI program. This would support the collection and dissemination of vital geologic information as well as guidance and training for Primacy states, or those applying for primacy from the USEPA.

- (a) **STATE PERMITTING PROGRAMS** – States are best suited to implement a Class VI UIC program, as most are already doing for the other types of UIC wells, I, II, III, and V. Without adequate federal funding assistance for Primacy program development, application, and implementation, many states will lack the funds and incentive to assume Primacy and, thus, it should be made clear that grants to states are available to assist in making Primacy applications to USEPA, as well as program development and implementation.

AUTHORIZATION OF APPROPRIATIONS- Successful state implementation of the Class VI program will require a new or additional state grant program of not less than the \$50,000,000 for the period of fiscal years 2022 through 2026. Given the complexity of implementation and the need for additional state oversight, we would recommend that \$72,000,000 be authorized for 2022-2026.

Thank you for considering our input on these particular provisions in H.R. 1512. For nearly forty years, GWPC has been successfully working to ensure the safety of water sources across the country and, thus, we believe that we have knowledge, experience, and expertise in this regard that can assist in informing the legislative process. Please feel free to call on us anytime we can be of assistance and don't hesitate to contact us to discuss these matters further.

Sincerely,

A handwritten signature in black ink, appearing to read "mjpague". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Michel J. (Mike) Paque
Executive Director
The Ground Water Protection Council



April 15, 2021

The Honorable Paul Tonko
Chairman
Subcommittee on Environment and Climate
Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC

The Honorable David McKinley
Ranking Member
Subcommittee on Environment and Climate
Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC

Chairman Tonko and
Ranking Member McKinley:

The Independent Petroleum Association of America (IPAA) submits the following materials regarding provisions of the CLEAN Future Act.

IPAA represents thousands of America's independent oil and natural gas producers. Our members are the primary producers of the nation's oil and natural gas and account for 83 percent of America's oil production and 90 percent of its natural gas output. These independent producers are a driving force in our economy and support roughly 4.5 million jobs in the United States. IPAA member companies are innovative leaders and broke the code to usher in the shale oil and natural gas revolution in the United States.

As the United States and the world struggle to rebound from the economic hardship caused by the COVID-19 pandemic, it is essential for America to continue to be a leader in energy development. All forms of energy will be needed in the coming years and natural gas and oil produced in the United States will be a key component of that energy mix. Oil and natural gas will not be the only energy source for the United States, but they will be essential to the American economy for years to come.

The choices the nation makes regarding the energy mix will have a huge impact on its economy and its international position. If America does not pursue a thoughtful energy policy, the nation will suffer economically. Unless demand for fossil energy changes dramatically, efforts to suppress U.S. oil and natural gas production will be counterproductive to the goals of addressing greenhouse gas emissions, increasing job growth and expanding America's impact around the globe. Energy is a geopolitical issue. For the last half-century, American foreign policy has been predicated on the nation's vulnerability to oil and natural gas supply disruptions. The shale revolution turned the United States into an energy superpower, has enhanced American national security and created significant geopolitical advantages for this nation around the globe.

Additionally, natural gas production and use has created the cleanest air quality the nation has seen in two decades. The United States has become the envy of nations for its dedication to reliable, affordable, responsible energy production.

Independent producers recognize the need to manage their emissions, including methane emissions. Over the past several years, as methane regulations have been developed, IPAA has been active in trying to assure that the regulations are designed appropriately for the diverse elements of the industry, including the small business operations that dominate ownership of low producing wells.

It is in this context that IPAA addresses a number of provisions in the CLEAN Future Act.

Sections Unrelated to the Stated Objective of the CLEAN Future Act

This portion of these comments addresses sections of the bill that are unrelated to its stated objective – to achieve net zero greenhouse gas pollution, combat the climate crisis, put Americans back to work, and rebuild our economy – but would adversely affect America’s ability to produce its essential energy. These are discussed below.

Sec. 621. ENHANCING UNDERGROUND INJECTION CONTROLS FOR ENHANCED OIL RECOVERY.
Amends the Safe Drinking Water Act (SDWA) to create a new class of underground injection wells for enhanced oil recovery using carbon dioxide to protect potential sources of drinking water and ensure increasing sequestration of carbon.

This section unnecessarily alters current actions to use the carbon dioxide enhanced oil recovery (EOR) process without an attendant environmental benefit.

Carbon dioxide EOR wells have been used for over 40 years. They are effectively managed by the states through primacy delegation under the SDWA. These wells fall under the Class II designation. There is no indication that current Class II management of these operations has not appropriately protected ground water.

Removing EOR wells from Class II management would do nothing but put undue burdens on the states to regulate the wells as a separate accounting entity only. Under current UIC Regulations in place at both the Federal and State levels, the wells are operated in a manner to protect potential sources of drinking water. Passing legislation to reclassify a well type will only add burdens on the States. It will not change regulatory protection relative to potential sources of drinking water.

Additionally, carbon dioxide injection into oil reservoirs is performed at specific volumes to enhance oil recovery. Frequently, EOR wells are managed using a patterned approach that requires wells to be used for both injection and production at different times. Creating an entirely new class of wells for EOR unnecessarily requires permitting of all EOR wells under both Class II and Class VII, to allow for multiple uses.

Moreover, requirements for increasing net sequestration of carbon dioxide on a per well basis are inconsistent with how EOR fields operate and are unworkable. EOR operations have separate injection wells and production wells. An injection well only injects carbon dioxide and does not produce oil or carbon dioxide. Therefore, net sequestration cannot be calculated for individual wells. Net sequestration can only be calculated on the whole-field level. Individual well permitting is not a tool that can be practically used for such requirements.

Increasing the sequestration of carbon in a carbon dioxide EOR strictly for the purpose of increasing sequestration of carbon is not economically feasible for the EOR being performed.

Sec. 623. SAFE HYDRATION IS AN AMERICAN RIGHT IN ENERGY DEVELOPMENT. *Amends SDWA to require monitoring and testing of underground sources of drinking water in connection with hydraulic fracturing operations in order to identify potential contamination.*

This section solves no problem. It merely burdens the permitting and operation of oil and natural gas production by inserting new federal requirements into issues already being addressed by states in areas where concerns with ground water exist.

The nature of pressure dynamics and natural laws of fluid flow through porous media demonstrate no need for additional monitoring or testing immediately after hydraulic fracturing is completed. These actions would provide little to no benefit in the protection of underground sources of drinking water. Once a hydraulic fracturing job is complete and the well is opened for production, the fluids used during the job are returned to the surface. A baseline capture of the water quality prior to the job and subsequent testing of the same sample location at a later date is already done in a number of state programs and is being encouraged in more. Additional monitoring or testing would not provide any incremental environmental benefit relative to the hydraulic fracturing procedure.

No change in federal regulation is needed at this time because many states have already addressed this issue relative to their regional needs. Any effort to address baseline water quality is best addressed by the states where approval of drilling permits can mandate additional testing where it is appropriate.

Sec. 624. ADDRESSING HAZARDOUS AIR POLLUTION FROM OIL AND GAS SOURCES. *Eliminates an exemption under the CAA for emissions from oil and gas exploration and production and establishes hydrogen sulfide as a hazardous air pollutant under the CAA.*

This section alters the CAA to make changes that were previously addressed by Congress and are wholly unnecessary.

The first change in this proposed modification of the CAA would remove a provision that affects the framing of air toxics regulations of multiple oil and natural gas facilities. It is a provision that Congress added to address differences in the nature of oil and natural gas production facilities. Additionally, changes in both regulation and the industry since the 1990 CAA have altered its operation.

At the time that it was establishing the current air toxics program in 1990, Congress considered carefully how these provisions should apply to the unique circumstances of oil and natural gas exploration and production activities. Given the varied types of industrial operations in the U.S., Congress chose to apply the air toxics requirements under the CAA only to “major sources” of air pollution, which it defined as stationary sources or groups of stationary sources located within a contiguous area and under common control that emit more than 10 tons per year of any hazardous air pollutant (or 25 tons per year of all hazardous pollutants). For typical manufacturing facilities, these provisions are intended to ensure that buildings that are part of the same manufacturing facility or industrial complex will be considered together as a single source of air emissions because they are typically concentrated in a small area in an urban setting, present potential risks to the same neighboring residents and are subject to common ownership and control and therefore can be addressed efficiently through a coordinated set of emission control devices.

However, Congress recognized that oil and natural gas exploration and production facilities differ from manufacturing facilities and similar industrial operations in several key respects. First, while an oil and natural gas operator may have a number of active wells in an oil or gas field, these wells may be spread out over many square miles and each well site could have a different landowner. As Congress noted, these oil and natural gas operations are typically “located in remote areas, with wells and equipment widely dispersed geographically, rather than concentrated in a single area” as would be the case with a manufacturing facility. Moreover, Congress recognized that many of these wells have low emissions of air toxics and therefore present minimal risk to human health even for those few people who may live in the general vicinity of a well.

At the same time, Congress was well aware that “oil and natural gas production provides a crucial national security service to our Nation without posing a threat to our national health through the very low level of emissions which result from oil and natural gas exploration and production.” In light of these factors, Congress reasonably found that “[t]o aggregate [these well sites] and to treat them in the same way we would treat urban point sources, for example, simply is not necessary from the point of view of public health and we put an impossible burden both in terms of cost and in terms of regulation on many of these wells.” Accordingly, Congress specifically provided in establishing this air toxics regulatory program under section 112 of the CAA that emissions from oil and natural gas exploration and production wells are not to be aggregated or lumped together to determine whether these wells qualify as “major sources” of air toxics that would automatically be subject to the requirements applicable to these types of pollutants.

In spite of the fundamental differences between oil and natural gas well sites and conventional industrial facilities, Congress nevertheless did not ignore the need to control emissions of hazardous air pollutants from oil and natural gas production facilities. In fact, in addition to directing EPA to regulate emissions of hazardous air pollutants from “major sources,” Congress also gave the Agency the authority to regulate emissions of hazardous air pollutants from stationary sources that do not emit air toxics in sufficient quantities to qualify as “major sources.” These lesser sources of emissions are known as “area sources” and Congress in 1990 specified that EPA was to take steps to control emissions from area sources representing 90 percent of the emissions of those hazardous air pollutants presenting the greatest threat to public health in the largest number of urban areas. As part of this program, Congress specifically provided that emissions from oil and natural gas production wells could be aggregated together and regulated as an “area source” under certain circumstances if EPA found that the emissions of air toxics from these production wells presented more than a negligible risk to human health. Thus, Congress took steps to address the most significant threats to human health from air toxics emitted by all facilities, including oil and natural gas exploration and production facilities.

Consistent with this authority, EPA has already taken specific steps to regulate the principal source of hazardous air pollutant emissions from oil and natural gas well sites, i.e., triethylene glycol (TEG) dehydration units. (These TEG dehydration units are used to remove excess water vapor from natural gas before it enters transmission pipelines.) EPA has imposed regulatory requirements on these dehydration units at oil and natural gas well sites, especially when they are located in more urbanized areas where there is a greater possibility of people being exposed to the emissions from these units. In these areas emissions from TEG dehydration units must be vented to an appropriate control device that will ensure that any hazardous air pollutants are

reduced to an acceptable level, make process changes to ensure an equivalent reduction in emissions of hazardous air pollutants or demonstrate that no controls are necessary in a particular case. In addition, EPA has taken steps to regulate other potential sources of hazardous air pollutants at oil and natural gas well sites such as certain types of engines.

Since 1990, the larger issue of aggregation of oil and natural gas operations has been addressed by EPA. In addition to the issues raised in the context of air toxics regulations, similar aggregation questions developed related to Volatile Organic Compound (VOC) regulation. In 2016, EPA finalized regulations that define the conditions used for aggregating oil and natural gas facilities. EPA uses three key factors to determine whether a source needs a permit and the type of permit required. The factors are whether equipment and activities are: (1) in the same industrial grouping (defined by standard industrial classification code, or “SIC code”), (2) under the control of the same person/people, and (3) located on contiguous or adjacent properties. This framework is largely consistent with the approach applied to air toxics regulations.

Additionally, the advent of shale oil and shale natural gas production has changed the nature of oil and natural gas production. In 1990, wells were drilled at small, numerous well sites of one or two wells. The development of nonconventional shale oil and shale natural gas using hydraulic fracturing and horizontal well bores changes the surface footprint and concentrates operations of multiple wells at one site.

Moreover, Congress’s decision to limit the circumstances under which emissions from widely scattered well sites can be aggregated together for purposes of CAA regulation does not mean that states cannot choose to exercise their own independent authority to regulate emissions of air toxics from oil and natural gas production wells. Regardless of the federal provisions, the states nevertheless still retain the authority to apply more stringent regulations to sources of air emissions if they are concerned that emissions present risks to human health in particular cases. States likewise retain the authority to address certain emissions from well sites as a part of regulations to address nonattainment with NAAQS. In fact, states are generally in a better position than EPA to address issues related to air emissions that may be unique to specific areas of the country.

The second provision in this proposed section addresses the regulation of hydrogen sulfide as an air toxic.

While creating the air toxics program in 1990, Congress also considered how to address the emissions of hydrogen sulfide from oil and natural gas wells in light of concerns that were raised about these emissions during congressional hearings. After closely reviewing this issue, Congress eventually determined that there was a minimal risk to human health and the environment associated with routine emissions of hydrogen sulfide from oil and natural gas wells and that this situation did not warrant listing hydrogen sulfide as a hazardous air pollutant under the CAA. However, Congress also concluded at that time that accidental releases of hydrogen sulfide could present a more significant issue and that hydrogen sulfide should therefore be regulated under the key risk management provisions of the CAA, which establish a program specifically designed to address the potential for accidental, large-scale releases of air toxics from various facilities.

At the same time, Congress required EPA to undertake a further study of the potential hazards to human health and the environment resulting from hydrogen sulfide emissions associated with oil and natural gas production. EPA completed its report during the Clinton Administration and

submitted it to Congress in October 1993. Based on its extensive review of the issue, EPA concluded that “there appears to be no evidence that a significant threat to public health or the environment exists from routine emissions [of hydrogen sulfide] from ... oil and natural gas wells.” Consistent with these findings, EPA continues to regulate accidental releases of hydrogen sulfide as part of its overall risk management provisions under the CAA, but still leaves the regulation of routine emissions of hydrogen sulfide from oil and natural gas wells to the states.

In enacting the CAA, Congress determined that it would not be in the national interest to impede the production of critical oil and natural gas supplies by imposing unnecessary regulatory burdens on operators of these wells. For example, in considering the imposition of hazardous air pollutant controls, Congress recognized that oil and natural gas production facilities are different in several key respects from the types of manufacturing facilities located in urban environments that Congress viewed as the principal source of risk from these pollutants. Given these circumstances, Congress reasonably decided that different treatment of oil and natural gas production wells was appropriate in light of their scattered nature, their location in rural areas, and the minimal risk posed by emissions of air toxics from these wells.

At the same time, Congress left both EPA and the states with adequate authority to regulate specific risks posed by emissions of air toxics or NAAQS nonattainment from oil and natural gas well sites and both EPA and the states have exercised that authority. Thus, Congress’s approach to the regulation of emissions of air toxics from oil and natural gas well sites has not resulted in any significant risk to human health and remains a very effective approach. There is no reason to make the changes proposed by this section of the CLEAN Future Act.

Sec. 625. CLOSING LOOPHOLES AND ENDING ARBITRARY AND NEEDLESS EVASION OF REGULATIONS. *Eliminates an exemption under the SWDA for oil and gas exploration and production wastes.*

This section of the CLEAN Future Act would make significant and inappropriate changes to the SWDA that is based on a completely inaccurate characterization of the provisions it alters despite its pejorative title. The first change alters Subtitle C of the law.

Enacted in 1976, the Resource Conservation and Recovery Act (RCRA) was passed to achieve three key goals: namely, to (1) conserve energy and natural resources, (2) reduce or eliminate the generation of hazardous waste as expeditiously as possible, and (3) protect human health and the environment. Congress subsequently amended RCRA in 1980 to address a number of key new issues raised in implementing this law, and then again in 1984 when it adopted the Hazardous and Solid Waste Amendments (HSWA) Act; HSWA established further waste cleanup and corrective action requirements, restrictions that prohibit the disposal of certain wastes in or on the land unless the wastes comply with specified treatment standards and/or waste constituent levels, and various other technical requirements for the management and disposal of solid and hazardous wastes.

One of the key portions of RCRA — Subtitle C — is intended to effectively control the management and disposal of hazardous waste from “cradle to grave.” The waste management framework established by Subtitle C is designed principally to address “low volume,” “high toxicity” wastes generated at one site and transported to another for disposal. Consistent with this framework, RCRA bans the disposal of “hazardous wastes” — which are broadly defined under the statute — at facilities without valid permits. In order to obtain a permit, any new treatment, storage or disposal facility must meet stringent specifications for handling RCRA

Subtitle C or hazardous wastes. Permitted facilities are subject to a wide range of management standards mandating ground-water protection, facility closure, and post-closure care requirements. Other specific management standards apply to targeted waste management units such as containers, tanks, surface impoundments, waste piles, land treatment units, landfills and incinerators.

RCRA also establishes a comprehensive system designed to closely track the generation, storage, transport and disposal of Subtitle C wastes. Any company which generates these wastes above certain threshold amounts must register with EPA and/or an authorized state agency and comply with their requirements. These generators also must satisfy applicable recordkeeping and waste marking, labeling and placarding requirements in preparing wastes prior to shipment for off-site disposal. The Act provides that EPA may delegate to the states the authority to administer and enforce these various regulatory requirements and in the case of most states, the Agency has done so.

Taken together, the Subtitle C requirements impose costly and rigorous limitations — constraints that were made more demanding by the 1984 HSWA Act. However, RCRA's broad definition of hazardous waste had the effect of expanding RCRA's scope well beyond the "low volume," "high toxicity" wastes it was originally designed to cover.

As a result of regulations proposed by EPA in 1978 to implement the 1976 Act, Congress recognized that certain types of wastes presented unique issues and were most likely not well suited to regulation under EPA's highly prescriptive Subtitle C regulatory scheme. These concerns particularly applied to those wastes that were produced in substantial volumes but also had relatively low toxicity. In fact, these wastes posed management issues that were far different than the issues posed by Subtitle C wastes generated by manufacturing and other industrial operations under routine circumstances.

One particular category of these "high-volume, "low-toxicity" wastes consisted of drilling fluids, produced waters and other wastes associated with the exploration and production of oil and natural gas. In the course of early deliberations concerning potential amendments to RCRA, Congress specifically considered regulations for these categories of wastes that had previously been proposed by EPA. However, after careful deliberation Congress found that the extensive regulatory program proposed by EPA to regulate drilling fluids, produced waters and related wastes, i.e., wastes generated from oil and natural gas exploration and production operations, could have a significant economic impact on American oil and natural gas production. Moreover, Congress also recognized that the large volumes of these wastes really could not be handled by existing waste management units. Based on these concerns, Congress concluded that these wastes should be subject to a different regulatory scheme than other more "mainstream" Subtitle C wastes.

Congress specifically considered the proper way to handle these "high-volume," "low-toxicity" wastes in addressing changes to RCRA in 1980. After considering a wealth of information, Congress decided that instead of specifically including these wastes under the general Subtitle C waste management program, EPA should instead set up a specialized way to address the need for any regulatory controls for these wastes. As part of this specified process, Congress first required EPA to study how these wastes were being managed by the states at that time and whether such existing management practices were adequate in light of the nature of these wastes. As part of this process, EPA was specifically required to look at the sources and volume of

drilling fluids, produced water and other “high-volume,” “low-toxicity” wastes associated with oil and natural gas exploration and production; potential risks to human health and the environment from surface runoff or leaching from these wastes; existing disposal practices, alternatives to such practices and the costs of these alternatives; and the impact of any alternatives on oil and natural gas exploration and production.

Once this study was completed, EPA was required to submit it to Congress for its review. EPA was further required under this specialized process to make a determination within six months from the time the report was given to Congress regarding whether the imposition of any additional regulatory controls on “high-volume,” “low-toxicity” wastes was warranted. In the event that the Agency subsequently determined that drilling fluids, produced waters and related categories of wastes should be regulated under the standard RCRA Subtitle C waste management controls, Congress directed that any regulations implementing such a decision would not become effective unless specifically approved by Congress. In amending RCRA in 1980 Congress applied a similar process to other similar types of “high-volume,” “low-toxicity” waste such as fly ash waste and slag wastes, noting that such amendments were necessary to “bring the implementation of the Act closer to the original intent of Congress.”

As a result of this mandated study, EPA subsequently determined that “high-volume,” “low-toxicity” wastes associated with oil and natural gas production should not be regulated under the RCRA Subtitle C waste management program (1988 Regulatory Determination). In reaching this conclusion, the Agency first confirmed that the wastes produced in connection with oil and natural gas exploration and production were being produced in substantial quantities. For example, EPA found that 361 million barrels of drilling waste were generated in 1985 as the result of drilling activities at about 70,000 well sites and that over 800,000 active well sites generated 20.9 billion barrels of produced water. Perhaps even more important, EPA also found in this study that a wide range of practices for the management of such waste had already been effectively adopted under various state regulatory programs as a result of widely varying geological, ecological, topographic, economic, geographic and other differences among well sites.

Based on these findings EPA’s study came to the conclusion that imposing any form of RCRA Subtitle C waste management controls on these types of oil and natural gas exploration and production wastes was not effective and would not only result in substantial economic hardships for the oil and natural gas industry, but would also place severe and undue administrative burdens on regulated oil and natural gas companies and regulatory authorities themselves. For example, EPA’s 1988 study found that:

1. Imposing strict Subtitle C waste management controls on the handling and management of “high-volume,” “low-toxicity” wastes could impose costs on the oil and natural gas industry exceeding \$6.7 billion;
2. Imposing these controls could also lead to declines in oil and natural gas production of up to 12 percent and costs to consumers of approximately \$4.5 billion;
3. The current RCRA program did not provide adequate flexibility for addressing this specialized class of wastes;
4. Regulating oil and natural gas exploration and production wastes under the strict Subtitle C waste management controls could lead to severe permitting delays that

would disrupt production of vital American energy supplies and could severely strain the existing capacity of facilities authorized to treat and dispose of hazardous wastes;

5. Existing state and federal regulatory programs were generally adequate to manage oil and natural gas wastes and any gaps in these regulatory programs could be effectively addressed by regulation under RCRA programs for non-hazardous waste (Subtitle D) and by working with the states on their regulatory programs;
6. The state regulatory programs were specifically tailored to the unique circumstances of the oil and natural gas industry and it would be impractical and inefficient to impose the relatively inflexible RCRA Subtitle C waste regulations on oil and natural gas exploration and production wastes because of the potential for disrupting these state regulatory programs; and
7. Substantial burdens would be imposed on EPA and state regulatory authorities if even a small percentage of the hundreds of thousands of oil and natural gas exploration and production facilities were required to obtain permits to treat, store or dispose of waste under the RCRA Subtitle C waste management program.

In light of this independent review, EPA's decision not to regulate these "high-volume," "low-toxicity" wastes from oil and natural gas exploration and development was a careful decision based on sound science and technical support.

In the years since it made its original determination, EPA has still not found it necessary to revisit its determination or change its conclusions regarding the inappropriateness of regulating these oil and natural gas wastes under the RCRA Subtitle C waste management system despite efforts to compel it to do so.

This section of the CLEAN Future Act would remove the current well-structured provisions and require EPA to apply Subtitle C to oil and natural gas wastes. There is no justification for such action.

The second part of the section addresses the management of oil and natural gas wastes under Subtitle D of RCRA. Subtitle D regulates nonhazardous wastes including municipal wastes and industrial wastes with no ability for the federal government to directly regulate; Subtitle D is not a delegated authority like Subtitle C. EPA can withhold state grants but grant funding is insignificant.

Subtitle D frames very general authority for EPA. There are some provisions that provide EPA authority to develop federal initiatives. These are:

40 CFR, Part 257 – **Criteria for Classification of Solid Waste Disposal Facilities and Practices** - establishes regulatory standards to satisfy the minimum national performance criteria for sanitary landfills. These criteria established standards for determining whether solid waste disposal facilities and practices may pose adverse effects on human health and the environment. Facilities that fail to meet the criteria are "[illegal dumps](#)" for purposes of state solid waste management planning efforts under Subtitle D. *The criteria provide the basis for enforcing the prohibition on "open dumps" and may be used by citizens' suits in Federal District Court.*

40 CFR, Part 256 – **Guidelines for Development and Implementation of State Solid Waste Management Plans** – establish the elements that state solid waste management plans must contain to qualify under RCRA Subtitle D.

EPA has rarely utilized its authority under these sections of RCRA.

However, each of these sections include requirements that EPA must review its Subtitle D programs every 3 years and determine whether it needs to develop federal regulations and state guidelines or if the current programs, including state regulations, are adequate.

Following the 1988 Regulatory Determination, environmental groups initiated actions to press for federal regulation of production wastes. After recurring failures to force management of production wastes under Subtitle C, environmental groups turned to Subtitle D. In 2016, EIP, NRDC and other environmental groups filed litigation against EPA seeking action to require EPA to act under Subtitle D with regard to production wastes. The environmental groups targeted two issues:

1. EPA statements in its 1988 Regulatory Determination regarding production wastes and RCRA Subtitle D; and,
2. EPA's failure to meet a mandatory RCRA requirement regarding determinations of whether it needs to develop RCRA Subtitle D regulations and state guidelines.

The litigation sought to compel EPA to act. The environmental groups argued that EPA indicated it intended to develop some production wastes regulations under Subtitle D but it had failed to do so. They argued that EPA failed to act on a mandatory duty in RCRA to determine every 3 years if it needs to develop Subtitle D regulations (a general mandate but raised here in the context of production wastes) for 27 years. They argued that EPA failed to act on a mandatory duty in RCRA to determine every 3 years if it needs to develop Subtitle D state guidelines (a general mandate but raised here in the context of production wastes) for 18 years. The environmental groups asked the court to order EPA to act and to require it to develop Subtitle D production waste regulations.

EPA agreed to a Consent Decree in December 2016. The Consent Decree contained two major requirements.

1. Under the Consent Decree, by March 15, 2019, EPA had to propose revisions or determine it does not need to revise criteria regulations for oil and natural gas production wastes under Subtitle D (40 CFR, Part 257).
2. Under the Consent Decree, by March 15, 2019, EPA had to propose revisions or determine it does not need to revise state plan guidelines for oil and natural gas production wastes under Subtitle D (40 CFR, Part 256).

Significantly, the Consent Decree did not require EPA to develop regulations and guidelines. Moreover, if EPA developed Subtitle D production waste regulations and state guidelines, it cannot compel states to adopt them. However, such regulations could open a pathway for citizen suits against individual producers under federal law for failure to comply with the federal regulations even if the producer complied with state regulations.

In 2019, EPA stated the results of its review as follows:

Based on the information gathered for this review, EPA concludes that revisions to the federal regulations for the management of exploration, development and production wastes of crude oil, natural gas and geothermal energy under Subtitle D of RCRA (title 40 of the Code of Federal Regulations in Part 257) are not necessary at this time. ... EPA will continue to work with states and other organizations to identify areas for continued improvement and to address emerging issues to ensure that exploration, development and production wastes continue to be managed in a manner that is protective of human health and the environment.

State regulatory organizations including the Interstate Oil and Gas Compact Commission and the Ground Water Protection Council continue to work with EPA as it revisits this decision during its periodic cycles.

The proposed CLEAN Future Act section would mandate that EPA develop Subtitle D regulations despite the fact the EPA just concluded they are not necessary and continues to work with states to assure that state programs are managing these wastes appropriately. The driving force for this section has little to do with effective waste management. It is primarily created to generate regulations that will likely differ from state programs with the expectation that states will not adopt them. Then, RCRA provides a pathway for nuisance suits against individual producer who comply with state regulations but not with the federal guideline regulations.

Implications of Sections 621,623, 624 and 625

Taken together, these sections do not comport with the objectives of the CLEAN Future Act. Instead, they are wedged into the bill solely to reduce or prevent the development of American oil and natural gas. Sections 621 and 623 create unnecessary burdens on state programs to implement new requirements without any justification. Sections 624 and 625 regurgitate the same stale, unjustified proposals that have been shopped by ardent anti-oil and natural gas environmentalists for years. The Committee, the House and the Congress should reject all of them.

Super Pollutants Provisions

The CLEAN Future Act contains provisions that address methane or carbon dioxide emissions from oil and natural gas production operations that generate unworkable outcomes.

Sec. 701. CONTROLLING METHANE EMISSIONS FROM THE OIL AND NATURAL GAS SECTOR.

Establishes national goals for reducing methane emissions from the oil and natural gas sector to achieve a 65 percent reduction below 2012 levels by 2025, and a 90 percent reduction below 2012 levels by 2030. Directs EPA to promulgate new rules to meet the national goals, covering every segment of the oil and natural gas system. To achieve the 2025 national goal, EPA must finalize regulations under CAA section 111 no later than December 31, 2022; states then have one year to submit plans, and EPA has two years to prescribe a federal plan, if necessary. To achieve the 2030 national goal, requires EPA to finalize regulations no later than December 31, 2023. Further directs EPA to include standards for new and existing natural gas transmission and distribution pipelines, new and existing sources with equipment that handles liquefied

natural gas, and new and existing offshore petroleum and natural gas production facilities. Defines terms used in the section.

Setting aside whether the goals are feasible or even based on sound assumptions, the section requires action that fails to recognize the fundamental timelines of requirements of the CAA. The little used Section 111(d) is triggered with shortened time frames while ignoring the requirements of the Administrative Procedure Act thereby placing unrealistic burdens on states to produce regulatory programs.

Sec. 702. CONTROLLING FLARING. *Directs EPA to finalize, no later than December 31, 2022, regulations under CAA section 111 to prohibit routine flaring from natural gas sources, as well as regulations to reduce routine flaring from existing sources by 80 percent and 100 percent below 2017 levels by 2025 and 2028, respectively. Provides for definitions used in the section, including a definition of "safety flaring," meaning flaring of natural gas that is required to ensure safe operation of the facility due to unforeseen conditions. Excludes safety flaring from the definition of routine flaring.*

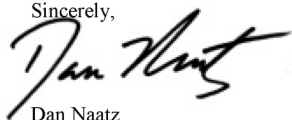
This section requires EPA to use the authority of Section 111 to produce specific reductions in routine flaring. Setting aside the question of what constitutes routine flaring because no producer willingly chooses to flare, Section 111 produces technology requirements based on Best System of Emissions Reductions (BSER). BSER is determined by what types of technology meets its definition and may or may not result in the desired targeted reductions, particularly for existing sources.

Carbon Dioxide Geologic Sequestration

IPAA supports the funding authority in Section 502 to provide for state permitting of Class VI underground injection wells.

Thank you for the opportunity to express these concerns.

Sincerely,



Dan Naatz
Executive Vice President

R.C. KLIPSCH
MAYOR
812-354-3396

CITY OF
PETERSBURG
— INDIANA —

TAMMY SELBY
CLERK-TREASURER
812-354-8511

April 12, 2021

The Honorable Paul Tonko
Chair, Subcommittee on Environment & Climate Change
2369 Rayburn House Office Building
Washington, D.C. 20515

The Honorable David B. McKinley
Republican Leader, Subcommittee on Environment & Climate Change
2239 Rayburn House Office Building
Washington, D.C. 20515

Dear Sirs,

I am writing you today to express my very serious concerns about the future of our community. We are a small community located in southwest Indiana. For generations our residents have worked in the energy industry producing electricity for our tri-state area. Seventy percent of the electricity required for the City of Indianapolis has been generated here in Petersburg at the Indianapolis Power and Light power plant. This plant is a coal powered facility that employs approximately 400 full time employees and more than two times that amount as outside contractors on any given day.

The transition from fossil fuel energy to alternative renewable energy will likely be devastating for our community. The loss of tax revenue and job loss has already begun in the coal mining industry. The retirement schedule of the power plant has been accelerated to be completed in the next 8 years.

We are working very hard with the Pike County Economic Development Corporation to attract industrial investment into our community. However, as you know this does not happen overnight and those lost jobs and lost tax revenue may never return. Many coal mining communities are single industry employers and new industries may not choose to relocate there.

Please give the future of communities, such as ours, your serious consideration. Everyone supports clean air, however at what cost? Are we sure that as a nation we are ready for this conversion and absolutely certain the proposed renewable alternatives can perform as needed? There is no room for error as we have recently seen with power outages throughout the country.

Please consider both increasing the timeline for this transition and economic incentives for companies that would invest in communities that are so dependent upon coal powered generating facilities. Our residents have been hard working, dedicated employees providing energy for this country in both good and bad times. They love their community and would like to be able to continue to work and live here.

Thank you for your consideration.



R.C. Klipsch, Mayor



EMPLOYMENT & IMMIGRATION

The wage gap that threatens Biden's climate plan

Workers in the greener side of the energy industry earn significantly less than those who extract fossil fuels and run power plants, new data show.



Energy industry workers employed by solar and wind power companies earn significantly less than those who mine coal or drill for natural gas, new data show. | Alex Wong/Getty Images

By KELSEY TAMBORRINO
04/06/2021 04:30 AM EDT



President Joe Biden's efforts to sell the country's workers on his climate agenda will face a major hurdle, data obtained by POLITICO show — a big wage gap between the new green energy jobs and the old fossil fuel ones.

Energy industry workers employed by solar and wind power companies earn significantly less than those who mine coal or drill for natural gas, according to data compiled by former Energy Secretary Ernest Moniz's clean energy think tank. For example, the median wage for solar workers is \$24.48 an hour compared with \$30.33 for those employed by the natural gas sector, which amounts to a roughly \$12,000 annual wage gap.

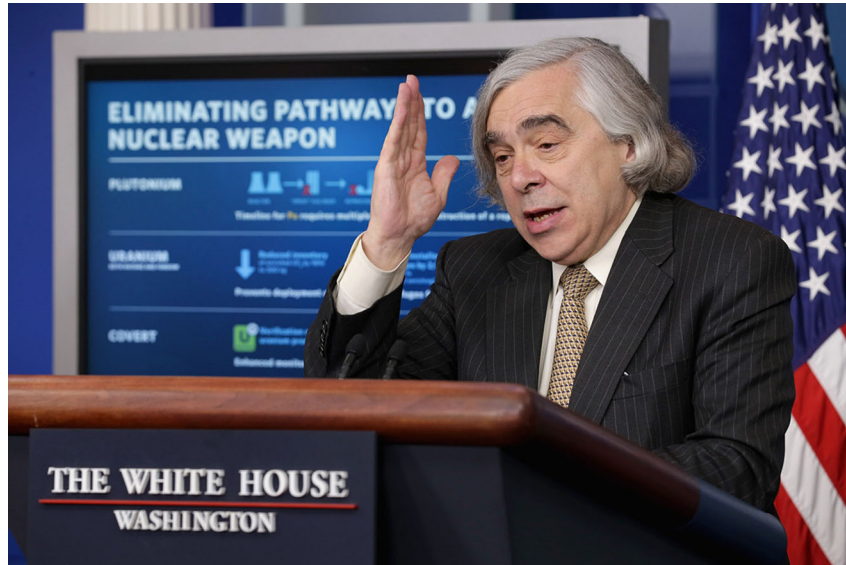
These wage disparities threaten to undermine Biden's promise that the nation can launch a multitrillion-dollar assault on climate change while growing its economy and transitioning workers to well-paying jobs.

Biden himself gets that, said Jason Walsh, executive director of the BlueGreen Alliance, an organization of labor unions and environmental groups jointly working on environmental issues. He said Biden understands the value of the labor movement within the transition to a clean energy economy, and highlighted proposals in Biden's infrastructure plan unveiled last week to beef up clean energy job quality.

"His understanding of labor, I think, extends to knowing intuitively that you can't expect workers and their representatives to embrace this transformation if they can't continue to get work that will pay family-sustaining wages and benefits and be a career," Walsh said. "The reality is that there is so much work that will be created by this transformation that it is just imperative that we get the job quality piece right."

Energy workers on the whole earn more than the typical American, but the highest-paying positions are skewed heavily toward nuclear, utility and natural gas and coal industry workers, the new data show. The wind, solar and construction jobs that would surge under Biden's policies were well below them on the median pay scale.

"The big message is that the energy industry has a significantly higher median wage than does the economy as a whole. That's very important," Moniz, who led the Energy Department during former President Barack Obama's second term, told POLITICO. Still, he acknowledged, "There's clearly a distribution of wages — as there is in any other sector — because of the level at which specialized skills are needed."



Then-Energy Secretary Ernest Moniz briefs reporters in the Brady Press Briefing Room at the White House in 2015. | Chip Somodevilla/Getty Images

Labor groups are already [growing nervous that Biden's plan](#) will eliminate the kind of steady, fixed-location jobs provided by coal mines or fossil fuel power plants, and instead will lead to temporary construction jobs that require mobility. A second worry is that wind farms, solar plants and other climate-friendly power sources will need few workers to maintain them and keep them operating.

The prospect that workers would also receive significantly less pay can only add to Democrats' challenges in persuading voters that their climate strategy is also a jobs strategy.

"For people that are in the fossil sector, the prospect of moving to the clean energy sector if you have to take a pay cut is not attractive," said Brad Markell, the executive director of the AFL-CIO Industrial Union Council.

But, Markell added, the Biden administration's plan unveiled last week has the elements to tackle the problem, including support for the Protecting the Right to Organize Act and strong labor standards attached to the extension of clean energy tax credits.

The bright spots: The median hourly wage for all U.S. energy workers is \$25.60 — 34 percent higher than the national median hourly wage of \$19.14, according to the data from Moniz's Energy Futures Initiative. And while the energy sector has suffered during the Covid-19 pandemic, it has lost fewer jobs than other parts of the economy.

According to the report, utility employees were the highest paid among energy industry segments, with a median wage of \$41.08 per hour, which would amount to nearly \$85,500 per year, while mining and fossil fuel extraction workers followed at \$36.32 per hour, or more than \$75,500 over a year. The high concentration of utility jobs in the electric power generation and transmission, distribution and storage sectors also mean workers in those positions earn higher than average wages.

Jobs in energy-specific construction, which would get a major boost under Biden's plans to modernize the power grid to accommodate new wind and solar power plants, pay about \$25.53 per hour, or just above \$53,000 for the year. Manufacturing jobs earned a median wage of \$23.02, or nearly \$48,000 for a year.



EMPLOYMENT & IMMIGRATION

Biden's green energy plans clash with pledge to create union jobs

BY REBECCA RAINEY AND ERIC WOLFF

The new data is a supplement to the annual U.S. Energy and Employment Report that the Energy Department used to release, but which lapsed under the Trump administration. Moniz's Energy Futures Initiative continued to work on that report in collaboration with the National Association of State Energy Officials and BW Research Partnership. It provides employment data for the energy, energy efficiency and motor vehicle sectors.

The new reports show the tension between the two goals the Biden administration has pushed as part of a transition to clean energy: fighting climate change and creating a high-paying clean energy workforce.

"There are people who sort of are 'climate at all costs' and people who are 'worker/maintaining existing jobs' at all costs," said Phil Jordan, vice president at BW Research Partnership, which conducted the research. "I think that there's a balance in between and policy needs to really reflect them."

Jordan pointed to the difficulty of comparing wages across energy technology sectors because of factors like accessibility, skill and education requirements and geographic distribution. Jobs that pay significantly higher than the national median wage are also likely to require more experience, education, training and certifications.

Workers in the nuclear industry received a median hourly wage of \$39.19, equivalent to \$81,515 a year — more than double the national median, although the industry accounts for less than 1 percent of total energy jobs. Nuclear workers tend to need advanced training and other requirements, boosting their earning power — but they're up against a string of nuclear plant retirements, with five nuclear reactors scheduled to close this year.

Shutdowns of nuclear plants could also threaten the U.S. effort to fight climate change, Moniz said. "Without the nuclear fleet carrying on, our carbon goals just become all that much more difficult because nuclear remains the single highest zero-carbon electricity source," he said.

Energy efficiency workers, including those engaged in building efficiency improvements such as weatherization, made up 28.4 percent of total energy employment in 2019, according to the report. But workers in that sector had a median wage of \$24.44 an hour — significantly lower than nuclear workers and nearly \$6 lower per hour than natural gas workers, who made \$30.33. Fast-growing sectors in the renewable energy sector, solar and wind also showed median wages below that of fossil fuel workers: \$24.48 for solar and \$25.95 for wind.



THE FIFTY

Northeast governors need Biden to deliver on offshore wind

BY BENJAMIN STORROW, DANIELLE MUOIO, HEATHER RICHARDS, MARIE J. FRENCH AND SAMANTHA MALDONADO

Oil industry jobs earned a median hourly wage of \$26.59, while making up 10 percent of the total energy workforce in 2019. Coal, making up just 2.2 percent of the workforce, had an hourly wage of \$28.69.

Moniz suggested that fossil fuel workers will often be able to find new jobs without relocating — echoing current Energy Secretary Jennifer Granholm, who has advocated for "place-based" solutions to the loss of fossil fuel jobs. Granholm has also said Biden's plan would focus on creating manufacturing jobs to develop supply chains for wind, solar and new battery production in the United States, rather than relying on imports.

"The really important message for fossil fuel workers is that we're not going to leave anybody behind," Granholm said on SiriusXM radio last week.

The sheer scope of the Biden administration's clean energy plans will require creating jobs across multiple industries, including construction, grid modernization and demand-response companies that cut energy costs by shifting power consumption. That creates a potential for a labor shortage, Jordan said.

The First 100 Days

Joe Biden entered the White House with an expansive agenda that includes taming the coronavirus, reshaping the economic recovery, overhauling climate policy and rethinking the power of tech companies.

Follow along as we track the administration's first 100 days. »

In fact, an earlier U.S. Energy and Employment Report showed that energy companies were already having trouble filling construction jobs before the pandemic struck, with 83 percent of employers reporting that hiring was somewhat difficult or very difficult. But for now at least, there appears to be some slack in the construction labor market, with last week's monthly jobs report from the Bureau of Labor Statistics showing employment in overall construction remains 182,000 below its February 2020 level.

Without a concrete pathway forward, the United States' plans to create millions of new construction jobs could run directly into a lack of workers trained for the energy sector, according to Jordan.

"What is a power line construction company to do?" Jordan said. "If they've got to fill 1,000 openings, and everybody who's sending them resumes or applications were formerly dishwashers, housekeepers or retail sales clerks, they can't just show up at a job and start laying cable."

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April 14, 2020

The Honorable Paul Tonko
2369 Rayburn House Office Building
Washington, D.C. 20515

The Honorable David B. McKinley, P.E.
2239 Rayburn House Office Building
Washington, D.C. 20515

RE: Accelerated Transition Challenges for Energy Communities

Dear Chairman Tonko and Ranking Member McKinley,

We understand that the Subcommittee on Environment & Climate Change is holding a hearing regarding The CLEAN Future Act and its potential impacts. On behalf of a community that proudly bills itself as the "Energy Capital of the Nation", I wanted to share a few considerations from our City regarding the accelerated transition to a decarbonized power sector.

Located in the heart of the Powder River Basin, containing significant deposits of coal, oil, gas and uranium, the City of Gillette has a vested interest in the continued use of our region's abundant natural resources. For decades, our residents have quite literally been on the front lines of powering the country. Our municipal revenue and subsequent governmental operations are largely dependent on these industries.

We recognize that the global demand for energy is changing. We have worked hard to forge partnerships with other local, state and private entities, all dedicated to both expanding and diversifying our local economy. We are also acutely aware that these major changes do not occur overnight or without significant financial resources.

As is true for any other elected body, our primary goal at the City of Gillette is to preserve and improve quality of life for those that we represent. Aggressive goals for the quickly decreased use of fossil fuels will directly result in the loss of revenue, jobs, and wellbeing for the citizens of our community and many others like it. While we understand the desire to transition to a carbon-neutral energy matrix, we believe a measured, thoughtful approach is prudent and necessary.

We are actively working with other public and private entities to not only work toward reducing carbon emissions, but also to identify new uses for carbon. Partnerships with local utilities, the XPRIZE Foundation, the University of Wyoming School of Energy Resources and the U.S.

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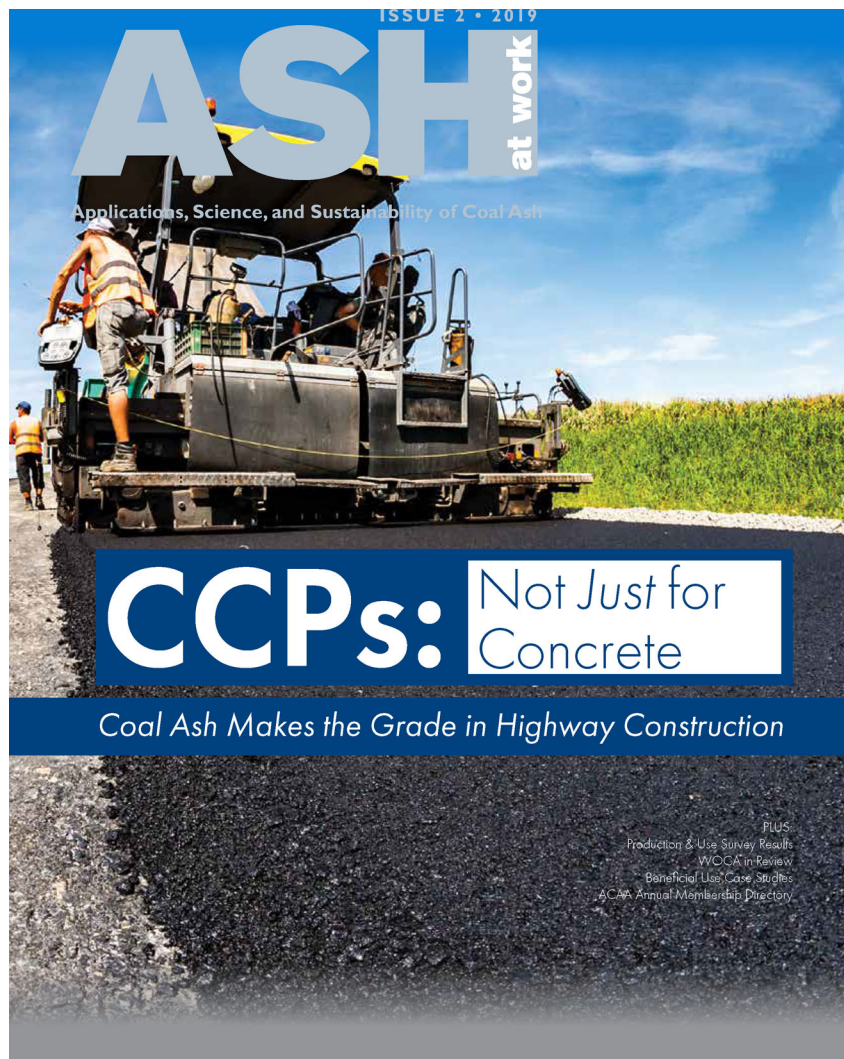
Department of Energy have spurred research into uses of the carbon created from energy production, as well as finding value-added products created from our abundant fossil fuels. We will need the continued support of the federal government to see these projects come to fruition for the benefit of everyone in our nation.

Thank you for the opportunity to share this perspective and for your important work.

Sincerely,

A handwritten signature in cursive script that reads "Louise Carter-King". The signature is written in black ink and is positioned above the printed name.

Mayor Louise Carter-King



Feature

Structural Fill: Conserving Natural Resources Through Projects Featuring Rigorous Engineering Standards

By John Ward

The numbers speak for themselves. According to ACAA production and use survey data, 188.7 million tons of coal combustion products have been placed in structural fill applications since 1980. The application represents one of the largest-volume opportunities to safely utilize CCPs in ways that reap environmental benefits while keeping material out of disposal impoundments and landfills.

Like many things related to coal ash, structural fill activities are frequently mischaracterized by anti-coal activists. The real story of structural fill is a long history of careful engineering and study by a wide variety of interested parties.

What Is Structural Fill?

Coal combustion products have been widely used to convert sites with unsuitable topography into valuable, productive property. These materials can be placed, spread, and compacted using the same equipment as conventional fill materials. Placement to a controlled density and configuration can produce stable fills for site developments, roadways, parking areas, and building construction.

Several coal combustion products—including fly ash, bottom ash, and synthetic gypsum—routinely make their way into structural fill settings. The unique properties of each of these materials determine where they can add value in a construction setting. For instance, the qualities that make bottom ash a preferred material for construction bedding also make it desirable as a backfill material for small areas. Bottom ash is uniform, well graded, drains readily, is not sensitive to

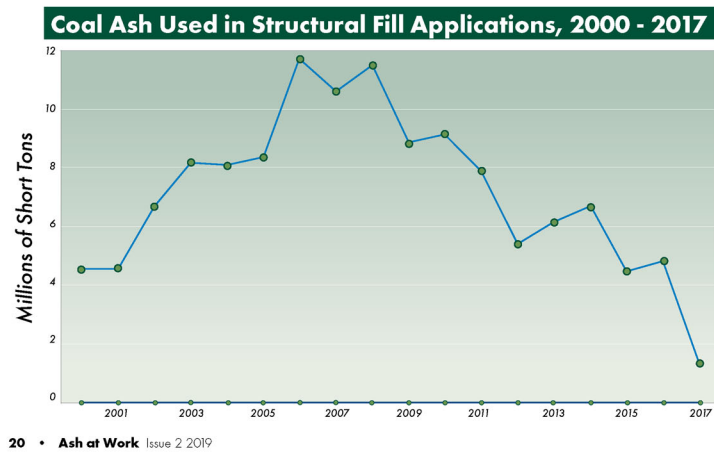
moisture variations, and is relatively lightweight compared to many natural materials. Bottom ash can be handled, placed, and compacted using the same techniques as other natural granular materials.

In the United States, the use of CCPs in structural fills dates back to at least 1971. The materials have been widely used in transportation (highway, rail, and airport) settings for constructing embankments and leveling uneven topography. They have also been used in housing developments, shopping malls, industrial parks, and other types of commercial, residential, and industrial developments.

Engineered structural fills are typically constructed in layers of uniform thickness or homogeneity and, where appropriate, compacted to a desired unit of density in a manner that will control the compressibility, strength, and/or hydraulic conductivity of the placed material as required in order to meet engineering specifications.

Structural Fills: Not Born Yesterday

The use of CCPs for structural fill applications is widespread throughout the United States. Some of the earliest uses for CCPs in structural fills began in the 1970s as reported extensively by the National Ash Association in Technical Bulletins and through workshops hosted by NAA at West Virginia University. The NAA (later the American Coal Ash Association) held biannual symposia on beneficial uses for CCPs beginning in 1968, and at each symposium case studies of geotechnical applications, including structural fills, were included.





In 1979, the Electric Power Research Institute (EPRI) issued a "Fly Ash Structural Fill Handbook" (Report EA-1281). This document contained detailed information on materials characteristics, test and analytical methods, and types of embankments and structural backfills. Subsequently, in 1988, EPRI published "High Volume Fly Ash Utilization Projects in the United States and Canada" (Report CS-4446, Second Edition). This lengthy document identified more than 170 projects, of which approximately half described the use of CCPs in embankments related to highway construction. At the same time, EPRI was conducting a number of demonstration projects in Maryland, Kansas, Michigan, and Georgia that used CCPs in geotechnical applications such as pavement base course and structural fills. In October 1988, EPRI issued "Fly Ash Construction Manual for Road and Site Applications" (CS-5981, Volumes 1 and 2). The technical discussions about using CCPs in the geotechnical projects covered in these two volumes further documented design considerations and construction techniques.

The historical documentation prepared by EPRI clearly demonstrates that the industry did not consider structural fills to be some form of disposal, but rather an accepted engineering practice that would achieve specific technical performance and allow incorporation of CCPs into civil engineering projects.

As a result of these many projects, the geotechnical community recognized a need for standardized guidance that would address the technical, construction, and environmental issues pertaining to the use of CCPs in geotechnical projects. First issued in 1995 by ASTM as a provisional standard, "Provisional Standard Guide for the Use of Coal Combustion Fly Ash in Structural Fills" (PS23-95) was provided to the engineering community to give specific technical and design guidance on the use of CCPs in structural fills that reflected the field experience seen in the previous two decades. Drawing from additional field experience, PS23-95 was extensively revised and re-issued in May 1997 as ASTM E1861-97 "Standard Guide for Use of Coal Combustion By-Products in Structural Fills."

ASTM E1861 was superseded in 2003 with the publication of ASTM E2277-03. The revision was again based on increased field experience and development of best management practices for CCPs in geotechnical projects. All technical documents published by ASTM required specific engineering practices for the use of CCPs in engineered structural fills and do not condone "indiscriminate" placement of CCPs into "projects similar to disposal." Since 2003, ASTM E2277 has been continually updated through a consensus process in order to address better methods of engineering and placement of materials, including CCPs in engineered structural fills.

Today, sectors utilizing CCPs for structural fill applications include state departments of transportation, county and city road districts, and private commercial construction. By adhering to standard construction guidelines such as the ASTM and other documents cited above, achieving high-strength structural fills with CCPs is a safe and beneficial use.

But "Unencapsulated" Uses Must Be Bad, Right?

Wrong! Although the U.S. Environmental Protection Agency studied all forms of CCP beneficial use extensively beginning in 1980, issuing multiple reports and regulatory determinations supporting the practices, the agency's 2010 proposal for disposal regulations marked the first time it attempted to make a distinction between "encapsulated" and "unencapsulated" beneficial uses. ACAA and its members commented at the time that they were concerned about the distinction because EPA failed to adequately define the difference between the classifications, and EPA's proposed language indicated that the agency might take an overly restrictive view of what constitutes an encapsulated use.

ACAA's concerns have turned out to be well founded. In EPA's 2015 Final Rule for Disposal of Coal Combustion Residuals, beneficial use was once again exempted from regulation, but EPA advanced a definition of beneficial use that required enhanced evaluation of non-roadway structural fill activities larger than 12,400 tons—what EPA thought was the size of the smallest landfill in its rulemaking database. When EPA was shown that the 12,400-ton threshold was a mathematical error (in actuality, the smallest landfill in its database was more than 70,000 tons), the agency failed to correct it and recently proposed an entirely new approach to requiring enhanced



Photo: John Barker

evaluations. ACAA is pushing back against this unwarranted and potentially harmful regulatory mission creep. (See "ACAA Objects to Proposed Revisions to EPA's Definition of Beneficial Use" in the News Roundup section of this edition of *ASH at Work*.)

Rigorous Engineering Standards Are Already in Place

EPA's regulatory concern in advancing an evaluation requirement for large, non-roadway beneficial uses was the potential for "indiscriminate placement" of large volumes of CCPs. The agency did not present scientific analysis or relevant damage cases to justify its concern, but adopted an approach that could be described as "if it looks like a landfill, then it might be a landfill, so demonstrate its impacts."

As shown above, most structural fill projects conducted over the past four or five decades are anything but "indiscriminate."

"Like many things related to coal ash, structural fill activities are frequently mischaracterized by anti-coal activists. The real story of structural fill is a long history of careful engineering and study by a wide variety of interested parties."

The enormous volume of historic structural fill projects in the United States has not resulted in damage cases precisely for the reasons EPA itself noted in its 2015 Final Rule. States already regulate these types of beneficial uses and consensus-based engineering standards are in place to establish best practices.

The use of CCPs as structural fill has been widely demonstrated to be a safe and beneficial use throughout the United States. The technical data contained in field reports and the sampling of groundwater near various projects have shown that when both the site and the CCPs are appropriately characterized for the conditions and intended use of the land, there is no adverse environmental impact. EPA, the Federal Highway Administration, state departments of transportation, public and private universities, and various other state and federal agencies have studied and evaluated the uses of CCPs and concluded that the material has favorable geotechnical properties for structural fill. In addition to the previously mentioned ASTM standard, additional standards and technical guidance have been developed by organizations such as the Portland Cement Association, the Federal Highway Administration, the Recycled Materials Resource Center, the American Concrete Institute, the American Association of State Transportation and Highway Officials, and many individual states.

ASTM E 2277-14 "Standard Guide for Design and Construction of Coal Ash Structural Fills" addresses important criteria that

should be followed whenever constructing structural fill projects using CCPs. These criteria include materials characterization, site location restrictions, environmental protection procedures, testing procedures, and construction best practices.

A Beneficial Use Worth Protecting

Use of CCPs as a replacement for the soils or alternative fill material that would require excavation and import from a borrow site creates numerous environmental benefits, including

- Conserving natural resources
- Minimizing land disturbance and associated runoff from extracting native materials
- Reducing energy use and carbon emissions from mining or excavation of native materials
- Reducing the volume of CCPs that would otherwise be landfilled

Conformance with the engineering standards developed over decades of testing and actual use ensures that these benefits are achieved with protection of human health and the environment as the primary concern.

Acknowledgement: Large portions of this article are drawn from the American Coal Ash Association's November 2010 written comments on the U.S. Environmental Protection Agency's then-proposed coal ash disposal regulation. Those comments were the product of approximately 100 volunteer ACAA members who expended more than 14,000 hours reviewing and drafting responses to EPA's proposals.

John Ward entered the coal ash marketing business in 1998 as Vice President, Marketing and Government Affairs, for ISG Resources (later Headwaters). For the past decade, he has served as president of John Ward Inc., a public affairs consultancy to the coal ash and energy industries. He is the longstanding chairman of ACAA's Government Relations Committee and was the first recipient of ACAA's Champion Award. He is the author of ACAA's weekly *Phoenix* newsletter and introduces himself the way his son did at a seventh-grade career day 12 or so years ago—as a used coal salesman.



Feature

How Well Do You Know CLSM?

By Thomas H. Adams



Controlled low strength materials (CLSM) provide a solution for many, many engineering challenges. CLSM, also known as flowable fill, is most commonly used as backfill for geotechnical applications. However, there are numerous other applications in which CLSM is used successfully. Controlling corrosion, lightweight and insulating fill, mitigating permeability, and managing electrical conductivity are examples of applications less familiar to the casual observer.

CLSM, by definition, is a low-strength material with a compressive strength of less than 1200 PSI and unconfined compressive strength of less than 300 PSI. If future excavation is a consideration, compressive strength should be less than 100 PSI. The material is not intended to be freeze/thaw resistant or resistant to abrasion or aggressive chemicals.

Among the many advantages of CLSM are the following:

- Readily available—a very wide spectrum of materials can be utilized. Locally available materials, both meeting

specifications and non-specification materials, may be used depending on the application.

- Versatile—mixes can be tailored to meet the application and placement needs.
- Uses existing equipment—no special mixing or delivery equipment is required.
- Easily placed—placement is directly from the chute or through a pump, conveyor, or bucket. Since most mixtures are self-leveling, little or no labor is required for placement. Weather is not a factor for most CLSM placements.
- Fast and consistent—filling excavations with CLSM generally goes much faster than filling with aggregates, reducing closure to traffic for pavement repairs. Aggregate fill must be placed in layers with each layer tested for compaction. CLSM is generally prequalified, eliminating testing during placement.
- Smaller, safer trenches—when backfilling trenches, the trench can be narrower due to the fluidity of the CLSM mixture. The site is safer, since no workers are needed in the trench, eliminating the hazard of embankment collapse.



While a cubic yard of CLSM often costs more than a cubic yard of aggregate fill, CLSM often is much lower cost in place due to reduced labor costs and speed of placement.

Many state departments of transportation have their own CLSM specifications. Requirements vary from state to state, but generally cement factors are in the range of 50 lbs. to 80 lbs. per cubic yard. Mixes may or may not contain fly ash or other supplementary cementitious materials. When fly ash is used, the quantity can be as much as 2000 lbs. per cubic yard. No coarse aggregates are commonly used. Air entraining agents and foaming agents are used to control strength development and reduce density.

CLSM has been used for filling voids, backfilling utility cuts, encasing and protecting conduits, emergency response to fill sinkholes and slope stabilization, erosion control, lightweight and cellular structural fills, and many, many more applications. Some of the more creative examples of CLSM use are found below.

- In some local communities, CLSM advocates have convinced

specifiers to require the use of colored CLSM in backfill for some infrastructure. When backfilling lines for natural gas transmission, electrical cables, telephone cables, fiber optic lines, and water and sewer lines, not only is the fill more consistent in support and encasement, it can be placed much faster with less labor. However, the biggest benefit is in safety. CLSM colored with pigments provides a warning to excavators that a utility line is nearby. This is especially important when dealing with explosive materials like natural gas or critical data transmission lines.

- In a large Midwestern city, the convention center started to exhibit some odd behavior in its basement. Doors would not close properly; cracks started to appear in the joints of the masonry; and floor slabs started to settle. Upon examination by a structural engineer, it was determined that the foundation was settling. The scope and location of the settling was established quickly with the use of sounding technologies. It was determined that a drainage line under the floor was not sealed properly prior to backfilling. The granular backfill around this line was washed away as stormwater flowed through the pipe. Approximately 2000 cubic yards of CLSM were pumped under the slab to fill the void and seal the pipe, resulting in significant savings to the owner without disruption to the use of the convention center.
- In Kansas City, an underground limestone mine was backfilled with CLSM. After mining operations were completed in a part of the mine, CLSM with Class C fly ash was pumped into the void to support the walls and create structural stability. Class C fly ash is not typically used in CLSM, since it hardens very rapidly without the use of set controlling materials. In this case, rapid set was a primary objective. The use of CLSM in this mine made the property above the mine suitable for commercial development. Today this property is populated with multi-story commercial development valued at several million dollars.

These are just a few examples of the creative and versatile use of CLSM.

The American Coal Ash Association (ACAA) has funded a risk evaluation of the use of CLSM utilizing the methodology developed by the U.S. Environmental Protection Agency (EPA). The EPA created this methodology to demonstrate the safety of beneficial uses in comparison to other conventional materials. It applied the process to the use of fly ash in concrete and FGD gypsum in wallboard. It did not examine other CCP beneficial uses. The ACAA has funded this work to demonstrate the safety of the use of CLSM containing CCPs. The risk evaluation report is expected by the end of 2019.

CLSM has been, and will continue to be, a valuable tool for solving engineering challenges. With some imagination and an understanding of the work and available materials, the choice of CLSM has proven to be a cost-effective answer to some serious challenges. The American Concrete Institute has a detailed report on CLSM from Committee 229. To obtain this report, visit www.concrete.org/publications.

Thomas H. Adams is Executive Director of the American Coal Ash Association and Chair of American Concrete Institute (ACI) Committee 229 on Controlled Low Strength Materials.



April 12, 2021

Fact Sheet:

Coal Ash Regulation and “Unencapsulated” Beneficial Use

Section 622 of H.R. 1512, the “CLEAN Future Act,” and H.R. 2396, the “Ensuring Safe Disposal of Coal Ash Act,” each contain a provision that would “prohibit, as open dumping, the use of coal combustion residuals in unencapsulated uses.” This provision is unjustified and works against the CLEAN Future Act’s policy objectives.

Coal Ash Beneficial Use Supports the Goals of the CLEAN Future Act

There are many good reasons to view coal ash as a resource, rather than a waste. Recycling coal ash conserves natural resources and saves energy. In many cases, products made with CCPs perform better than products made without it. (For instance, coal fly ash makes concrete stronger and more durable. It also **supports climate change policy goals** by reducing the need to manufacture cement, resulting in significant reductions in greenhouse gas emissions – about 12 million tons in 2019 alone.) Major uses of coal ash include concrete, gypsum wallboard, blasting grit, roofing granules, and a variety of geotechnical and agricultural applications.

Beneficial use of coal ash **supports environmental justice policy goals** by significantly reducing the volume of material placed in disposal facilities located in environmental justice communities. Materials are productively utilized in applications defined by consensus-based performance standards and decades of practical experience that ensure the safety of human health and the environment.

A Lengthy Regulatory History Supports Coal Ash Beneficial Use

The 1980 Bevill Amendment to the Resource Conservation and Recovery Act (RCRA) instructed the U.S. Environmental Protection Agency (EPA) to “conduct a detailed and comprehensive study and submit a report” to Congress on the “adverse effects on human health and the environment, if any, of the disposal and utilization” of coal ash. Since 1988, under both Republican and Democratic administrations, EPA has issued two Reports to Congress (1988 and 1999) and two Regulatory Determinations (1993 and 2000) finding that “hazardous waste” regulation of coal ash is not warranted and encouraging the beneficial use of coal ash. EPA’s 2015 Final Rule regulating the disposal of coal ash **preserved its “non-hazardous” regulatory status and the regulatory exemption for beneficial use.**

The distinction between “encapsulated” and “unencapsulated” beneficial use did not exist prior to EPA’s 2015 Final Rule. EPA is currently conducting rulemaking activities to refine its definition of beneficial use, as well as the application of that definition to the regulatory treatment of unencapsulated uses. **Blanket legislation banning a large portion of beneficial uses would short-circuit EPA’s science-based rulemaking activities.**

“Unencapsulated” Beneficial Uses are Governed by Engineering Standards

Unencapsulated coal ash beneficial use applications have been widespread since the 1970s and are conducted in compliance with numerous engineering and consensus-based standards. For example, consider the engineering guidance developed for the unencapsulated use known as “structural fill”:

- In 1979, the Electric Power Research Institute (EPRI) issued a “Fly Ash Structural Fill Handbook” (Report EA-1281).
- In 1988, EPRI published “High Volume Fly Ash Utilization Projects in the United States and Canada” (Report CS-4446, Second Edition) and “Fly Ash Construction Manual for Road and Site Applications” (CS-5981, Volumes 1 and 2).
- In 1995, ASTM International issued “Provisional Standard Guide for the Use of Coal Combustion Fly Ash in Structural Fills” (PS23-95).
- In 1997, ASTM adopted E1861-97 “Standard Guide for Use of Coal Combustion By-Products in Structural Fills.”
- ASTM E1861 was superseded in 2003 with the publication of ASTM E2277-03. Since 2003, ASTM E2277 has been continually updated through a consensus process in order to address improved methods of engineering and placement of coal ash materials.

Environmental Benefits from Significant Volumes of Material are at Stake

The American Coal Ash Association (ACAA) has conducted a survey quantifying the production and use of coal ash in the United States each year since 1966. Data is compiled by directly surveying electric utilities and utilizing additional data produced by the U.S. Energy Information Administration. The survey’s results have been widely utilized by federal agencies including EPA and U.S. Geological Survey.

Since 2000, the survey shows beneficial use of coal fly ash in concrete mixtures has accounted for more than **250 million tons of avoided greenhouse gas emissions** from cement manufacturing. During the same period, an additional **596.7 million tons of coal ash was kept out of landfills and impoundments** through use in unencapsulated applications with track records of decades of responsible use.

A ban on unencapsulated coal ash beneficial use would dramatically increase both the volume of coal ash that must be disposed and the volume of virgin materials that must be mined or manufactured to replace it. A ban would also destroy environmentally beneficial practices such as mitigating acid mine drainage, reclaiming mine sites for commercial and recreational use, improving agricultural soil conditions while reducing damage from eutrophication, and more.

About the American Coal Ash Association

The American Coal Ash Association, established in 1968, is a nonprofit trade association devoted to recycling the materials created when we burn coal to generate electricity. Our members comprise the world’s foremost experts on coal ash (fly ash and bottom ash), and boiler slag, flue gas desulfurization gypsum (FGD or “synthetic” gypsum), and other flue gas materials captured by emissions controls. The Mission of the American Coal Ash Association is to advance the management and use of coal combustion products in ways that are environmentally responsible, technically sound, commercially competitive, and supportive of a sustainable global community. For more information visit www.acaa-usa.org.

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August 31, 2019

Committee Chair Raul Grijalva
1511 Longworth House Office Building
Washington DC 20515

Congressman A. Donald McEachin
314 Cannon House Office Building
Washington DC 20515

Dear Chair Grijalva, Congressman McEachin, and Members of the Natural Resources Committee:

Alaska Community Action on Toxics (ACAT) is a member of the Environmental Justice and Health Alliance (EJHA) for Chemical Policy Reform. ACAT is a non-profit public interest environmental health and justice research and advocacy organization that works closely with Alaska and Arctic Indigenous communities to eliminate exposure to toxics and protect the health of highly exposed communities.

As a member of the EJHA, we also deeply appreciate your leadership and support the Statement of Principles for Environmental Justice legislation. In addition to the points provided by the EJHA to strengthen the Statement of Principles, we offer the following points:

Northern and Arctic Indigenous Peoples are among the most highly exposed people in the world to persistent industrial chemicals. The Arctic is a hemispheric sink for persistent industrial chemicals and pesticides that are transported on wind and ocean currents hundreds of miles from distant manufacturing facilities, waste disposal sites, and incineration facilities in lower latitudes. These include legacy chemicals such as PCBs, DDT, and PBDEs, as well as chemicals in current use such as PFAS, organophosphate flame retardants, siloxanes, SCCPs, and registered pesticides. Indigenous peoples of Alaska have unique and cumulative exposures through consumption of traditional foods. Fish and marine mammal species are vital for the physical, spiritual, and cultural sustenance as traditional foods of Indigenous peoples of the north and Arctic. The Indigenous peoples of Alaska—as a result of the persistence and bioaccumulation of persistent industrial chemicals in the Arctic and their consumption of traditional foods that are highly contaminated—face greater cumulative exposures that cause health disparities. This contamination is a violation of human rights including the rights to health, food security and subsistence, and prior informed consent. Many Alaska Native communities are also in close proximity to formerly and currently used defense sites (approximately 700 formerly and currently used defense sites in Alaska), as well as mining, oil and gas industrial facilities that also cause harmful exposures. Alaska is warming faster than any other state in the U.S., and at least twice as fast as the rest of the planet as a whole. Climate warming in the north exacerbates the mobilization and transport of industrial chemicals—accelerated melting of polar snow, ice, and permafrost mobilizes sequestered contaminants and enhance air-to-sea exchange, rendering greater bioavailability of contaminants within arctic food webs.

We thank you for your consideration. We look forward to having the opportunity to contribute toward the development and passage of principled environmental justice legislation.

Sincerely,

Vi Waghiyi, Yupik Mother and Grandmother, and Environmental Health and Justice Program Director,
Alaska Community Action on Toxics

Pamela Miller, Executive Director, Alaska Community Action on Toxics



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August 30, 2019

The Honorable Raul Grijalva
 House Natural Resources Committee
 1324 Longworth House Office Building
 Washington, DC 20515

The Honorable Donald McEachin
 314 Cannon House Office Building
 Washington, DC 20515

Dear Chairman Grijalva and Representative McEachin,

On behalf of Breast Cancer Prevention Partners, I am writing in strong support of your Statement of Principles for Environmental Justice Legislation. We commend your vision and leadership in developing these important Principles and look forward to working with you on implementation moving forward.

Breast Cancer Prevention Partners (BCPP) is a national organization focused solely on preventing breast cancer by reducing exposure to chemicals and radiation linked, by peer-reviewed science, to an increased risk of the disease. We work with advocates and decision-makers to encourage research and policy initiatives to better understand and reduce exposures to toxic environmental chemicals that contribute to increased rates of breast cancer and other diseases.

Environmental justice issues are an integral and growing part of our mission and work. The chemicals that have been identified by science as increasing the risk of breast cancer are all too often the same chemicals that communities of color and low-income communities are disproportionately exposed to – with devastating affects. These chemicals are not just linked to breast cancer, but often to other cancers, reproductive harm, neurological and developmental harm, and numerous other negative health impacts.

Expanding Cumulative Impacts to Consider Consumer Products and Worker Exposures

The Cumulative Impacts plank of your Principles is particularly important, and one that we strongly support. Consideration of cumulative impacts is crucial not only permitting and siting of polluting facilities and other projects; it should also be applied to any safety assessments of consumer products, such as personal care and beauty products. The Campaign for Safe Cosmetics, a project of Breast Cancer Prevention Partners, is a coalition of NGOs and clean cosmetic companies advocating for federal legislation to eliminate chemicals linked to adverse health impacts from personal care and beauty products. The \$84 billion personal care and beauty product industry is one of the least regulated consumer product industries. As a result, it is



1388 Sutter Street, Suite 400
 San Francisco, CA 94109-5400
 Phone: 415.346.8223 Fax: 415.346.2975
www.bcpp.org

perfectly legal for companies to use dangerous chemicals, including chemicals linked to breast cancer, in products people use every day. The Campaign has long advocated for FDA safety reviews of products that take into account cumulative exposures given the reality that consumers do not just use one personal care product at a time; rather, studies show that the average American woman uses approximately 12 products daily. Industry's frequent argument that "a little bit" of a carcinogen, such as formaldehyde in baby shampoo, isn't harmful never takes into account that a little bit of a toxic chemical from the numerous products that consumers are exposed to can add up to substantial exposure, day in and day out.

The failure of the federal government to regulate the safety of consumer products, such as personal care and beauty products and cleaning products, impacts all Americans, but also has a disproportional impact on communities of color and low income communities. Workers that use these products daily for multiple hours a day, such as domestic workers, janitors, hair and nail salon workers, are disproportionately people of color, and often economically disadvantaged. Cumulative exposure assessments should also consider these worker exposures which are far higher than the average consumer.

Personal care and beauty products marketed to women of color are among the most toxic on the market. In recent testing BCPP conducted, the product that contained the highest number of chemicals linked to harm to human health and the environment was a shampoo marketed to kids of color: Just for Me Shampoo made by Strength of Nature. Similarly, Dollar Stores contain numerous products with hazardous chemicals, including some ingredients that have been banned in the European Union. Dollar stores are often one of the few retail stores found in communities that already bear a high burden of harmful exposures, adding to the cumulative impact of toxic exposures.

Making Public Input Opportunities Accessible to Local Communities

Your Principle on strengthening the National Environmental Policy Act specifically calls for federal agencies to expand and make more accessible opportunities to provide public comment on decisions impacting environmental justice communities. In addition to requiring public hearings and translation of information into relevant languages, both of which are critically important, we suggest including a requirement that federal agencies hold at least some of those public hearings in an impacted community and schedule the hearing with enough advance notice for interested and affected community members to make arrangements to attend. Conducting hearings in Washington, DC with a week or two notice makes it impossible for resource-strapped communities to meaningfully participate in decisions that most directly impact them. EPA and other federal agencies should hold hearings around the country to expand access.



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Placing the Burden of Proof on Industry

We encourage you to considering adding to your Principles language that clearly places the burden of proof on industry to show that a specific chemical exposure, and the cumulative exposure to which it contributes, is safe, rather than requiring communities with extremely limited resources to show that a proposed exposure and the cumulative burden will be harmful. Moreover, 100% proof of actual or impending harm should NOT be the standard for requiring health-protective action. Credible evidence of potential harm as a standard enables a precautionary approach to policy decisions, valuing the protection of human health above the interests of industry. Finally, industry should not be allowed to obfuscate the impact of harmful chemical exposures by blaming communities for their health problems, arguing that their “lifestyle” choices are the true reason for health inequities rather than cumulative toxic chemical exposures. This blaming of individuals, rather than looking at systemic exposures, further discriminates against already overburdened communities.

Thank you again for your leadership on this critical issue. We strongly support the Statement of Principles for Environmental Justice Legislation and urge you to apply them to future legislation. BCPP stands ready to support you in those efforts.

Sincerely,

Amanda Heier
President and CEO

<https://www.blackmillennials4flint.org/bm4f-scores-a-major-victory-with-the-promise-of-the-environmental-justice-for-all-act/>



Feb 27, 2020

BM4F Scores a Major Victory with the Promise of the Environmental Justice for All Act

Today, February 27, 2020 was a DOPE day! Rep. Donald McEachin (D-VA04) Chair Raúl M. Grijalva (D-Ariz.) officially introduced the [Environmental Justice for All Act](#) at a press conference earlier today on Capitol Hill in Washington, DC.

“With today’s introduction of the Environmental Justice for All Act, we are taking meaningful action toward ameliorating these wrongs and empowering the low-income communities, communities of color, and Tribal and indigenous communities disproportionately affected by environmental injustice to fiercely participate in the decision-making processes impacting their well-being.” –Rep. McEachin

Here is a bit of context and background on this historical bill. On June 26 2019, Chair Raúl Grijalva (D-Ariz.) and Rep. A. Donald McEachin (D-Va.) hosted a ground-breaking, all-day environmental justice convening in the U.S. Capitol. The forum brought over 200 ‘national policymakers, environmental leaders and local advocates’ together to foster a dialogue about historical and future challenges of the Environmental Justice movement. From this convening, ‘Chair Grijalva and Rep. McEachin have launched the initiative to listen to all voices in the policymaking process, regardless of income or political status.’ With the feedback from environmental justice stakeholders, Chair Grijalva and Rep. McEachin drafted a community-led, community-driven comprehensive EJ bill that reflects the needs and perspectives of EJ communities.’ [The Statement of Principles for Environmental Justice Legislation](#) also serves as a great resource that provides a comprehensive framework that guided the work surrounding The Environmental Justice for All Act.

Black Millennials 4 Flint was honored to have an opportunity to provide public comment on the bill prior to the official introduction where **100% of our recommendations were incorporated into the bill!**

Black Millennials 4 Flint Recommendations

Black Millennials 4 Flint's mission is to empower communities to act and advocate against the crisis of lead exposure specifically in African American & Latino communities. This Bill is significant for our continued impact on communities as a grassroots environmental justice and civil rights organization. We have provided the following input to aid in the drafting of this bill.

Rec 1: Use specific and simple language.

Correct and clear language is critical within environmental justice movements. Historically, ambiguous language within Environmental Justice policy was intentional and harmful for the populations most at risk. Vague language opens the door for interpretation among stakeholders and often becomes the center of discussion. We recommend ensuring that all language is well defined throughout the entire bill. Two specific recommendations in regards to vulnerable communities include:

- Explicitly name and include seniors and the elderly community when applicable
- Ensure prioritizing women and children when needed

Rec 2: Ensure initiatives are equitable and community centered.

All stakeholders involved must do their part to ensure and establish equitable environmental justice practices. Too often, vulnerable communities are not acknowledged and involved in decision making efforts. Furthermore, external stakeholders often lack intersectional approaches to environmental challenges. We must acknowledge the fact that race, class, gender and other social categories are always linked in the experiences of individuals and groups.

We recommended the following actions to ensure equitable practices:

- Include representation from actual residents, grassroots organizations, and other persons impacted by systemic racism and economic disenfranchisement in all phases of the movement
- Focus on the development and assessment of realistic and meaningful community-based impact (including the social determinants of health)
- Be cautious of limited narratives. We must think beyond “access to resources” to include access to skills & workforce development and jobs with livable wages that support a quality life
- Ensure that all legislation is included (ie.) Law and Rules
- Incorporate educational awareness and community outreach programs which should be led by community-based grassroots organizations with people of color

Rec 3: Establish stakeholder responsibilities and realistic timelines.

Environmental challenges within this country can differ vastly by region. Although some common problems include toxicity concerns or aging infrastructure, that does not mean there is one solution for all similar challenges. The roles of local, state, and federal government may differ but all parties should be aligned. Similarly, all non-legislative bodies should be aligned and affected communities should approve of any practices. To eliminate any uncertainty, we recommend the following regarding management:

- Elaborate and clarify the roles and responsibilities of all stakeholders, by region if applicable
- Indicate a timeline expectation for addressing the issues by way of a long-term plan with clearly defined goals and outcomes

Our Call to Action

1. Call and email your US Representative asking for their support of the Environmental Justice for All Act. You can search for your representative and their contact information here: <https://www.govtrack.us/congress/members/current> .
2. Use you your social media power and repost the following template (click on the image and add your own photo/selfie)





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Saving a National Treasure
(<https://www.cbf.org>)

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CBF Statement on Rep. McEachin Environmental Justice Legislation

15 NOV 2019

PRESS STATEMENT ([HTTPS://WWW.CBF.ORG/NEWS-MEDIA/NEWSROOM/NEWS.HTML?NEWS_TYPE=PRESS-STATEMENT](https://www.cbf.org/news-media/newsroom/news.html?news_type=press-statement))

This week Reps. Donald McEachin and Raul Grijalva released a draft of the Environmental Justice for All Act, which would help protect minority and low-income communities that disproportionately suffer health risks from pollution.

Chesapeake Bay Foundation Federal Executive Director Jason Rano issued the following statement.

"Everyone has a right to clean water and air, no matter who you are or where you live. Congressmen McEachin and Grijalva are taking important steps towards meaningful action on environmental justice. <https://www.cbf.org/about-cbf/environmental-justice.html>. This will protect our most vulnerable communities from pollution and ensure healthier local rivers and the Chesapeake Bay."

"Congressman McEachin has once again shown his longstanding leadership on the environment and Chesapeake Bay restoration, which stretches back to his time in Virginia's General Assembly. In Congress recently, McEachin has strongly advocated for increased funding for the Chesapeake Bay Program <https://www.cbf.org/about-cbf/locations/washington-dc/issues/federal-funding-for-the-chesapeake-bay-program.html>. Introduced legislation to ban oil and gas drilling off the Atlantic Coast, and supported alternative energy to address climate change <https://www.cbf.org/issues/climate-change/>."

Lisa Caruso (<http://www.cbf.org/blogs/save-the-bay/contributors/lisa-caruso.html>)
Washington, D.C. Media & Communications Coordinator, CBF
lcaruso@cbf.org (mailto:lcaruso@cbf.org)
202-793-4485



Environmental Justice (http://www.cbf.org/news-media/newsroom/news.html?all_related_issues=925153424) Legislation (http://www.cbf.org/news-media/newsroom/news.html?all_related_issues=759659300)

FEDERAL ([/NEWS-MEDIA/NEWSROOM/2019/FEDERAL/](https://www.cbf.org/news-media/newsroom/2019/federal/))

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coming clean

www.comingcleaninc.org

The Honorable Raul Grijalva
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Donald McEachin
314 Cannon House Office Building
Washington, DC 20515

August 30, 2019

Dear Chairman Grijalva and Representative McEachin,

Coming Clean deeply appreciates and supports the Statement of Principles for Environmental Justice Legislation and your leadership in developing them. Thank you for this important set of draft principles and for the process to provide input.

Coming Clean is a nearly 20 year-old justice organization that designs and builds initiatives among our network of 200 national, state, technical, and grassroots organizational members. Coming Clean provides the infrastructure for movement organizing that demonstrates the urgent need to reduce fossil fuel and petrochemical emissions, and achieve solutions to the significant climate, petrochemical, industrial agriculture problems and threats to democracy that we face.

Since 2001, Coming Clean's work has been grounded in the interests and leadership of those most directly impacted by the problems we seek to solve, connecting leaders to impactful research and important state and national organizing campaigns, as well as supporting self-determined community priorities for local improvement and engagement. Through Coming Clean, groups populate a movement space and direct and align their interests and activities into campaigns that are achieving safer chemicals and safer communities, safer farms and safer food, and safer products and safer stores.

Coming Clean's focus at the intersection of chemicals, energy, health, justice, and the economy is central to addressing cumulative pollution hazards, which disproportionately affect people of color and low income people. Expert groups in Coming Clean and the Coming Clean affiliated national environmental justice network, The Environmental Justice Health Alliance for Chemical Policy Reform (EJHA), work collaboratively to address concerns through public policy initiatives, market campaigns, education, communications, and grassroots organizing. We support the development and adoption of principles for Environmental Justice Legislation and a participatory process that involves Coming Clean, EJHA, our affiliate members and others who can help advance specific policy initiatives at the national, state and local level that follow these Principles.

Our suggestions to the proposed Principles include:

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- Ensuring the inclusion of fair and just relocation when it is warranted by impacts and hazards from industrial petrochemical operations, existing and legacy pollution, and/or the effects or risks of climate change.
- Comprehensive and fair consultation with workers and communities closest to the sources of (and/or impacts from) petrochemical and energy operations, especially but not exclusively of indigenous communities.
- Ensuring local food production and local food access and control is included in the identification of cumulative impacts and solutions.
- "Target reduction" at Hazardous Facilities. We must seek to eliminate the use and emissions of hazardous chemicals by altering production processes, substituting safer chemicals, redesigning products and systems, rewarding innovation and re-examining product functions and consumption access. Elimination of the production and use of persistent, bioaccumulative toxic petrochemicals, or PBTs, is essential to environmental health and justice. These are any chemicals that are slow to degrade, accumulate in our bodies or living organisms, and/or are highly hazardous to humans or the environment. Importantly, we must also ensure that the toxic burden of chemicals eliminated in the United States are not exported to other countries.
- Shift the burden of proof to industry. Government and/or impacted populations currently shoulder the burden of proving harm after harm has occurred. Industry must bear the responsibility to prove the safety of its operations and products before any potentially harmful exposure can impact workers or the public.
- As stated in the "Louisville Charter for Safer Chemicals" - Act on Early Warnings. Prevent harm from new or existing chemicals or operations when credible evidence of harm exists, even when some uncertainty remains regarding the exact nature and magnitude of the harm. Blaming "lifestyles" of individual or groups of people over their exposure to chemicals known or suspected to present hazards to human and environmental health is an old and dirty trick; as is the claim that some people can stand more pollution or pain or risk than others. The roots of these theories - however deep or shallow those roots may be - are steeped in racism and must be rejected.
- Worker Protection and Just Transition. Protections for workers against physical harm in the workplace through policies that intentionally reduce or eliminate hazards, require disclosure of hazard information and adequate safety training, protect whistleblowers, provide appropriate protective gear, and fully involve workers in devising adequate solutions are overdue. Workers must have the right to know what chemicals they are working with, what the potential hazards are, and to participate in decision-making about plant safety and potential alternatives.

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In addition to protections from bodily harm, workers must be guaranteed protection from wage and job loss. Some jobs in these outdated industries that put workers, communities, the environment and climate in harm's way will change or be lost to new, safer industries. A just transition ensures that workers are offered the necessary resources and training to continue to provide for their families and transition into new fields that pay as well or better than their old jobs and maintain the right to collectively bargain.

Thank you for the opportunity to submit this feedback and input. Coming Clean appreciates and supports the Statement of Principles for Environmental Justice Legislation. Thank you, again for your leadership in developing them.

These Principles for Environmental Justice Legislation and the opportunity to provide input and to engage in a participatory process to help advance specific national, state and local policy initiatives that adhere to them is both long over due and exactly right on time.

With deep thanks and interest in next steps,

Sincerely,

A handwritten signature in black ink, appearing to read 'Judith Robinson', with a stylized, flowing script.

Judith Robinson
Executive Director

Creation Justice Ministries Celebrates the Introduction of Landmark
“Environmental Justice for All Act”

2/27/2020

[0 Comments](#)



February 27, 2020

Creation Justice Ministries applauds the historic Environmental Justice for All Act put forward today by US House of Representatives Natural Resources Committee Chair Raúl M. Grijalva (D-Ariz.) and Rep. A. Donald McEachin (D-Va.).

We know that we are entrusted by God with care for creation and love of neighbor. The transformative change envisioned by this bill is a crucial step forward as a nation to better embody and live out both principles. We especially affirm the following aspects of the Environmental Justice for All Act:

- The bill creates a Federal 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 bill 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.
- The bill strengthens the Civil Rights Act to permit private citizens and organizations facing discrimination to seek legal remedies.
- The bill provides \$75 million in annual grants for research and program development to reduce health disparities and improve public health in environmental justice communities.

Because environmental justice requires attention to process as well as outcomes, we also affirm the one-year stakeholder process leading up to the release of the bill, which reflects the intersectional grassroots collaboration that is core to our mission.

Creation Justice Ministries affirms the dignity of all God's children, and therefore we lift up our moral imperative to seek environmental justice for people of every race, economic status, gender, ethnicity, sexual orientation or religious affiliation.

Creation Justice Ministries represents the creation care policies of 38 Christian traditions, including Baptist, mainline Protestant, Historically Black, Peace, and Orthodox communions. Learn more at www.creationjustice.org

Contact: Shantha Ready Alonso, Executive Director 202-618-2501 (mobile)

← **PRESS ROOM**

LANDMARK HOUSE LEGISLATION CENTERS ENVIRONMENTAL JUSTICE CONCERNS

Bill developed through years-long process led by communities on the front lines of environmental degradation



Residents of West Oakland, Calif., rallied against a coal export facility in 2016. For decades, the City and Port of Oakland issued approvals to expand polluting freight activities in the area, while ignoring input from the community. West Oakland residents to suffer from diesel emissions that are up to 90 times higher than the state's average.

CHRIS JORDAN-BLOCH / EARTHJUSTICE

“

We cannot confront the legacy of environmental racism in the United States unless we listen to the voices of the people most harmed by it.

— Martin Hayden
Vice President of Policy and Legislation,
Earthjustice

FEBRUARY 27, 2020

Washington, D.C. — House Natural Resources Committee Chairman Rep. Raul Grijalva (D-Ariz.) and Rep. Donald McEachin (D-VA) introduced the *Environmental Justice for All Act*, landmark legislation to combat environmental racism and disparate impacts affecting frontline communities nationwide.

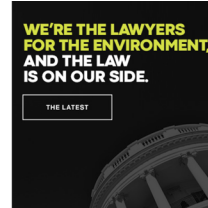
The following is a statement from Martin Hayden, Vice President of Policy and Legislation at Earthjustice:

CONTACTS

Phil LaRue, Earthjustice, (202)
797-4317

"We cannot confront the legacy of environmental racism in the United States unless we listen to the voices of the people most harmed by it. If we do, however, we can ensure that everyone has the right to drink clean water, breathe clean air, and live without fear of the poisonous effects of toxic chemicals.

"We commend Chairman Grijalva and Representative McEachin for the proposal they released today and the landmark process they used to create it. 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 put the expertise and concerns of the people experiencing the worst of pollution and climate change first. Earthjustice commends all of the environmental justice advocates who contributed to this legislation and looks forward to similar efforts in the future."



BACKGROUND ON THE ENVIRONMENTAL JUSTICE FOR ALL ACT:

The *Environmental Justice for All Act* creates a Federal Energy Transition Economic Development Assistance Fund — paid for by new fees on oil, gas and coal companies — to support communities and workers as they transition away from greenhouse gas-dependent economies. The bill expands legal rights for underserved communities and creates new federal grants and program authority to address environmental racism and disparate impacts nationwide.

- [Statement of Principles for Environmental Justice Legislation \(House Natural Resources Committee\)](#)
- [Environmental Justice Convening \(House Natural Resources Committee\)](#)

"Clean air is not for sale."

— LAKEESHA EURE

Clean Air Ambassador, on the message she brought to her elected officials in Washington, D.C.

THE STORIES TO READ ON CONGRESS

[Earthjustice Praises House Committee for Granting New Investigative Powers to Chairman](#)

[Earthjustice Statement on House Energy and Commerce CLEAN Future Act Framework](#)

TAKE ACTION

Protect the people's environmental law

WHAT YOU NEED TO KNOW THIS WEEK

[Landmark House Legislation Centers Environmental Justice Concerns](#)

[The Endangered Species Act Is Under Attack](#)

[California Court: Kern County Violating Law by Rubberstamping Oil Drilling](#)

THE LAW MAKES CHANGE



Reps. McEachin and Grijalva Unveil Bill to Promote Environmental Justice

EDF statement from Elizabeth Gore, Senior Vice President, Political Affairs

February 28, 2020

Dave Kuntz, (202) 572-3570, dkuntz@edf.org
(Washington, D.C. - February 28, 2020) Environmental Defense Fund (EDF) issued the following statement on the Environmental Justice for All Act:

“EDF would like to thank House Natural Resources Chairman Raúl M. Grijalva (D-AZ) and Rep. A. Donald McEachin (D-VA) for their leadership on the EJ for All Act. America’s low-income communities, communities of color, and indigenous communities are especially vulnerable to air and water pollution, and to the damages caused by climate change. The engagement process piloted by these Members has been critical to receiving direct input from vulnerable communities. The work they have put into this bill is an incredible reflection of transparency and inclusivity. EDF looks forward to supporting communities and community leaders in their work with Chairman Grijalva and Rep. McEachin to advance equitable and just environmental protections.”

- [Elizabeth Gore](#), Senior Vice President, Political Affairs

#

Environmental Defense Fund (edf.org), a leading international nonprofit organization, creates transformational solutions to the most serious environmental problems. EDF links science, economics, law and innovative private-sector partnerships. Connect with us on [EDF Voices](#), [Twitter](#) and [Facebook](#).

Media contact

Dave Kuntz
(202) 572-3570
[Contact](#)

Our experts



[Elizabeth Gore](#)
Senior Vice President, Political Affairs
[Contact Elizabeth](#)



H.R. 5986 Environmental Justice For All Act

Environmental Justice is defined as 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 environmental laws, regulations, and policies to ensure that each person enjoys 1) the same degree of protection from environmental and health hazards and (2) equal access to federal resources needed to have a healthy environment in which to live, learn, and work.

EJ Support

The Environmental Justice initiative has received numerous statements of support from a broad and diverse group of organizations and individuals from around the country. Below are some of the comments received from organizations via POPVOX, an online public comment and input platform.

To view all statements, please visit: <https://www.popvox.com/us/federal/bills/116/hr5986>

Virginia Interfaith Power & Light "...applauds the work of Chair Raúl Grijalva and Rep. Donald McEachin on the landmark Environmental Justice for All Act. This bill upholds our sacred commitment to be stewards of the gift of Creation by actualizing loving our neighbors in tandem with caring for the Earth." - Kendyl Crawford, Director, VA Interfaith Power & Light	Climate Justice Alliance "During this challenging time for human rights and the environment, it is heartening to see a bill that honors and reinvigorates past achievements like the National Environmental Policy Act (NEPA) and the Civil Rights Act of 1964, while linking them to current environmental justice initiatives and solutions." - Angela Adrar, Executive Director, Climate Justice Alliance
Environmental Defense Fund "EDF would like to thank House Natural Resources Chairman Raúl M. Grijalva (D-AZ) and Rep. A. Donald McEachin (D-VA) for their leadership on the EJ for All Act. America's low-income communities, communities of color, and indigenous communities are especially vulnerable to air and water pollution, and to the damages caused by climate change. The engagement process piloted by these Members has been critical to receiving direct input from vulnerable communities. The work they have put into this bill is an incredible reflection of transparency and inclusivity..."	Earthjustice "We commend Chairman Grijalva and Representative McEachin for the proposal they released today and the landmark process they used to create it. 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 put the expertise and concerns of the people experiencing the worst of pollution and climate change first. Earthjustice commends all of the environmental justice advocates who contributed to this legislation and looks forward to similar efforts in the future."
Creation Justice Ministries Creation Justice Ministries applauds the historic Environmental Justice for All Act put forward today by US House of Representatives Natural Resources Committee Chair Raúl M. Grijalva (D-Ariz.) and Rep. A. Donald McEachin (D-Va.).	Chesapeake Bay Foundation "Everyone has a right to clean water and air, no matter who you are or where you live. Congressmen McEachin and Grijalva are taking important steps towards meaningful action on environmental justice. This will protect our most vulnerable communities from pollution and ensure healthier local rivers and the Chesapeake Bay."

<p>Creation Justice Ministries affirms the dignity of all God's children, and therefore we lift up our moral imperative to seek environmental justice for people of every race, economic status, gender, ethnicity, sexual orientation or religious affiliation.</p>	<p>– Chesapeake Bay Foundation Federal Executive Director Jason Rano</p>
<p>Texas Environmental Justice Advocacy Services  “For too long we have struggled with and unjust system that complicated the efforts of addressing environmental issues in low-income and Communities of Color. We firmly believe this is a huge step forward in addressing the needs of communities who have a history of being dumped on. We feel confident that this legislation will surely benefit all of us in the future.” -Juan Parras, Director and Ana Parras, Co-Director, Texas Environmental Justice Advocacy Services (t.e.j.a.s.)</p>	<p>Moving Forward Network  “On behalf of the Moving Forward Network, we applaud Chairman Grijalva and Representative McEachin for working to address environmental racism – both through their environmental justice initiative and now through the introduction of the Environmental Justice for All Act...” - Angelo Logan, Campaign Director, with Moving Forward Network</p>
<p>Black Millennials 4 Flint  Black Millennials is in full support of the Environmental Justice for all Act. We were honored to have an opportunity to provide feedback on this legislation where 100% of our recommendations were included.</p>	<p>Delaware Concerned Residents for Environmental Justice “...We aren’t waiting around for someone to save us. We have solutions and we thank the sponsors and staff for including our community expertise and solutions into this legislation.” - Larry Lambert, resident of Claymont, DE and member of Delaware Concerned Residents for Environmental Justice—an affiliate member of the Environmental Justice Health Alliance for Chemical Policy Reform</p>
<p>Western Environmental Law Center  “The bill recognizes that environmental justice, climate justice, and health equity are deeply intertwined. Along those lines, it’s important to incorporate disparate and cumulative impacts, including health and climate impacts, and the social and structural factors that influence them, in permitting and other decision-making,” said Ally Beasley with the Western Environmental Law Center.</p>	<p>Union of Concerned Scientists  “The importance of this historic and greatly needed Act cannot be overstated. Chairman Grijalva and Representative McEachin were intentional in working with environmental justice communities and advocates over the last year, gathering comments and insight from them.” – Dr. Adrienne Hollis, senior climate justice and health scientist at the Union of Concerned Scientists (UCS).</p>
<p>Sierra Club  “We applaud Chairman Grijalva and Rep. McEachin for introducing this significant legislation to address some of the barriers to getting outdoors many Americans face,” said Joel Pannell, Associate Director of Sierra Club’s Outdoors for All campaign. “...the Environmental Justice for All Act will help close the equity gap in outdoor access.”</p>	<p>National Wildlife Federation  “Environmental injustice anywhere is a threat to environmental progress everywhere.” said Collin O’Mara, president and CEO of the National Wildlife Federation. “Chairman Grijalva and Congressman McEachin’s Environmental Justice for All Act is a critical first step to establishing environmental justice as a top national priority, as part of our march toward revitalizing communities, improving public health, recovering wildlife, and confronting the climate crisis.”</p>



The Honorable Raúl Grijalva
Chairman House Committee on Natural
Resources
1324 Longworth House Office Building
Washington D.C. 20515

The Honorable McEachin
Member House Committee on Natural
Resources
1324 Longworth House Office Building
Washington D.C. 20515

Re: Draft Environmental Justice Principles Comment Letter 09-27-19

Dear Chairman Grijalva and Member McEachin:

The Moving Forward Network (MFN) thanks you for the opportunity to provide comments on Draft Environmental Justice Principles, and for extending the deadline for us to do so. We also thank you for hosting the Congressional Convening on Environmental Justice where our membership and other environmental justice leaders had the opportunity to provide critical input and engage in dynamic dialogue. The Congressional Convening on Environmental Justice and the House Committee on Natural Resources, Environmental Justice Working Group has proven to be an important process for identifying local community concerns through a national lens that will help to guide and frame environmental justice policy moving forward.

The Moving Forward Network is a national coalition of community-based organizations, advocates, scientists, researchers, faith-based organizations, and others committed to reducing the public health harms our country's freight transportation system creates. The Network is comprised of approximately 50 organizations and academics in 50 states, including New York, New Jersey, California, Illinois, Kansas and Georgia, Florida, Washington and Texas. Importantly, MFN members include frontline communities that are centered in environmental justice principles. Accordingly, the Network has a personal stake in the Environmental Justice Principles.

Below we have provided comment and recommendations to the Draft

Environmental Justice Principles. Our comments and recommendations are following each of the sections in the draft principles. We also include a recommendations that does not fit within the existing sections:

All people have the right to pure air, clean water, and all the richness and wonder nature can provide. For too many, those rights are still unrealized, and the injustice of that reality takes a daily toll. Across our nation, our air and water are being polluted with impunity, at great consequence to our health and environment. And too often, our government has turned a blind eye—more so in some communities than in others.

To help address these long-standing wrongs and promote justice, Congress must advance bold legislation for environmental justice, health equity, civil rights, and environmental quality.

At a minimum, this legislation must:

Strengthen the Civil Rights Act of 1964 to ensure that citizens can enforce their rights against environmental discrimination. Low-income communities, communities of color, indigenous communities, and other vulnerable populations are disproportionately burdened by environmental hazards in the United States. Too often, landfills, waste sites, and other harmful projects are placed in these communities and are operated in a manner that causes disproportionate environmental harm and risks to human health within them. This disproportionate impact discrimination is illegal under Title VI of the Civil Rights Act. Unfortunately, in the Alexander v. Sandoval decision, the Supreme Court overturned decades of precedent in order to prohibit private citizens from filing suit to enforce their Title VI rights in the face of disparate impact discrimination. Environmental justice legislation must strengthen Title VI to ensure that citizens can have their day in court when faced with disparate impact discrimination.

Comments:

In the effort to strengthen the Civil Rights Act, mechanisms should be established into law that allows for individuals and communities to enforce the Civil Rights Act and overrule the Supreme Court decision in *Alexander v. Sandoval*, thereby restoring the right of people to bring actions under the Civil Rights Act, against violators. In addition to strengthening the Civil Rights Act, Congress should require the deployment of community advocates within each relevant Federal agency charged with assisting and helping community members navigate the system and process for filing Civil Rights Act claims.

Ensure that project decisions fully reflect on-the-ground realities and cumulative impacts. Currently, federal and state governments often regulate pollution at the individual project level, and as a result, permitting decisions, including under the Clean Air Act and the Clean Water Act, do not necessarily contemplate an area's cumulative pollution levels, resulting in dangerous environmental and health outcomes. Congress should seek to require that federal and state decision-making consider proposed projects' impacts in the full, real-world context in which they would actually be constructed or carried out.

Comments:

Often time's language around "real-world" scenarios is used by anti-regulation proponents that aim to weaken protections. In the cases where "real-world" arguments have been made, the outcomes have been the evasion of accountability and as a result has allow for an increase of cumulative impacts. The Moving Forward Network recommends that when addressing cumulative impacts, Precautionary Principles are incorporated rather than suggest that the decisions reflect the "real-world". The Precautionary Principles find when we have a reasonable suspicion of harm, and uncertainty about cause and effect, we have a duty to take action to prevent that harm. In these cases, decisions makers should consider all reasonable alternatives and place the burden of assuring safety onto those whose activities raised the suspicion of harm in the first place. In making final decisions the people who will be directly affected should be at the center of decisions in a meaningful way. The Link below is an example of The World

Health Organization Precautionary Principles.

http://www.euro.who.int/_data/assets/pdf_file/0003/91173/E83079.pdf

We also agree that federal agencies should consider “cumulative impacts” in their decision-making. Such impacts include the risks and harmful effects caused by multiple pollutants (usually emitted by multiple sources) in isolation and by their interaction with each other, and with any social vulnerabilities that exist in a community. More specifically, federal agencies should be required to assess and consider cumulative impacts, and have the discretion to deny permits based on such impacts. In addition federal agencies should consider whether to issue air and water permits when there is a reasonable suspicion that a project could impose impacts that cause disparate and or cumulative burdens.

Codify and Bolster Executive Order 12898 on Environmental Justice. The 1994 Executive Order on Environmental Justice directed each federal agency to identify and address the “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. The Executive Order must be strengthened and codified into law so that the current and future administrations cannot weaken or rescind it.

Comments:

In the process of codifying the Executive Order 12898 on Environmental Justice and Health Equity, the Moving Forward Network recommends that the order be codified as is with no changes to its purpose and meaning.

Strengthen the National Environmental Policy Act to promote environmental justice. The National Environmental Policy Act (NEPA) requires federal agencies to analyze the potential environmental consequences of major federal actions and consider public input before any major actions are taken. When used effectively, NEPA can help prevent a disproportionate share of polluting projects from being sited in vulnerable communities. The existing NEPA process should be strengthened to expand opportunities for public involvement in the federal

decision-making process. Federal agencies must be required to increase public comment periods, conduct public hearings, and translate information about proposed projects into languages other than English when major polluting projects are being contemplated in these communities.

Comments:

NEPA should be fortified; it is currently a minimum threshold and should be strengthened by 1) improving community engagement and access 2) increases the information gathering and analysis 3) increases the public's ability to provide review and comments 4) and better protect environmental justice communities. Specifically, sections II and III of the Council on Environmental Quality's guidance entitled "Environmental Justice Guidance Under the National Environmental Policy Act," dated December 10, 1997, should be enacted into law.

Direct federal agencies to develop and enact a comprehensive agency-wide environmental justice strategy. All federal agencies must be required to develop effective environmental justice strategies that identify and address any disproportionately high or adverse environmental effects of their programs and practices on low-income communities, communities of color, indigenous communities, and other vulnerable populations. Furthermore, incentives and enforcement measures must be robust in order to ensure that agencies properly manage their environmental justice responsibilities.

Comments:

Congress should, by law require all Federal agencies to develop and enact a comprehensive agency-wide environmental justice strategy that incorporates the Environmental Justice Compliance and Enforcement Working Group into the agency-wide process and strategy.

Establish a Working Group on Environmental Justice Compliance and Enforcement. An Environmental Justice Compliance and Enforcement Working Group should advise and assist federal agencies in identifying and addressing environmental justice issues, provide direct guidance and technical assistance to local communities and environmental justice organizations, and engage with state, tribal, and local governments to address pollution and public health burdens in affected communities.

Comments:

A Federal Working Group on Environmental Justice and Health Equity Compliance and Enforcement body must include community representation and environmental justice stakeholders. This body should consult on a regular and routine bases with local communities, environmental justice organizations, state, tribal, and local governments to increase engagement and address local, state, regional and federal pollution and public health impacts. This Working Group should also be charged with guiding the work of the federal agencies comprehensive agency-wide environmental justice strategy, mentioned in the principle above.

Help environmental justice organizations build capacity through federal community grants. Robust federal community grants should be available to help environmental justice groups identify and implement projects to address environmental and public health concerns. Grants should also help provide scientific and technical assistance so that vulnerable communities have a detailed understanding of the potential environmental and public health threats they face when federal, state, and local decisions are being made about whether to permit a dangerous activity or where to site a hazardous project.

Comments:

Congress should increase and expand the Environmental Justice Grants Programs. With the right amounts of money's appropriated by Congress, the Environmental Justice Grants Programs can successfully support communities working on

solutions to addressing environmental justice, public health and climate impacts. When appropriating funds Congress can impose conditions and uses of those funds. When expanding programs beyond the EJ Small Grants, programs should be developed and designed to provide resources that will assist communities addressing exposure to multiple environmental harms, the climate crisis and developing local environmental justice and climate justice solutions. It is without a doubt that frontline communities across the country, both in freight impacted areas and otherwise need more resources to promote local solutions to address environmental justice and the climate crisis.

Direct federal agencies to offer training in environmental justice to the federal workforce. A federal training program should ensure that agency staff are best prepared to incorporate environmental justice concepts into their work.

Comments:

Congress should go beyond directing federal agencies to offer environmental justice trainings to their workforce. Environmental justice trainings should be required. At minimum all the agencies that are part of the Federal Interagency Working Group on Environmental Justice (EJ IWG) should be required to complete environmental justice trainings. These environmental justice trainings must be developed in consultation with community expert representatives, environmental justice stakeholders and the Working Group on Environmental Justice and Health Equity Compliance and Enforcement. These workshops should also be co-facilitated by community expert representatives, environmental justice stakeholders.

In Addition to the Draft Environmental Justice Principles, MFN would like to recommend that the following be included:

Codify into law the National Environmental Justice Advisory Council with the intent to fulfill its responsibilities and duties. Resources and authority should be given to the National Environmental Justice Advisory Council.

<https://www.nwf.org/Latest-News/Press-Releases/2020/02-27-20-Environmental-Justice-bill>



Environmental Justice Bill Shows How to Confront Climate, Public Health Crises Facing Frontline Communities

Mike Saccone
Feb 27, 2020

WASHINGTON, D.C. — The landmark Environmental Justice for All Act, introduced today by House Natural Resources Committee Chairman Raúl M. Grijalva (D-Ariz.) and Congressman Donald McEachin (D-Va.) shows how the nation can transition to a clean-energy future while also investing in frontline communities. The National Wildlife Federation heralded the bill and urged lawmakers to follow its example of authentically engaging communities of color and historically disadvantaged Americans when crafting climate solutions.

“The public health crisis facing communities of color is being caused by the same pollution and polluters driving the global climate crisis. Our communities of color and lower-income communities are literally dying for a breath of fresh air while the planet nears the point of no return on climate. We have to address both crises before it’s too late,” said [Mustafa Santiago Ali](#), the National Wildlife Federation’s vice president for environmental justice, climate and community revitalization. “This critical legislation shows how we can address public health and economic problems facing frontline communities while also moving forward with a just and equitable transition from fossil fuels, where no one gets left behind. Together we can help our most vulnerable communities move from surviving to thriving.”

“Environmental injustice anywhere is a threat to environmental progress everywhere. For far too long, the conservation community has failed to stand with communities of color and historically disadvantaged communities facing acute pollution threats. We must do better. The escalating challenges we face demand that the pursuit of environmental justice is fully integrated into our work to restore our majestic natural resources and act on climate. This legislation rightly focuses on cleaning up the polluted air, water, and soils that continue to prevent frontline communities from thriving,” said [Collin O’Mara](#), president and CEO of the National Wildlife Federation. “Chairman Grijalva and Congressman McEachin’s Environmental Justice for All Act is a critical first step to establishing environmental justice as a top national priority, as part of our march toward revitalizing communities, improving public health, recovering wildlife, and confronting the climate crisis.”

[Ali recently testified before the U.S. House Energy and Commerce Committee](#) on the challenges facing frontline communities and the principles that should guide the transition to a “100 percent clean economy.” O’Mara also has been a leading voice for ensuring climate solutions [invest in working-class families](#) and [do not treat vulnerable communities as an “afterthought.”](#)

Sierra Club Applauds Environmental Justice for All Act

Thursday, February 27, 2020

Contact:

April Thomas, april.thomas@sierraclub.org, 206.321.3850

Washington, D.C., -- Today, Chair Raúl M. Grijalva (D-Ariz.) and Rep. A. Donald McEachin (D-Va.) introduced their landmark Environmental Justice for All Act.

This landmark environmental justice bill was created by the environmental justice community and represents the culmination of over a year of outreach. The bill makes major strides on environmental justice including an update of the National Environmental Policy Act to promote environmental justice, and the Outdoors for All Act, a key legislative priority that Sierra Club Outdoors for All has worked to advance since 2016.

"At a moment when the Trump administration is attempting to roll back key environmental protections like NEPA, it takes courage and vision to seek to expand these safeguards," said Sharonda Williams-Tack, Associate Director for Environmental Justice and Community Partnerships at Sierra Club. "I am so appreciative of environmental justice leaders who have pushed to make public health a priority in this incredibly challenging time. The introduction of this bill is a testament to the power and tenacity of environmental justice communities across the country."

"We applaud Chairman Grijalva and Rep. McEachin for introducing this significant legislation to address some of the barriers to getting outdoors many Americans face," said Joel Pannell, Associate Director of Sierra Club's Outdoors for All campaign. "One in three people in the U.S. do not live within a 10 minute walk of a local park, and this is especially true for low-income families. As the effects of climate change become more and more apparent, the importance of environmental justice — including the human right to access nature — has never been more clear. The benefits to health and wellness provided by getting outdoors are proven, but many of our children are growing up without being able to experience nature. By providing a dedicated funding source for outdoor recreation projects in underserved communities, the Environmental Justice for All Act will help close the equity gap in outdoor access."

About the Sierra Club

The Sierra Club is America's largest and most influential grassroots environmental organization, with more than 3.5 million members and supporters. In addition to protecting every person's right to get outdoors and access the healing power of nature, the Sierra Club works to promote clean energy, safeguard the health of our communities, protect wildlife, and preserve our remaining wild places through grassroots activism, public education, lobbying, and legal action. For more information, visit www.sierraclub.org.

A breath of fresh air for your inbox.

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By signing up, you are opting in to receive periodic communications from the Sierra Club.



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Environmental Justice for All Act Historic for Frontline Communities

Statement by Adrienne Hollis

Published Feb 27, 2020

WASHINGTON—House Natural Resources Committee Chairman Raul Grijalva and Representative Donald McEachin, introduced landmark environmental justice legislation, the Environmental Justice for All Act, today. This historic bill calls for a range of much needed actions to ensure environmental justice considerations and stakeholder engagement are firmly embedded in federal policies and agency actions. The bill also establishes an Interagency Working Group on Environmental Justice Compliance and Enforcement to help identify and address the disproportionate burden federal actions have on communities of color, low-income communities, rural communities, and Tribal and indigenous communities.

Below is a statement by [Dr. Adrienne Hollis](#), senior climate justice and health scientist at the Union of Concerned Scientists (UCS).

“The importance of this historic and greatly needed Act cannot be overstated. Chairman Grijalva and Representative McEachin were intentional in working with environmental justice communities and advocates over the last year, gathering comments and insight from them. The bill recognizes the importance of science and research on public health issues and in supporting communities in their fight for environmental justice. It acknowledges the lack of and need for information and data on adverse environmental exposures and highlights the particularly harmful burden of exposure to multiple pollution sources on the health and well-being of communities. This legislation also underscores the need for a fair and just transition to a clean energy economy.

“UCS looks forward to working with environmental justice and labor advocates, as well as the committee, on moving forward legislation that elevates just and equitable solutions to address environmental pollution and the climate crisis.”

UCS is a signatory to both the [Equitable and Just National Climate Action Platform](#), which recognizes the need to partner with environmental justice groups to address the climate crisis, and the [Solidarity for Climate Action Platform](#), which acknowledges that working people must play a major role in shaping climate change solutions.

For more information about the historical context of why such legislation is needed, how environmental justice organizations have been fighting to safeguard their communities, these platforms, and the work of UCS in this space, check out [this blog](#) by Hollis.

Statement: Environmental Justice for All Act a leap forward

Feb 27, 2020 | [News Release](#)

Today, Chair Grijalva and Rep. McEachin [introduced](#) an environmental justice bill more than a year in the making. Among other things, the bill creates a Federal Energy Transition Economic Development Assistance Fund to aid in a just transition away from fossil fuel economies for workers and communities. In addition, the bill would expand legal rights for people and communities experiencing environmental injustice, and would provide resources for programs to alleviate environmental racism nationwide.

The bill was shaped by a months-long public participation process involving environmental justice advocates and grassroots groups from the outset. The process was based on the Jemez Principles for Democratic Organizing, established in New Mexico, and later included an online public comment period on a discussion draft. The Western Environmental Law Center's Ally Beasley provided technical comments on this draft.

"The bill recognizes that environmental justice, climate justice, and health equity are deeply intertwined. Along those lines, it's important to incorporate disparate and cumulative impacts, including health and climate impacts, and the social and structural factors that influence them, in permitting and other decision-making," said Ally Beasley with the Western Environmental Law Center.

"This bill's development also represents a crucial step towards meaningful environmental justice action, which must go beyond getting mere 'input' late in a decision-making or policy process, and should instead be driven by – and in true solidarity with – frontline people and communities, centering their leadership, priorities, knowledge, and expertise at every step, from principle and policy design and development to implementation and action," she added.

"The bill's emphasis on cumulative impacts and meaningful involvement of frontline communities is especially important in light of existing and proposed Trump administration rollbacks that gut fundamental public participation and public health protections," she concluded.

 SEARCH

Topics

Andrea Rodgers	Andrew Hawley	Arizona	Blue Mountains Forest Partners	California	Canada lynx	Chaco	coal	Colorado
Crater Lake	crazy mountains	Erik Schlenker-Goodrich	fracking	grizzly bears	Idaho	John Mellgren	Jordan Cove LNG	Kelly Nokes
Kyle Tisdell	Laura King	Lynx	Malheur National Forest	matt bishop	Matthew Bishop	methane	Mexican Wolves	Montana
New Mexico	Oregon	ORVs	Pete Frost	Powder River Basin	public access	Salmon	Santa Fe National Forest	Shiloh Hernandez
Susan Jane Brown	Tom Singer	trout	Utah	Wallowa-Whitman National Forest	Washington	Wildlife Services	Wolves	Wyoming



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City of Hazard
P.O. Box 420
Hazard, Kentucky 41701

Donald "Happy" Mobelini, Mayor

(606) 436-3171

Republican Leader David B. McKinley, P.E.
2239 Rayburn House Office Building
Washington DC 20515

April 11, 2021

Dear Leader McKinley,

On behalf of Hazard, Perry County and Eastern Kentucky, we are asking for support as the federal government accelerates the transition away from fossil fuels.

Hazard, Perry County and Eastern Kentucky are still dealing with the on-going decline of the coal industry and the aftermath of layoffs including the loss of 13,000 coal jobs. The accelerated transition away from coal and natural gas will only continue to hurt our communities with more lost of jobs and tax revenue.

Hazard and Perry County are striving to employ out-of-work miners through a mix of local, state, federal and private programs, as we are dealing with the epidemic, poverty, opioid abuses, aging infrastructure, environmental issues and a deficient funding for education. We in Eastern Kentucky need a voice to advocate while in the midst of economic transition.

More economic uncertainty will continue to destabilize our local economies and governments when services and support are needed most. Without an effective transition and reliable opportunities to find new ways to sustain our communities, Eastern Kentucky will continue to face economic devastation.

With the decline of the coal industry, Perry County continues to lose population. We need legislation in place to help attract, retain and advance our young people in the region so they can have careers and raise their families in the beautiful hills of the Appalachian Mountains. We need solutions to be introduced as we address the challenges faced.

Hope still exists in Appalachia as we struggle to diversify our economy and hold on to what coal and natural gas jobs are left. Help us to use the limited resources we have and develop a plan as we transition from dependency of coal and natural gas.

Solutions should be developed to help the transition and serve as opportunity for economic diversification and help our coal miners transition to good paying jobs so they can continue to live and have a good quality of life in Eastern Kentucky.

The federal government must recognize the very real and pressing needs of economically distressed communities such as in Eastern Kentucky. We have experienced so much of the burden of the energy transition and urge the government to address and take the necessary steps to support historically coal-dependent regions so that we can compete with the rest of the world and not be left behind.

Thank you for considering our plea. We invite you to come visit Eastern Kentucky and see the challenges we are facing so we can work together to find solutions such as high speed internet access and the infrastructure to attract new industry.

Sincerely,

Donald "Happy" Mobelini

Donald "Happy" Mobelini, Mayor of Hazard



City of Hazard
P.O. Box 420
Hazard, Kentucky 41701

Donald "Happy" Mobelini, Mayor

(606) 436-3171

Chairman Paul Tomko
2369 Rayburn House Office Building
Washington DC 20515

April 11, 2021

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Sincerely,

Donald "Happy" Mobelini

Donald "Happy" Mobelini, Mayor of Hazard

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 4, 2021

Mildred McClain, Ph.D.
Executive Director
Harambee House Inc.
1115 Habersham Street
Savannah, GA 31401

Dear Dr. McClain:

Thank you for appearing before the Subcommittee on Environment and Climate Change on Thursday, April 15, 2021, at the hearing entitled “The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities.” I appreciate the time and effort you gave as a witness before the Committee on Energy and Commerce.

Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from certain members of the Committee. In preparing your answers to these questions, please address your response to the member who has submitted the questions in the space provided.

To facilitate the printing of the hearing record, please submit your responses to these questions no later than the close of business on Friday, June 18, 2021. As previously noted, this transmittal letter and your responses, as well as the responses from the other witnesses appearing at the hearing, will all be included in the hearing record. Your written responses should be transmitted by e-mail in the Word document provided to Rebecca Tomilchik, Policy Analyst, at rebecca.tomilchik@mail.house.gov. To help in maintaining the proper format for hearing records, please use the document provided to complete your responses.

Mildred McClain, Ph.D.
Page 2

Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Rebecca Tomilchik with the Committee staff at (202) 225-2927.

Sincerely,

A handwritten signature in black ink that reads "Frank Pallone, Jr." in a cursive style.

Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce

The Honorable Paul D. Tonko
Chairman
Subcommittee on Environment and Climate Change

The Honorable David B. McKinley
Ranking Member
Subcommittee on Environment and Climate Change

[Dr. McClain did not answer submitted questions for the record by the time of publication.]

Mildred McClain, Ph.D.
Page 3

Attachment—Additional Questions for the Record

**Subcommittee on Environment and Climate Change
Hearing on
“The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities”
April 15, 2021**

Mildred McClain, Ph.D., Executive Director, Harambee House/Citizens for Environmental
Justice

The Honorable Nanette Diaz Barragán (D-CA)

1. The Environmental Justice for All Act requires the consideration of cumulative impacts in permitting decisions under the Clean Water Act and the Clean Air Act and ensures that permits will not be issued if the project cannot demonstrate a reasonable certainty of no harm to human health. How important is it that the cumulative impacts of polluting projects are considered when an agency is determining whether or not to provide a permit for an individual project?

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 4, 2021

Mr. Angelo Logan
Policy and Campaign Director
The Moving Forward Network
1600 Campus Road (M-1)
Los Angeles, CA 90041

Dear Mr. Logan:

Thank you for appearing before the Subcommittee on Environment and Climate Change on Thursday, April 15, 2021, at the hearing entitled “The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities.” I appreciate the time and effort you gave as a witness before the Committee on Energy and Commerce.


Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from certain members of the Committee. In preparing your answers to these questions, please address your response to the member who has submitted the questions in the space provided.

To facilitate the printing of the hearing record, please submit your responses to these questions no later than the close of business on Friday, June 18, 2021. As previously noted, this transmittal letter and your responses, as well as the responses from the other witnesses appearing at the hearing, will all be included in the hearing record. Your written responses should be transmitted by e-mail in the Word document provided to Rebecca Tomilchik, Policy Analyst, at rebecca.tomilchik@mail.house.gov. To help in maintaining the proper format for hearing records, please use the document provided to complete your responses.

Mr. Angelo Logan
Page 2

Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Rebecca Tomilchik with the Committee staff at (202) 225-2927.

Sincerely,


Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce

The Honorable Paul D. Tonko
Chairman
Subcommittee on Environment and Climate Change

The Honorable David B. McKinley
Ranking Member
Subcommittee on Environment and Climate Change

[Mr. Logan did not answer submitted questions for the record by the time of publication.]

Mr. Angelo Logan
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Attachment—Additional Questions for the Record

**Subcommittee on Environment and Climate Change
Hearing on
“The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities”
April 15, 2021**

Mr. Angelo Logan, Policy and Campaign Director, The Moving Forward Network

The Honorable Nanette Diaz Barragán (D-CA)

1. First, I want to thank you for your advocacy on behalf of The Moving Forward Network to fight for clean air in port communities, including in South Los Angeles where you have done amazing work. Can you describe how the Climate Smart Ports Act would make a difference for air quality in Los Angeles and port communities across the country?
2. As a follow-up, an important part of the Climate Smart Ports Act is its support for zero emissions technology. In addition, the green ports program established in the CLEAN Future Act takes that approach based on my bill. Can you tell the committee how important it is for environmental justice communities that our investments to green ports focus on zero emissions technology solutions, rather than “low emissions” technology?
3. The Environmental Justice for All Act requires the consideration of cumulative impacts in permitting decisions under the Clean Water Act and the Clean Air Act and ensures that permits will not be issued if the project cannot demonstrate a reasonable certainty of no harm to human health.

How important is it that the cumulative impacts of polluting projects are considered when an agency is determining whether or not to provide a permit for an individual project?

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 4, 2021

Ms. Elizabeth Yeampierre
Executive Director
UPROSE
462 36th Street, Suite 3A
Brooklyn, NY 11232

Dear Ms. Yeampierre:

Thank you for appearing before the Subcommittee on Environment and Climate Change on Thursday, April 15, 2021, at the hearing entitled “The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities.” I appreciate the time and effort you gave as a witness before the Committee on Energy and Commerce.


Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from certain members of the Committee. In preparing your answers to these questions, please address your response to the member who has submitted the questions in the space provided.

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Ms. Elizabeth Yeampierre
Page 2

Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Rebecca Tomilchik with the Committee staff at (202) 225-2927.

Sincerely,


Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce

The Honorable Paul D. Tonko
Chairman
Subcommittee on Environment and Climate Change

The Honorable David B. McKinley
Ranking Member
Subcommittee on Environment and Climate Change

[Ms. Yeampierre did not answer submitted questions for the record by the time of publication.]

Ms. Elizabeth Yeampierre
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Attachment—Additional Questions for the Record

**Subcommittee on Environment and Climate Change
Hearing on
“The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities”
April 15, 2021**

Ms. Elizabeth Yeampierre, Executive Director, UPROSE

The Honorable Debbie Dingell (D-MI)

1. The CLEAN Future Act creates just one factor for prioritizing lead line replacement funding, and I am quoting here – “priority for the use of funds [should] be given to projects that replace lead service lines serving disadvantaged communities and environmental justice communities.”

Ms. Yeampierre, YES or NO, do you agree that replacing lead service lines serving disadvantaged and environmental justice communities should be the absolute top priority for these funds?

2. Ms. Yeampierre, what level or estimate of investment will this require from the federal government?
3. The bill also bans partial line replacements and ensures that the private portion of the lead service line is replaced along with the public portion. This is essential to fully address lead contamination and to avoid short term spikes in lead levels.

Ms. Yeampierre, what risk will be posed to environmental justice communities if we leave some lead service lines or portions of lead service lines in place?

4. The bill also blocks water utilities receiving funding through this program from charging homeowners for the replacement of the lead service lines serving their homes. I think this is incredibly important to ensure that we replace all lead service lines, even for homeowners who can’t afford to contribute.

Ms. Yeampierre, who will get left out and left behind if water systems can charge homeowners for lead line replacement?

Ms. Elizabeth Yeampierre
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5. Affordability is such a huge concern for families in my district when it comes to drinking water. The American Rescue Plan included rate assistance for low-income customers, to make water bills more affordable. I want to work to make sure that a permanent assistance program is created to ensure that all customers and all communities have access to safe and affordable drinking water.

Ms. Yeampierre, do you agree that access to safe and affordable drinking water is a matter of environmental justice?

The Honorable Nanette Diaz Barragán (D-CA)

1. The Climate Justice Grants Act, which is part of the CLEAN Future Act, would provide EPA grants of up to \$2 million for community-driven clean energy and climate resiliency projects. Can you talk about how this kind of financial support could help an organization like Uprose that works on grassroots-led, bottom-up, climate resiliency strategies?

Adrienne L. Hollis, Ph.D., J.D.
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Attachment—Additional Questions for the Record

**Subcommittee on Environment and Climate Change
Hearing on
“The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities”
April 15, 2021**

Adrienne L. Hollis, Ph.D., J.D., Senior Climate Justice and Health Scientist, Union of Concerned Scientists

The Honorable Nanette Diaz Barragán (D-CA)

1. Superfund sites are contaminated with the most dangerous toxic pollutants. The backlog of Superfund cleanups is the largest it has been in the last 15 years¹. Many communities are waiting years, if not decades, for contaminated sites to be cleaned up, and in many cases the corporation responsible is bankrupt and can't be fully held accountable. This happened recently at an abandoned Exide battery recycling plan in Los Angeles County. How can Congress reform the Superfund program so it works better for environmental justice communities?

RESPONSE:

Congresswoman Barragán thank you very much for your question. To put it bluntly, the Superfund program needs more money. Period. Funding for cleanup of toxic sites was greater prior to the mid-1990s due to a tax on petroleum and chemical industries that Congress chose not to reauthorize in 1995. Since then, funding has been in a steep decline. Funding for the program has decreased since then from \$4 billion to around \$1 billion today, which has led to a decrease in cleanups. ~~666~~ Today, there are still people advocating for a "make polluters pay" tax, which could work, but only if there were a mechanism to prevent industries from diverting their costs to nearby environmental justice communities. If there were such a mechanism to prevent that outcome, then the tax may work.

¹ <https://blog.ucsusa.org/juan-declet-barreto/superfund-site-cleanups-ignore-communities-of-color>

Adrienne L. Hollis, Ph.D., J.D.
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The site that you mentioned, and the countless other orphaned sites that have not been cleaned up (most of which are in environmental justice communities), need investments commensurate with the work required to keep people and communities safe. Congress, along with the White House, can give that program more funding. For example, Senator Booker's and Congressman McEachin's Environmental Justice Legacy Pollution Cleanup Act would give the Superfund program billions of dollars to cleanup these orphan sites. In addition, the Superfund program needs to be strengthened to ensure that potentially responsible parties are identified and held accountable and not protected by bankruptcies, but that sites are cleaned up to safe levels. As a part of that, the responsibility for site cleanup should rest with the EPA, and not necessarily with state and local governments.

An adequately funded and strengthened Superfund program will reduce the disparities in Superfund site cleanups in EJ communities. For example, Superfund site deletions since 2017 have targeted a smaller share of communities of color as compared to those deleted during 2008-2016: 24.8 percent, impacting about 41,000 people between 2017-2020, versus 33.5 percent (about 107,000 people). The difference of nearly 9 percentage points indicates that recent Superfund site cleanups have neglected communities of color. In addition, there is a great deal of work to be done to protect EJ communities from toxics present in these sites. Nearly 31.7 percent of the 6.1 million people living in census tracts with Superfund sites that have not been cleaned up are people of color.