

U.S. ENVIRONMENTAL PROTECTION AGENCY

THE COUNCIL ON ENVIRONMENTAL QUALITY

WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

VIRTUAL PUBLIC MEETING

WASHINGTON, DISTRICT OF COLUMBIA

APRIL 28, 2021

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PREFACE

The White House Environmental Justice Advisory Council is established by Executive Order 14008, titled “Tackling the Climate Crisis at Home and Abroad” (issued on January 27, 2021). As such, this is a non-discretionary committee and operate under the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

The WHEJAC will provide independent advice and recommendations to the Chair of the Council on Environmental Quality (CEQ) and to the White House Interagency Council on Environmental Justice (Interagency Council), on how to increase the Federal Government’s efforts to address current and historic environmental injustice, including recommendations for updating Executive Order 12898. The WHEJAC will provide advice and recommendations about broad cross-cutting issues related, but not limited to, issues of environmental justice and pollution reduction, energy, climate change mitigation and resiliency, environmental health and racial inequity. The WHEJAC’s efforts will include a broad range of strategic scientific, technological, regulatory, community engagement, and economic issues related to environmental justice.

The duties of the WHEJAC are to provide advice and recommendations to the Interagency Council and the Chair of CEQ on a whole-of-government approach to environmental justice, including but not limited to environmental justice in the following areas:

- a. Climate change mitigation, resilience, and disaster management.
- b. Toxics, pesticides, and pollution reduction in overburdened communities.
- c. Equitable conservation and public lands use.
- d. Tribal and Indigenous issues.
- e. Clean energy transition.
- f. Sustainable infrastructure, including clean water, transportation, and the built environment.
- g. National Environmental Policy Act (NEPA), enforcement and civil rights.
- h. Increasing the Federal Government’s efforts to address current and historic environmental injustice.

EPA’s Office of Environmental Justice (OEJ) maintains summary reports of all WHEJAC meetings, which are available on the WHEJAC website at:

<https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council>.

Copies of materials distributed during WHEJAC meetings are also available to the public upon request. Comments or questions can be directed via e-mail to whejac@epa.gov.

WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL MEMBERS

RICHARD MOORE, WHEJAC CO-CHAIR	ANGELO LOGAN
PEGGY SHEPARD, WHEJAC CO-CHAIR	MARIA LÓPEZ-NÚÑEZ
CATHERINE FLOWERS, WHEJAC VICE CO-CHAIR	HAROLD MITCHELL
CARLETTA TILOUSI, WHEJAC VICE CO-CHAIR	RACHEL MORELLO-FROSCH, PhD
LATRICEA ADAMS	JUAN PARRAS
SUSANA ALMANZA	MICHELE ROBERTS
JADE BEGAY	RUTH SANTIAGO
MARIA BELEN POWER (<i>Not Present</i>)	NICKY SHEATS, PhD
ROBERT BULLARD, PhD	VIOLA WAGHIYI
TOM CORMONS	KYLE WHYTE, PhD
ANDREA DELGADO	BEVERLY WRIGHT, PhD
JEROME FOSTER II	HLI XYOOJ
KIM HAVEY	MIYA YOSHITANI (<i>Not Present</i>)

WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

VIRTUAL PUBLIC MEETING

APRIL 28, 2021

MEETING SUMMARY

The White House Environmental Justice Advisory Council (WHEJAC) convened via Zoom meeting on Wednesday, April 28, 2021. This summary covers WHEJAC members' deliberations during the meeting and the discussions during the public comment period.

WELCOME AND OPENING REMARKS

Karen Martin, Designated Federal Officer (DFO), U.S. Environmental Protection Agency (EPA), begin the meeting and welcomed everyone.

Dr. Cecilia Martinez, Senior Director for Environmental Justice, Council on Environmental Quality, stated that it was an honor and a privilege to be with everyone for the second meeting of the White House Environmental Justice Advisory Council. She stated that each Council member brings a valued and important perspective and knowledge base that is critical to move forward in addressing the nation's systemic issues. She stated that together there is a major job ahead, creating and implementing a federal agenda that will bring this nation much closer to the ideals of equality and justice for all.

Dr. Martinez extended thanks to the staff at EPA and also announced a new member of environmental justice team at CEQ, Ms. Corey Solow, Deputy Director for Environmental Justice. She stated that Ms. Solow will also serve as the Executive Director for the Environmental Justice Interagency Council, which receives recommendations from the WHEJAC. She ended introducing the chair of CEQ, Brenda Mallory. She stated that Chair Mallory worked several years at the Environmental Protection Agency and also served as general counsel for CEQ for a number of years.

Brenda Mallory, Chair, Council on Environmental Quality, stated that she was thrilled to be here today and grateful to be in an official capacity to say thank you. She expressed her gratitude in joining CEQ to chart the new course for the way that the federal government addresses the issues plaguing low-income communities and communities of color and its historic role in perpetuating it. She stated that there is a lot to examine in the policies of the federal government and to adjust in order to make those policies work in a way that all communities actually get the benefit of environmental protection with clean air, clean water, and an environment that is toxic free.

Chair Mallory talked about last year being the 50th anniversary of many of the environmental laws, including the National Environmental Policy Act. She stated that it was a time to reflect on where we had come in the environmental law area, environmental policy area and environmental justice's unfinished business to be addressed. She stated that having this focus and opportunity is a dream come true that she is grateful for. She went on to say that she was also grateful that not only has the President tasked CEQ with the role, but the whole Administration is giving a priority to these issues in a way that is a whole of government approach. She stated that she was looking forward to hearing the reports from the workgroups.

Karen Martin, DFO, Thanked Chair Mallory for joining the meeting. She informed the Council that the chairs and co-chairs would give opening remarks and then the WHEJAC members will introduce themselves.

Richard Moore, WHEJAC Co-Chair, thanked Chair Mallory. He stated that he wanted to officially open the meeting and share a voicemail he received. He stated he received a voicemail message from one of our elders in the environmental justice movement, and she was congratulating me, congratulating us for our appointments to the WHEJAC. And she said, “Richard, after all these years, it’s great to hear that you’re working for the White House, and it’s great to hear that you’re having the opportunity to pay some of your bills now that you’re working for the White House.” And we laughed a bit and so on, and I said, “Thank you very much, miss, for the congratulations. We’re not paid people here. We’re volunteers on this WHEJAC, and all of us will continue to struggle in the environmental justice community throughout this country to move forward on the issues that we’re talking about.” He also shared a comment he made: I said, “You know, Miss, we work with the Council on Environmental Quality, and as members of the White House Environmental Justice Advisory Council, but for many of us or for all of us we work for those that have given up their lives for many, many years. Some that are with us and some that have passed. But we work for those that have shared their lives for environmental and economic justice.” He stated that it was an honor to be co-chair and to work with the Council and work with the staff. He turned the floor to Ms. Peggy Shepard, WHEJAC Co-Chair.

Peggy Shepard, WHEJAC Co-Chair, expressed her appreciation for the opportunity to work with the Biden Administration and the dynamic duo of Brenda Mallory and Dr. Cecilia Martinez and the staff that’s being assembled at the White House and CEQ. She also gave a special thanks to Karen Martin and George Ward, who have really helped the Council in what has been a sprint to completing the first draft of recommendations to the Administration. She stated that today the Council will be discussing the initial draft of recommendations on the operation of Justice40 to bring 40 percent energy benefits to frontline communities, developing key aspects of the Executive Order 12898, and developing and operationalizing a climate and environmental justice screening tool. She stated that she is looking forward to the discussion today and turned the floor to Vice Co-Chair, Catherine Flowers.

Catherine Flowers, WHEJAC Vice Co-Chair, thanked Chair Mallory. She stated that this was an opportunity for everyone to listen, learn, and amplify the voices of marginalized people. She expressed her delight in serving trailblazers in the environmental justice movement. She stated that she was confident that the roles that everyone play will eventually bring equity to the communities that have been left behind. She turned the floor to Vice Co-Chair Carletta Tilousi.

Carletta Tilousi, WHEJAC Vice Co-Chair, opened with good mornings and stated that she is from Arizona and from the Havasupai Tribe. She stated that her community is still fighting the uranium mines on the rim of the Grand Canyon. She also stated that this is one of the reasons why everyone is here today to address some of these ongoing injustices, joining together with one voice and one unity to bring justice to communities. She thanked everyone for their hard work and turned the floor back to Karen Martin, DFO.

Karen Martin, DFO, proceeded with Roll Call of the WHEJAC members. After roll call, she announced that a quorum was met and that the meeting may proceed. She stated that the focus of today was to hear from the workgroups. She stated that they were going to give highlights of the recommendations that they are proposing. She also stated that today would be the opportunity to get feedback and/or clarify any points. She stated that if everyone does not have an opportunity to speak, they would still have an opportunity to include comments in the draft documents. She turned the floor over Co-Chair Peggy Shepard to get started with the first workgroup presentation.

WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION

Peggy Shepard, WHEJAC Co-Chair, began with the Justice40 draft recommendations. She cautioned that this was simply a snapshot of the more than 60 or so recommendations drafted so far and hoped that the Council had read the larger draft to properly ask questions. She turned it to Dr. Beverly Wright and Ruth Santiago to go through the draft recommendations.

Dr. Beverly Wright, WHEJAC Member, proceeded with the slide presentation. She stated that the charge was to identify existing programs that environmental justice communities have found critical and important to serving their needs. Specifically, to identify what components of these programs are most effective and what components present challenges and come up with ideas for potential new programs that would fill the gap. She stated first is clean energy and energy efficiency, and there are several recommendations, one being finance community resilience, projects in frontline communities through green resilient banks. She said another is to identify key barriers to solar access at HUD, including reviewing utility allowances. She stated that the second is clean transit and transportation investment. This is investing in transit hubs to catalyze economic and small business development in commercial corridors. She explained that the second recommendation is transportation infrastructure investments in EBs, electric charging stations, walk and bike lanes and trails, and transportation-oriented development. She stated that the third topic is safe, affordable, and sustainable housing. She also explained that there is no priority order for the recommendations and no one suggestion is being placed above the other.

Dr. Wright stated that the first recommendation was the relocation of residents whose homes were built on contaminated land or toxic sites with HUD funds and she gave an example. She referenced the agriculture landfill in New Orleans, Louisiana where they have been fighting for 25 years. She explained that another recommendation is to develop HUD policy to align with the mandate to provide assisted housing to elderly, disabled and low-income households that is affordable, safe, sanitary and outside flood plains.

Dr. Wright noted that the next topic is community-university partnerships. She stated that one recommendation is to develop guidance and directives for HBCUs and other minority serving institutions to support communities addressing legacy pollution problems and challenges. This also includes public colleges and universities in U.S. territories, including Puerto Rico and Indian Country. She stated that another is to allocate research funding to HBCUs to research impacts of environmental racism associated with the miscarriages and other characteristics of at-risk pregnancies and develop a youth White House Environmental Justice Advisory Council adjacent to the National Environmental Justice Advisory Council. Also, develop a career technology education grant program to support middle schools and high schools to design and implement environmental justice career pathways, curriculum prioritized in schools, serving majority Black Indigenous People of Color (BIPOC) students. She turned the floor to Ruth Santiago.

Ruth Santiago, WHEJAC Member, continued the slide presentation with the documents prepared in the Justice40 working group. She displayed the first category training and workforce development, which are two recommendations involving increased funding for NIEHS environmental career working training program and also for the Partnerships through Opportunity in Workforce and Economic Revitalization, or POWER program, and assistance to coal communities. She stated that the next major category worked on was remediation and redemption of legacy pollution. She stated that within that, there were quite a few recommendations that include establishing programs for redemption of permitting emissions of hazardous air pollutants to prevent exceedance of EPA's cancer and non-cancer risk guidelines, conduct civil rights compliance reviews under Title VI of the Civil Rights Act which delegated environmental authorities, pass the RECLAIM Act HR1733 to use mine reformation as an economic driver and augment underfunded abandoned mine lands program with Treasury funds. As well as the decontamination of Vieques, Culebra, Tallaboa, Penuelas, Guayanilla, Cano Martin Pena.

Ruth Santiago went on to say that the next recommendation included medical monitoring, preventative medicine, healthy nutrition in caregiving programs for vulnerable populations in EJ communities (especially seniors), as well as training programs for residents of the EJ communities. She also discussed decontamination of coal ash waste sites, which there are many throughout the nation, including in Puerto Rico, prioritize cities and their states with significantly high counts of Superfund sites, and designate local EPA staff in satellite offices and locations to support with liaising and local oversight and accountability with cleanups. She referenced expanding Medicare/Medicaid for life-time access for individuals from frontline communities directly impacted by environmental racism and injustice, i.e. the Flint Water Crisis, and extend Medicaid coverage for a year minimum for all mothers and children or child birthing people with an inclusion of body burden and risk factors associated with climate issues, extreme heat, air pollution, lead poisoned water, and other environmentally induced health conditions.

Ruth Santiago displayed the last recommendation, develop and expand funding for grant programs for childcare based centers, including family centers, home-based daycares, traditional daycares, head start and pre-K for lead remediation and environmental safety education. She stated that the two categories, of which included the development of critical clean water infrastructure. She explained that within that, the recommendations are to create a federal low-income water and sewer bill assistance program, permanently institutionalize water and wastewater affordability programs, replace all lead service pipelines nationwide, incentivize states with mandatory lead testing policies, laws in public schools and childcare facilities through non-competitive grant funding, and incentivize cities, municipalities that prioritize contractors for lead service line replacement.

Ruth Santiago closed explaining that under the category of climate mitigation and resiliency, the recommendation was to incorporate ecosystem buyer remediation measures and robust community consultation prior to investment of funds and not allow for projects that impede sustainable flood control work or adversely impact public water supply.

Maria López-Núñez, WHEJAC Member, was one of the presenters on behalf of Workgroup 2. She stated that the workgroup was tasked with figuring out the key elements that are important in developing the definition of investment benefits. She stated that building off of the guiding principles, the number one recommendation is that 100 percent of the investments do no harm to environmental justice communities. She stated that this meant in thinking about Justice40, the goal is to achieve 100 percent justice and that the Justice40 does not become mitigation investments. She explained that the rationale is that if the other 60 percent of the money is doing harm to environmental justice communities, then this becomes de facto mitigation money. She also explained 40 percent of the investments is thought to be a starting point, not a cap, in terms of a definition, the job is not done.

Maria López-Núñez stated that the workgroup had a lot of questions for the public and for fellow WHEJAC members. She stated that the thinking is that X amount of the investments should be directly allocated specifically to environmental justice community member's organization. The question was, how do we get into the deepest root possible of communities so that money is not held up at municipalities or bigger institutions?

Maria López-Núñez also explained that another guiding principle is that funding for community members and organizations should support community-driven recovery and long-term rebuilding/relocation. She stated that the workgroup considered capacity building, training, and outreach for community organization because it's hard to give recommendations for a broad definition that is going to be used across the country. The thinking was that it really should be decided at the community level. She stated that in order to do that, a portion of the funding needs to fund capacity building training and outreach so that communities can engage and define what is a benefit for themselves and that these benefits should not be defined by whomever. She explained that the money needs to go directly to capital projects that might be motivating economic, environmental, and public health benefits to the community at large.

Maria López-Núñez went over the overall goals and requirements. She stated that the workgroup wanted to make sure that any environmental investment is used as leverage to maximize economic and public health benefits. She noted that especially in the age of COVID-19, while communities have been disproportionately hit, recovery and moving forward should be the vision. She also stated that it is important to think holistically and that includes public housing, housing in general, and transportation. She turned the floor to Kim Havey to present.

Kim Havey, WHEJAC Member, stated that the workgroup believes justice for the investment benefit will be justice driven, accountable to the community and community powered. Meaning, that they have both should have distributive as well as procedural equity included in the decision making. He stated that it should also be actively anti-racist, and focused on climate action, a just recovery from COVID-19 and other disasters. The benefit should improve public health and community wealth building. He highlighted a few examples of projects that would fall under the investment benefits definition. Things like clean energy projects, community local agriculture and things that have a tremendous opportunity to create benefit, or things like changing out and reducing any access to lead waterpipes. He stated that it is a national problem and a lot can be done to improve the health and well-being of the community by looking at major programs that invest in healthy sustainable infrastructure.

Kim Havey stated that that the workgroup is also supportive of public transportation improvements and access to public transit. The concerns, however, are when there are investments in transit that are displacing people as has been done in many cases when interstates were built. And destroying communities by cutting out the heart of those communities. He stated that the workgroup wanted to make sure that investments in transportation infrastructure are of benefit to the community who has to bear the long-term impacts of them. He noted that the other things that are beneficial to the community are the opportunity for communities to actually own their housing, to own their own electric microgrids, to own their own solar energy and renewable energy projects so that they get the benefits for the long-term. He then turned it back to Ms. Lopez-Nunez to summarize.

Maria López-Núñez, WHEJAC Member, stated that the workgroup was taking a cue from Jackie Patterson in her memo to the Biden Administration about things investments should not go into. She stated that this should also be part of the engagement and feedback. She stated that this would include things like fossil fuel powerplant development and infrastructure repair. She stated that old infrastructure should be phased out rather than repaired. She noted carbon capture and storage, all of the false carbon accountings, should not be funded by Justice40 investments. And it should not be used to establish or invest in the advancement of carbon markets, including cap in trade, which can harms communities.

Maria López-Núñez also stated that we should be mindful of unintended consequences with investments, and that includes transportation infrastructure that could displace environmental justice residents or small businesses. She noted how we have seen transportation hubs accelerate gentrification, especially in urban communities. She stated that we do want to encourage public transportation, but things should be done mindfully, changing infrastructure in a way that does not further harm our community. She closed stating that the legislative language should be uplifted in the Green New Deal for cities from Representative Cori Bush of the Portland Clean Energy Fund and the Future Energy Job Act.

Peggy Shepard, WHEJAC Co-Chair, thanked the presenters and opened the meeting to the other WHEJAC members for discussion.

Viola Waghiyi, WHEJAC Member, stated that whenever we talk about Superfund sites, please include formerly used defense sites. She stated that there was no mention of military toxics. She noted that there are 9,000 former used defense sites in the nation and cautioned not to forget about military toxics. She also mentioned that when we talk about remediation and reduction, where it says environmentally induced health conditions, to please include persistent organic pollutants, an environmental-induced health harm, persistent organic pollutants. She stated that when we talk about clean drinking and environmental sound sanitation improvements, we should

note that there are communities in the nation that do not have clean water or water and sewer at all and that should be corrected.

Catherine Flowers, WHEJAC Vice Co-chair, emphasized that when talking about housing, to look at rural housing because a lot of rural housing is not resilient. She stated that a lot of people that are living in these communities are communities that are underserved as it relates to wastewater infrastructure. She noted that a lot of the wastewater infrastructure that's missing in rural communities tend to be families that can only get mobile homes with straight piping as a result and that this is something that needs to be addressed. She stated that she agreed with the issue of addressing sanitation when discussing water and also adding lead paint to the housing discussion because a lot of older public housing still has lead paint and have not been mitigated.

Richard Moore, WHEJAC Member, stated he would like to lift up rural communities. He stated that we need emphasis on infrastructure for rural communities as there is a tendency to primarily look at urban locations. He stated that the report should be balanced out from rural communities, specifically around infrastructure. He also mentioned internet services and the need to address this in rural communities.

Dr. Kyle Whyte, WHEJAC Member, stated that he appreciated the inclusion of tribes and indigenous people and tribal colleges and universities. He added that there is an important aspect in that diverse tribes and indigenous people face an array of infrastructure situations which are complex. He stated that if not addressed strategically, certain types of investments will be ineffective.

Secondly, he stated that there are existing programs and different agencies affecting energy infrastructure, for example, including in DOE, Indian Affairs, USDA and others and which have typically been rather underfunded. He also noted that there are 574 federally recognized tribes. However, this consists of tribes and indigenous people, native Hawaiians, state recognized tribes and unrecognized tribes and each group has a different relationship with the United States or

particular states. He stated that when those differences and a certain understanding of self-determination is not applied more widely, inequities and injustices can accrue and certain indigenous people are vulnerable to being silenced.

Lastly, Dr. Whyte talked about parity between states and tribes. He stated that investments should flow through tribal governments where applicable. However, there's also the collective action, the grassroots action of indigenous communities and entrepreneurs and other infrastructure organizers. He noted that it is important to recognize their leadership and their roles in addition to that played by some tribal governments.

Dr. Nicky Sheats, WHEJAC Member, discussed renewable energy and energy efficiency, the concept of community energy planning for the Center for Earth Energy and Democracy, and the concept of a community energy audits to really determine the energy needs of communities. And as much community control over both renewable energy and energy efficiency, part of which being ownership plays a part.

Dr. Sheats moved into recommendations with cumulative impacts, reducing pollution through permitting. And stated even further than that, under certain circumstances, application for pollution permits can and should be denied based on environmental justice and cumulative impacts. He also discussed having access to the large grid, and that environmental justice and equity should be incorporated directly into the grid. He stated that plans should not be determined just by cost but also by justice considerations.

Dr. Sheats noted the recommendations that talk about greenhouse gas reduction and co-benefits, including environmental co-benefits as well as reduction of greenhouse gas co-pollutants along with greenhouse gases. He said a list of things not wanted should be added, incineration, and possibly nuclear energy, but certainly no new nuclear energy and doing away with existing nuclear energy as soon as possible.

Susana Almanza, WHEJAC Member, wanted to make sure that under housing there is funding for public housing since it is from zero to 30 percent median income. She stated that she would also like to see HUD reduce the lowering of the Median Family Income (MFI), stating that they do 80 for ownership and 60 for rental and ownership should drop down. She also stated having affordability restrictions remain for 99 years versus 30 or 40 years that HUD presently has. She then discussed transportation and stated that there should be more equity in the types of transportation, such as rail versus bus fares. She noted that there is a barrier that keeps low income people of color riding the bus and also the rail, so there has to be equity in those fares. She closed noting that housing funds should be available to neighborhood-based community development corporations to build affordable housing or public housing.

Dr. Rachel Morello-Frosch, WHEJAC Member, listed three things for consideration. She stated one was university academic partnerships. She suggested adding a recommendation that tries to leverage all the great science that has come out of community environmental justice partnerships on environmental health and climate change impacts on health to fund research translation activities - funding that, rather than new science. She also discussed the recommendations related to water. She mentioned calling out the issue of unincorporated areas in rural communities, which she felt is a form of rural redlining. She suggested helping those communities access municipal water sources, community water systems where possible. She stated that in addition to replacing lead-based pipes, a lot of communities are actually fairly close to community water systems that remain cut off. She felt Justice40 funding could help alleviate that significant challenge. She stated that one additional water issue is investment for infrastructure for draught-threatened communities. This is a big issue in California. She referenced domestic wells running dry and small community water system wells running dry.

Andrea Delgado, WHEJAC Member, thanked the Chair and reassured the Council that she would make sure the recommendations are integrated for completeness. She stated that there should be recommendations that are not currently reflected that call for increasing funding, making investments in rural housing, specifically, Section 514 housing, Section 516, which is

specific to farm labor housing, and Section 521 as well, which is for low income, rural and seasonal and migrant labor in rural and agricultural areas. She explained that that is to invest in building resiliency to extreme weather events, investments in energy efficiency, climate control, and facilities such as water and waste disposal systems.

Carletta Tilousi, WHEJAC Vice Co-Chair, thanked the Council for their report. She stated that she wanted to make sure that recommendations on the abandoned mine claims also includes uranium mines and not just coal.

Hli Xyooj, WHEJAC Member, stated that many environmental justice communities are not homeowners, so it's important to look at affordable clean energy and housing recommendations that also benefit farmers. Secondly, she suggested when looking at work training programs, to also consider careers that are in sustainable agriculture.

Michele Roberts, WHEJAC Member, stated that as Justice40 funding and pieces are leveraged, that there should be safeguards placed within health departments, making sure that health departments are responsive and responsible to helping with mitigating against and addressing the impacts of legacy pollutants on communities. And making sure that there are health deliverable systems that include insurance and access to specialists for many of these legacy communities as well.

Dr. Robert Bullard, WHEJAC Member, commended the Council for a great first draft. He stated that as investments flow down, there should be a mechanism in place to monitor the extent to which people of color, financial institutions such as banks and mortgage companies, share in the work and the benefits that would come from infusion of funds. He also noted that there needs to be more monitoring of these investments in terms of banks that are located in people of color communities, where they are located in terms of enforcing the Community Reinvestment Act that looks at bank investments and financing. He stated it's important to make sure that

there is an affirmative effort in the community institutions, organizations, et cetera, getting a fair share and not be locked out.

Dr. Beverly Wright, WHEJAC Member, stated that when talking about the recommendations, what is most concerning is the possibility of programs being put in place and then funds being misdirected. She noted that there was a discussion on mechanisms for the implementation of programs in such a way that the systemic racism, that has always diverted money from where it was supposed to go to people who need it the least, won't happen in this particular setting.

Dr. Wright raised a point on a recommendation that she felt strongly about but did not know where it fit. She mentioned the writers' project. She referenced Roosevelt's programs to get people back to work. She stated that one of the things that he did that's still standing, besides all of the big parks and housing developments that were built during that time, is the information gathered by artists and writers to tell their story. She stated that she was inspired by a young writer, Clint Smith, who began to talk about the wealth of information that existed after World War II because of the writers' project and writing about former slaves and poverty and how people managed their ways through that. She stated that she believes what is going on in the nation, and particularly people of color, needs to be recorded and writers and artists be given an opportunity to do that work. She stated that artists of color -- or BIPOC artists -- have really suffered, probably more than other artists. She stated that it would help in two ways: it helps to write the stories, and it helps BIPOC artists to have work moving forward. She acknowledged that it doesn't fit with everything being discussed, but it fits in terms of having stories told and kept for history's sake. She felt that this is a recommendation that should be considered.

Angelo Logan, WHEJAC Member, stated that in the investment in transportation, consideration should be given to heavy duty and commercial transportation, especially in those communities that are overburdened with diesel or in and around diesel magnates such as seaports, inland ports and railyards. She stated that it should be done in a just transition framework, making sure that investments are going to small business employing the local communities.

Dr. Nicky Sheats, WHEJAC Member, wanted to reinforce the statement that at the same time while the Justice40 benefits go to benefit the community, making sure that the other 60 percent of the benefit is not harming the communities and counterbalancing the 40 percent benefit.

Richard Moore, WHEJAC Co-Chair, added that it is extremely important that resources being set aside for Justice40 gets in the hands of the people that rightfully deserve those resources. He reiterated that recommendations should be very clear on how resources and guidance be directed to reach the local level.

Michele Roberts, WHEJAC Member, reiterated the fact that no community should have additional harm placed on them. She stated that all of the projects must result into pollution free with no harm, and no harm should be the foundation of Justice 40.

Maria López-Núñez, WHEJAC Member, posed a question for the WHEJAC. She asked how do we ensure resources don't get stuck on the municipal or the tribal government or the state project and get down to the community? She stated for example, base organizations being able to build their capacity and do trainings and outreach to be in the position to apply for some of the federal grants. She recommended that part of investments should go to benefits of that nature.

Karen Martin, DFO, thanked the Council and turned the floor back to Peggy Shepard to close out the discussion. She reminded the Council members to make sure they update the document and if they need help accessing the document to please contact herself or George Ward. She reiterated that it really needs to be a robust document to forward to CEQ and IAC.

Peggy Shepard, WHEJAC Co-Chair, stated that there is a commitment to spending some time in Justice40 with the larger Council on how Justice40 gets administered. She stated that it is

understood, for the most part, that investments from the federal government go through racists and oppressive governments that do not get the money to the frontline communities. She stated that this is known and the Council is enthusiastic about ensuring that this does not happen with Justice40. She turned it over to Richard Moore and Carletta Tilousi to talk about the Executive Order.

WHEJAC E.O. 12898 WORKGROUP UPDATE & DISCUSSION

Richard Moore, WHEJAC Co-Chair, started with a brief overview on Executive Order 12898. He stated that there were several things considered within the Executive Order. One was what sections of the Executive Order 12898 should be revised. The second was what components should be added to the Executive Order, and the third was what components should be removed from the Executive Order. He noted that with that overview, the focus is to dig deep into systemic racism. He added that another piece was that Executive Order 12898 also intersects with several other executive orders and that the workgroup have been reviewing some of those additional executive orders as well.

Richard Moore also discussed the intersection between the Environmental Justice for All Act, both on the House side and on the Senate side from Senator Booker. He suggested reviewing some of the legislation and how they connect and intersect when looking at community impact. He also read the primary bullet points presented and discussed:

1. Each federal agency must identify gaps in existing laws or policies and make recommendations for legislative change to fulfil the goals of the Executive Order.
2. Addition of modern definitions and tools that align with current thinking and environmental justice practices.
3. Addition of populations left out of the previously written Executive Order, acknowledging racial, ethnic and socio-economic populations.
4. A declaration that federal agencies' responsibilities must include achieving environmental justice as part of their missions when serving the public.

He turned it over to Carletta Tilousi for further comments.

Carletta Tilousi, WHEJAC Vice Co-Chair, explained that a declaration that federal agencies must not include programs, policies, practice, activities because of race, color, national origin, income level, or membership in tribal or indigenous communities. She stated that there should be an establishment of timelines that federal agencies must follow when developing and reviewing strategic plans with legislative act that the plan is guided by and how the implementation must be carried out. She stated further research is need on the application of Executive Order to state and local jurisdictions including but not limited to enforcement of civil rights. She also noted a mandate needed to protect populations with different patterns of not only substance consumption of fish, wildlife but also cultural practice relying on fish and wildlife and cultural practice on environmental quality, including sacred places. She also stated each environmental justice strategic plan developed and updated by a federal agency must include achieving environmental justice, which includes reducing, preventing, or eliminate disproportionately adverse human health, climate, or environmental effects. And each agency must identify gaps in existing statutes and policies.

Carletta Tilousi went on to state that there should be active encouragement of community-based science to improve research and data collection. She stated that the interpretation of documents must be made available and accessible by the federal agencies, especially to populations with limited English proficiency who may be disproportionately affected via action. She closed stating that regarding general provision, each federal agency must address health and environmental risks affecting tribal, indigenous populations, state recognized/unrecognized indigenous peoples must not face burdensome barriers to participate in a federal environmental justice programs, practices, policies, decisions, or suffer additional harms because they are not federally recognized, including situations where sacred places and cultural practices are at risk and collective governance processes are ignored. The workgroup members then entertained questions from the remaining Council members. Questions and concerns were as follows:

Peggy Shepard, WHEJAC Co-Chair, asked the group what the reporting requirement would be? Will there be an annual report to the President or to CEQ? Will there be metrics and timetables required of each federal agency to implement a plan?

Susana Almanza, WHEJAC Member, added that we did discuss those annual reports and they're five-year strategic reports. Expanding it to the accountability and responsibility in issuing those annual reports and also what's required, complying with civil rights and NEPA. We have talked at length about it.

Peggy Shepard, WHEJAC Co-Chair, I think for the agencies to really develop their plans they need an environmental justice advisory body or group within that agency that is reviewing those plans and helping them develop those plans. When they have reported plans out in the past, they have been just a summary of what has already been done. I think they really need environmental justice expertise in the organization advising them of those plans. I would like to see that recommendation.

Richard Moore, WHEJAC Co-Chair, I just wanted to say in response to what we know from previous executive orders that they've done just exactly that, and in some cases they just used the word "environmental justice" a couple of times here and it's business as usual. We've been asked to be bold. We were bold before bold, and we will be bold.

Ruth Santiago, WHEJAC Member, I want to think a little bit beyond the Executive Order as such and looking at the unfortunate history of not great enforcement and even the Supreme Court opinion of *Alexander v. EPA* not using Title VI of the Civil Rights Act to provide some enforcement power. Has the workgroup or maybe people outside the workgroup considered legislation? I'm not sure if there's been discussion on that and whether anyone can provide their thoughts. Legislation to make laws relating to environmental justice compliance.

Richard Moore, WHEJAC Co-Chair, responded that the intersection between that is exactly, Ruth, how you're laying it out and how you're framing it.

Angelo Logan, WHEJAC Member, continued to explain that was one of the intents in terms of identifying gaps in existing statutes and laws. Really thinking about where the boundaries are within the Executive Order to the extent the Executive Order can implement policy.

Legislatively, we're trying to push the boundaries in terms of identifying the gaps and then pursuing a plan or pushing legislators for new laws and regulations.

Mr. Juan Parras, WHEJAC Member, mentioned he would also support the pushing for the Environmental Justice Act rule, which would solidify a lot of the issues that we're talking about.

Dr. Cecilia Martinez, CEQ, thanked the Council for raising the legislation issue and mentioned that because of the Council this is an important intersection between legislation and the Executive Order. As a WHEJAC member, your role and your responsibility is to advise the Administrative Branch on what should go into the Executive Order. As you work in your private lives and in your other lives, obviously you're free to engage in that work, but can I ask folks to please focus their comments on the Executive Order and Executive Branch and fulfilment of your WHEJAC duties here today? I think that clause about identifying gaps, that is something that the current Executive Order 14008 actually identified as well, that it's important for agencies to identify any gaps that might need to be pursued legislatively.

Dr. Robert Bullard, WHEJAC Member, explained that the way that we get more intense activities around the Executive Order most likely is looking at an example that happened under the original Executive Order 12898 and looking at the USDOT, which differed vastly from the other 12 federal agencies that were covered by the Order. USDOT took the federal Executive Order and developed from it its own USDOT Order, which actually was more detailed in the weeds in terms of that agency. And got further in the weeds by developing the Federal Highways Administration Executive Order. So you have the federal Executive Order, and then you have a USDOT Order that's further specialized. And then you have the Federal Highways Administration Environmental Justice Order. And from looking at and comparing other agencies how they were able to move environmental justice through in a systems analysis, and

addressing the various pieces of that department, I think it was much more clear in USDOT that did a lot of NEPA documents and assessments, and they were challenged with a lot of system complaints. So it was almost like by default USDOT got out front in a way to anticipate the kinds of things that they needed to do, which was not necessarily mandated and detailed, like some of the other agencies just did lip service, did a strategy paper, and when time to report something out, they just pasted something together. And it was not serious. I'm not sure if that's something that we would like to recommend or if it could be used as a suggested framework or looking at a best practice or good example or something like that. But I do think that needs to somehow get embedded in this. And it stays within the framework of what WHEJAC is trying to do in improving E.O. 12898.

Angelo Logan, WHEJAC Member, stated that there have been in depth conversation within the work group to insert in the Executive Order the need to create a baseline across all the agencies. So basically establishing the floor for what needs to happen across all the agencies so there's some uniformity and at least a baseline starting point that every one of the agencies should achieve within that. That is part of the conversation and in the document that's been provided, it's in there. I wouldn't be able to reference it off the top of my head right now, but I could definitely trade submissions with you on that and we can draft something that's more robust if you'd like to.

Dr. Nicky Sheats, WHEJAC Member, stated that as I was going through the Order, I wrote down notes. I think the section said that residents should not have to prove intentional discrimination, and that section's in response to the Supreme Court case *Sandoval* that took away the right of individuals to sue under Title VI. I think what you may want to say in the Order is a reference specifically to that court case, and I think that'll get you where you want to go.

Another general concern I have is there's reference to addressing disproportionate high and adverse health or environmental effects in 3-304 and in 4-401. It talks about identifying

cumulative exposures, basically cumulative impacts. And then in section 4-403 it talks about developing the cumulative impacts index. I think all that is good, but I would ask you to consider more straightforward language that says strategies and efforts that reduce legacy pollution, existing pollution and cumulative impacts. Just say it very clearly. I didn't see a definition of disproportionately high and I worry there that someone might say, "Oh, there's pollution in environmental justice neighborhoods, but it's not disproportionately high." Maybe just more straightforward, reduce existing pollution in environmental justice communities, reduce cumulative impacts, reduce legacy pollution.

Kim Havey, WHEJAC Member, stated that he appreciated the comments on cumulative impacts. I think really understanding what's considered to be health or unhealthy always seems to be really a difficult question to answer, especially in things like PM2.5. What we found is those particular types of pollutants are extremely adverse when coming to health outcomes, things like COVID-19. There's another article in the New York Times today on that as well, about how specifically PM2.5 has a much higher prevalence in Black and brown communities, and the impacts on their health are much more extreme. I'd like us to be more specific about the impacts of federal government operations or investments that increase PM2.5 and negatively impact air quality. If we stop creating more polluting industries, we're going to have a better chance at improving people's health. The reporting needs to identify where is it that we keep going down the wrong path and not reducing the amount of pollution but just continue to create it.

As we look at the Executive Order, I think we should try to standardize the metrics that we're reporting on, standardize the way that the reporting comes back out to organizations like ours or their own individual environmental justice group so that we really understand where these are impacting on these critical key indicators such as air quality and the amount of pollution. Water quality is the same way. I like keeping it simple as well, in common language. I think everyone can appreciate understanding what it is that an Executive Order is attempting to achieve if it's said in a very clear way.

LaTricea Adams, WHEJAC Member, asked if there are any implications about legacy bills, so for example, implementations for IDEA and how environmental justice impacts from a K-12 and post-secondary perspective? Those individuals who have been impacted by environmental justice and has caused them to experience something where they would be identified under IDEA. And then the other component is just from an inclusivity perspective, if there are any opportunities for intersecting ADA as it relates to individuals who have disabilities that could potentially be due to environmental induced issues? Curious if that had been taken into consideration and if this is actually a fit for those two specific areas.

Richard Moore, WHEJAC Co-Chair, stated that our response would be yes at this moment. We're noting, we will take it back to our work group for further discussion.

Dr. Beverly Wright, WHEJAC Member, pointed out she wanted to make has nothing to do with my question, and that is, LaTricea, some of us don't know what IDEA and ADA and some of those things mean. I know a little bit because I had kids in school, but would you tell people what those are because that might clarify a little bit better.

LaTricea Adams, WHEJAC Member, explained that ADA is the American Disabilities Act, and IDEA is the Individual Education Act, which essentially is the program for special education services for individuals from, I believe, the age of four to the age of 22.

Dr. Beverly Wright, WHEJAC Member, mentioned that there is a recommendation that she submitted for Justice40 that deals specifically with PM2.5 because of the relationship between COVID-19 and PM2.5 and the high death rate that occurs because of that relationship. In my recommendation, I was trying to get to some means of monitoring PM2.5, especially in areas where people of color live and low-income people. Because while HUD is getting out of the public housing business, it's turning low income housing over to developers and private homeowners. And developers are looking for the cheapest land, and the cheapest land tends to be next to railroad tracks and highways and so on. Knowing this relationship really exists, I

agree with you we need some kind of monitoring system and a way to disseminate that information that would be more protective of our low-income residents and people of color.

Dr. Cecilia Martinez, CEQ reminded the Council that another important component for you all to consider is to make sure to make recommendations on the agencies that should be included. I don't believe in 14008, Department of Education is included in that. Any recommendations for agencies that you think are not listed would be important.

Richard Moore, WHEJAC Co-Chair, thanked Dr. Martinez. Part of the other piece that we've been looking at is the whole question of language justice. Many of our children in the Spanish speaking and other communities are put into special ed classes, and others, for a combination of reasons. One of those many times is for not being able to speak English well. I just wanted to kind of flag that. The other one was in regard to the reporting structures. We're looking very deeply at that and totally agree with the comment around the strategic plans that are being developed by federal agencies.

Dr. Robert Bullard, WHEJAC Member, made a comment on how the Executive Order could be looked at, which talks about discrimination that may exist current and going forward. There needs to be a lens somehow that shows -- and as the research is showing -- that racial redlining that occurred in the '20s, over 100 years ago is showing up in terms of hotspots, in terms of neighborhoods, urban heat island redlining showing up and the worst flooding areas. Showing up in terms of COVID, showing up in terms of other kinds of built environment bad health outcomes so that those departments that are being covered by the Executive Order will have to look at some historical patterns which have existed.

Now that decision made on its face may not appear to be discriminatory but may be continuing the pattern of making communities more vulnerable with it. And so, that past discrimination where FEMA would have to look at that past discrimination in terms of allocation of flood mitigation, flood protection, et cetera. And look at in terms of HHS and hospitals and clinics, et

cetera, where monies may not be spent, and cooling stations where it gets too hot. Like here in Houston where we had Winter Storm Uri and of course we were not prepared to have any heating stations. And the communities that have been historically left out in the cold, literally, were the same communities that have flooding, pollution, COVID, no trees, parks, green canopy.

My point is to come up with a lens that this Executive Order can shed more light on not just one thing happening but these cascading of things happening which will bring multiple departments/agencies to the table to try to address these cascading multiple converging threats in our communities. That is my thinking at that higher level. But when you put it on the ground, people can tell you all the things that's happening at the same time which makes it more difficult. And they just don't need the EPA, they need a bunch of other agencies coming in helping, doing whatever.

Richard Moore, WHEJAC Co-Chair, mentioned that he will reflect on that as it is connected to making sure within the Executive Order what other agencies need to be included on that list.

Juan Parras, WHEJAC Member, wanted to elaborate on the issue that was raised on language justice, I just want to let you know that our organization, Texas Environmental Justice Advocacy Services and Sierra Club, did file a Title VI violation on language issues. We think that it's very important because it will increase participation in meetings that are held throughout the state and the region. And it's been a serious issue when we try to get people to go to meetings. Their first comment is -- kind of like Richard said, you go to elementary school and they teach you how to speak English to a large degree -- is that they don't participate because they don't understand the issues or the language. I just wanted to mention that it's very important, not only just for Spanish speaking workers but for any other persons out there that speak different languages. That the National Environmental Protection Agency makes sure and addresses all communities of color that speak different languages other than the primary English language.

Catherine Flowers, WHEJAC Vice Co-Chair, echoed what was said about the historical inequalities that have happened. In some cases these other covenants or I heard someone use the term rural redlining -- I'm seeing this in communities where they're dealing with wastewater issues, especially onsite systems even in the cities where people on septic tanks in communities that were traditionally African American communities -- where that was the only place they were allowed to settle. And what we're hearing now is that we're not going to take any monies to use to connect them to sewer because the developer should have done it when they built those communities. Clearly they don't take into account the history that impacted where people settled. And a lot of those areas are in fact flood zones. That's why the systems that they're using keep failing. In addition to that, I don't know how we address this in the Executive Order -- I'll just give an example here in Alabama. We need to somehow tie into receiving federal funds or look at state laws that criminalize or silence environmental justice communities that keep people from speaking up about different environmental justice issues. For example, if I report I have a failing septic system, if I'm in Alabama, I can go to jail for that. So therefore we don't get at the data to see who's actually in need because people are afraid to speak out against it.

Carletta Tilousi, Vice Co-Chair, wanted to add on page 3, section I, the tribal and indigenous communities. I'd like to add a number 5 saying Pueblos because they don't usually recognize themselves as Indian tribes.

Kim Havey, WHEJAC Member, stated that he would like to figure out how we can incorporate in language to support resilient communities. I was reminded of the work that's being done in a number of cities and also Minneapolis around resilience hubs, which are community centers which act as community resources 95 percent of the time but also are places for emergency services, food distribution, access to electricity, things of that nature during storm events. I heard people say cooling or warming stations. They would act as that as well for emergency services. I wanted to get it on the record publicly since I know we have to state it publicly on the record and not just in our notes but incorporating support for community resilience and

having in-community resilience centers of hubs across the nation could go a long way to help do that.

Andrea Delgado, WHEJAC Member, thanked the Council for the talk about cumulative exposures. I wanted to make sure that we're integrating and further recognizing that the existing Toxic Substances Controls Act (TASCA) requires EPA to specially consider groups who are either at greater risk of harm from chemical exposures when it's evaluating and then managing chemical risk. This is something that the Trump Administration failed to do and something that is our hope the interagency group will address some recommendations to that effect. And that's specific to the EPA Office of Chemical Safety and Pollution Prevention and would be to ensure that it's accounting for the greater risk that frontline communities face, including communities that have exposures to many chemicals, which makes them way more susceptible to harm from individual chemicals.

And as the agency is developing its risk management rules for the TSCA chemicals, part of that process would be for the EPA to also revise the TSCA scope documents for the 20 high priority chemicals and undergoing review so that fenceline communities are being identified as subpopulations that face greater risk than the general population. And I'm raising this because if it does this, then EPA would have to calculate the risk of this individual community separately from the risks of the general population, and that's something that's really important so that the risk of fenceline communities is not being diluted by those faced by the general population.

Last but not least is ensuring that the Agency's acting aggressively to gather information about the real-world exposures of fenceline communities to all of the chemicals as it's conducting its review and risk management under TSCA and in general, and also with particular attention to foreseeable releases during extreme weather events.

Angelo Logan, WHEJAC Member, wanted to add to the conversation around the Executive Order work group that we started to broach the conversation about including in the plan and in

the Executive Order directive that also support investments and efforts that not only stop the bad from happening but also invest in improving communities, so not just so the communities are surviving but they are also thriving. So the Executive Order doesn't just fully focus on stopping the bad but also is focused on investing in improving surviving communities. That is in the works and isn't necessarily fully reflected in the Executive Order at this point.

Carletta Tilousi, Vice Co-Chair: suggested a couple of edits and a comment. On page 9 7-708, federal agencies will determine procedures with consultation with tribes and affected communities. I'd like to add that suggested edit to the group. And on section 3-306, reports to the President within 14 months of the date of this Order, the working group shall submit to the President through the Office of the Deputy Assistant to the President for Environmental Policy. It was suggested that that's kind of really far in the arm of the federal government, that maybe some federal agency closure, such as the Department of Interior -- that's just my suggestion -- would be the one to report to the President. It may be something that this group may want to further discuss, but that's my suggestion.

And then the next one, 4-401, I'd like to add at the bottom regarding human health and environmental research analysis down at the bottom, and I'm just going to add it here. "And workers who may be exposed to some substantial environmental hazards." I'm sorry. I was going to add to the fact that grassroots and environmental organizations -- I wanted to add that in there as "populations of color, members of tribal and indigenous communities, low-income populations and workers, grassroots and community organizations."

And then I want to jump to page 97-706, petition of exemptions. I've suggested to the group that we would do further research on this matter because I wanted to know which federal agencies in the past petitioned for exemption and under what criteria and for what. I just didn't want to drop that and request it for further research.

Ms. Ruth Santiago, WHEJAC Member, stated that she is concerned with no action assurances and a lack of criteria for the granting of no action assurances. We saw a lot of those last year under the guise of the public pandemic, allowing industries to pretty much pollute indiscriminately. And what the impacts are especially to environmental justice communities, I think personally that Puerto Rico holds the record for the number of no action assurances.

Viola Waghiyi, WHEJAC Member, stated that when we talk about relocation when there's communities that need to be relocated, we need to talk about dislocated communities due to toxic exposures. My community has been displaced because of military toxics contamination. That has never been properly characterized or remediated. We're not the only community nationwide. We need to address these displaced communities. And when we talk about cumulative impacts, of the 574 tribes in the nation 229 are here in Alaska, the majority who still hunt, fish, subsistence foods, we need to address the fact of persistent organic pollutants or other toxic chemicals in our traditional foods. That's a direct exposure to our people.

Richard Moore, WHEJAC Co-Chair, thanked the workgroup participants and Council members for their comments and recommendations and questions. He assured them that their recommendations are being heard, are being addressed and the workgroup is prepared for the next round of draft work.

Karen Martin, DFO, closed out the segment with a 15-minute break and advised that they would hear from the last working group upon return.

WHEJAC CLIMATE & ECONOMIC JUSTICE SCREENING TOOL WORKGROUP UPDATE & DISCUSSION

Catherine Flowers, WHEJAC Co-Chair, welcomed everyone back for the workgroup recommendations of the Climate and Economic Justice Screening Tool. She stated the goal was to establish a base climate and economic justice screening tool in compliance with the Executive Order. And to establish a plan for building up the screening tool with benchmark dates for completion and phases of development. She introduced the committee member presenting for the group, Michele Roberts, the national co-coordinator of the Environmental Justice Health Alliance for Chemical Policy Reform, a former government environmental scientists and radio producer who provides the capacity support for many environmental justice legacy communities.

Michele Roberts, WHEJAC Member, stated that it is an honor to participate on the workgroup and the WHEJAC collective. She noted that the workgroup is deeply engaged in ensuring a robust, strong and effective screening tool centered and anchored in Justice40. She displayed a snapshot of the workgroup recommendation process. She stated that at the onset, it was realized that the screening tool was not useful for layers of requirements for legacy communities and that tools were needed that would extend beyond climate and energy.

Michele Roberts displayed a bulleted list of some noted requirements: Holding people accountable. That is everyone from government to advisors, academics, and others who are coming into our communities. Data on the permitting process. This will allow communities to meaningfully participate and engage throughout the process. Data on emissions. Many communities hold a lot of this data on pollutions and emissions indicators. Healthy indicators. It has been stated by state health departments that it is the fault of the communities, thereby leaving communities to question their way of living, although it is a combination and institutional legacy of racism that has placed communities in these positions. Process indicators and economic indicators to ensure adequate performance metrics that will restore communities. And ensuring that funding is appropriately driven with accountability for processes. She stated that there needs to be assurance that exposures, proximity to potential hazards, sensitivity

populations, energy, climate vulnerability and infrastructure are being addressed with these indicators. She invited the workgroup members to share in the discussion.

Kim Havey, WHEJAC Member, made a suggestion regarding the data on permits. He stated that in many cases, state law does not require environmental assessment worksheets to take into consideration climate impacts and mitigation. He advised that the impact of helping or hurting the environmental justice goals and principles, as well as the climate goals and principles, should be part of the environmental assessment worksheet along with other kinds of monitoring of pollutants.

Dr. Kyle Whyte, WHEJAC Member, stated that there are challenges with tribal and indigenous populations, and screening to adequately identify equity injustice issues are difficult. He noted that there are certain designations of land ancestral areas and treaty areas with different rights, and multiple designations that have different implications. He stated that there're also Alaska Native villages, rancherias, corporations, and many other different types of tribal entities and organizations. He noted even within designated areas for tribes, there's also differences in terms of tribes that are checkerboarded or tribes with greater trust land, tribes with a greater proportions of fee land, et cetera. He noted the difficulties in using certain types of census measures where the effect is. He stated that there might be an area from a certain mapping standpoint where there is low/no human interaction, but that could be an area with a sacred or medicinal aspects to it.

Dr. Whyte stated that these are challenges that everyone face and hopes that there might be a solution to these challenges. He added that this would not only be the case for tribes and indigenous people but also many other communities with privacy and confidentiality issues as well as issues tied to intellectual property if certain information is made public. He further explained that tribes and indigenous people also hold dated information that can be combined or used along with available data resources and analytical tools. He closed by stating that one program that may have relevant information is the National Climate Assessment.

Michele Roberts, WHEJAC Member, stated that some of what is being described is also applicable to rural communities. She stated that a lot of the data is not there so there needs to be other ways in which to get data. She echoed that it is difficult to use statistical analysis to determine how many people are living in rural communities.

Tom Cormons, WHEJAC Member, stated that there is a lot of emphasis in the work product of the screening tool workgroup of things not to do, and looking at permitting to stop causing harm. He stated that he would like to focus on more of what is needed in those communities in terms of constructive investment in line with the mandate of Justice40. He noted that it is important to include among indicators the economic impacts of fossil and carbon intensive energy industry moving out. He stated that people who have been subjected to the negative impacts of fossil energy production are now being subjected, in addition, to the economic dislocation caused by its moving out. He noted that focus should be on the importance of diversifying those economies and providing federal support as an important consideration and nexus of Justice40 and the screening tool.

Michele Roberts, WHEJAC Member, added that the workgroup was very mindful of the need for a just transition based on the impacted community. She stated that there must be equal additional layers of funding to get to that point.

Dr. Robert Bullard, WHEJAC Member, stated that the screening tool is indeed a tool that will only go as far as the data that exists. He explained that there needs to be a plan for data that does not exist in any database. And a plan for using data, with this tool, that was generated by community members, partnerships, et cetera, to supplement existing databases. He referenced a project with the Robert Wood Johnson Foundation used in responding to COVID. He stated that when looking data, there are missing pieces that are filled offline by communities working with their partners and generating real time data that can complement and supplement. He noted that the data coming out of the communities is reliable and valid and trustworthy. He also stated that

the data gathering by the community partners needs to be funded in a way that can empower those communities to gather information that the screening tool is not able to capture.

Dr. Beverly Wright, WHEJAC Member, stated that data collected dictates results, but there seem to be loopholes that benefit the wrong individuals. She stated that there needs to be some eyes on the ground regarding the communities that are selected to receive benefits. She noted two examples: One for Louisiana where there was something very dangerous in the community, and the Black community was not on the map as if they did not exist. She stated that the project was moving forward as if Black people didn't live there. She noted that this happens often.

Dr. Wright's second example was one in Alabama with the BP Oil Spill money. She stated that because of a loophole, the wealthy white lakefront community on the Gulf got the majority of the restoration money. She noted that the Black community most affected did not receive benefits. She stated that they are continuing to fight this problem. She noted that maps and GIS are wonderful, but in the Gulf states and in the deep south, with entrenched racism, you need eyes on the ground to make certain that the communities impacted will get benefits. She agreed that the work with Robert Wood Johnson Foundation does fill some of those gaps.

Catherine Flowers, Vice Co-Chair, stated that in the parasite study, it was the local community that discovered something was wrong, not the health department. She stated that it was the local community that convinced everyone to help verify that something was wrong. She stated that benefits are being misdirected and academic organizations and other people that claim to represent communities that are suffering with water and sanitation issues are rushing in and getting the money. She noted that they are replacing systems with the same kind of systems that people have already. She stated that this is an important issue as it is happening in real time now.

Susana Almanza, WHEJAC Member, discussed looking at different metrics, but on the environmental impact. She noted one of the things being railroad tracks. She noted that

historically, those were the tools used to segregate communities. She noted that you usually lived on one side of the highway or another side of the railroad tracks. She stated that the racist land use policies throughout the United States should be reviewed. She mentioned that redlining and how segregation took effect is known. She explained that there is a need to continue to look at the historic land use issues and zoning, because that determines where communities were forced to live in the past, but also where we are in the present and how we became those fenceline communities. And how those are the historic communities that need to be funded.

Michele Roberts, WHEJAC Member, stated that the workgroup compared the communities and contrasted the communities along the Route 9 industrial corridor in Delaware to now President Biden's community, but equally made suggestions. She stated that those communities are being monitored to make sure that those communities are at the table.

Juan Parras, WHEJAC Member, expressed a concern regarding the risk management plan. He stated that when information was needed on environmental justice screening toolbox, there was a lot of information along with access to the worst-case scenario. He stated that now that information is not available. He noted that the information is very important because initially, when the risk management plan came out, the only information the industry had to produce a fold out of the worst-case scenario in the community was if an explosion happened. He stated that on those handouts, they had an inner circle. He explained that this inner circle from the plant could be a distance of anywhere from a half a mile to three miles or longer. He stated that within the inner circle, there were fenceline communities bordering the chemical plant. He explained that in the inner circle meant death, injury, or bodily harm. He expressed that it is vital and crucial because there are a lot of communities that are in this inner circle, and that information is no longer available to us. The reason for that could be justified, but it's not helping the communities to address those issues without having that information. He stated that this is the key to a lot of communities, knowing what is the worst accident that can happen in any one of the chemical plants and who is in that inner circle.

Viola Waghiyi, WHEJAC Member, stated that when talking about land use issues with the ice melting, this has resulted in increased shipping in the waters, of the Atlantic Ocean and Bering Sea. She stated that the elders call it their farm. She explained that the majority of foods come from the Bering Sea. She stated that this has resulted in increased shipping lanes, increase of tankers going through the waters and increase in cruise ships. She stated that there is no proven remediation or cleanup of oil or fuel on ice, which would be very, very detrimental to the farm for the subsistence foods. She stated that there is also more commercial fisheries in the waters and this is resulting in decrease in subsistence food sources.

Jerome Foster, WHEJAC Member, noted that the benefits has to not only serve the general public but also future young people. He stated that a lot of recommendations seen has not taken into account how young people, when it comes to natural disasters and many of the climate events, were trained at a premature age to be firefighters and to be frontline community workers, and we aren't given opportunity. He noted that some have been in Palmetto, California through the California wildfires and were trained to be firefighters at the age of 14 and 15 years old. He stated that when we talk about the environmental justice screening tool, we have to actually make sure that we're investing in school systems as well and make sure that young people have access to tools preventatively and proactively to be able to know about the climate crisis because a lot of our awareness around it has been through victimization. He noted victims of the crises have not been properly taught. He noted this as a key perspective that has to be taken into account when identifying investment beneficiaries.

Jerome Foster stated that when it comes to colleges, there has been a direct emphasis in investing in college/universities. He stated, however, what happens is that a lot of young people do not go to college. Therefore, he explained that investments should be made into high schools and middle schools because colleges is still not widely accessible to a lot of people. He stated that when program are put in place, or investments given to public universities or HBCUs, it could scare a lot of people away that are at these frontline communities. He explained that people are looking at a college and saying, "Oh, if I'm going to that college, maybe they'll have a large price tag associated to it. And then maybe I have to apply for financial aid," when in

actuality, it may just be a program that's housed in that university. He noted the two sections that include young people as Section 7, climate vulnerability and Section 3.

Andrea Delgado, WHEJAC Member, thanked the workgroup for integrating Section 5-14, 5-16 housing, and 5-21 housing. She also suggested an amendment for the integration of the Section 5-15 housing as well. She stated that as currently written, 5-16, 5-14, and 5-21 are currently included. She said that the only one that's missing is 5-15, and on the rural housing that's available to very low-income folks across the country and particularly in rural area. She stated that on climate vulnerability, another friendly amendment would be to ensure that EJSCREEN integrates the wealth of data that the Department of Agriculture produces. She stated that every five years, USDA has a census of agriculture. She noted that in between, there is updated data that a range of different offices, within the agency, have researched and is available. She stated that we should ensuring that farm workers are being enumerating, which USDA currently has the capacity to do, and integrating that data into the EJSCREEN so we can look at climate vulnerability for outdoor workers.

Kim Havey, WHEJAC Member, spoke on the notion of intersectional environmentalism. He stated that Viola Waghiyi mentioned about the very close connection with the health of the farm and the Bering Straight, and her thought is where we have this crossover. He stated that the challenge would be how to include understanding of actually improving the health of our planet. He stated that this is known as intersectional environmentalism, where we're working to restore land and restore the agriculture as we also restore vitality of our residence and community.

Ruth Santiago, WHEJAC Member, emphasized the statements about the limited amount of data. She state that hopefully the screening tool will be an instrument to augment that. She stated that she would also add to guarantee access to information to the environmental justice communities. And that it be in simple and plain language, not overly technical so as to guarantee actual access to information to environmental justice communities.

Dr. Beverly Wright, WHEJAC Member, presented a conundrum that exists in her work and was wondering how the EJSCREEN scorecard might be able to deal with it. She stated that it has been seen over and over again where white communities of higher incomes, et cetera, are being included for benefits and they are not considered an environmental justice community. She stated that something else that happens to BIPOC communities, is that there are working and middle class African American communities who look like environmental justice communities with lower income because of racism. She stated that oftentimes these communities are not considered as such and although they are suffering, they are excluded based on certain variables that don't apply to minority groups. She expressed that there should be a clause that does not exclude Black and brown communities who are suffering, even if their income doesn't meet the income criteria.

Carletta Tilousi, WHEJAC Vice Co-Chair, directed everyone's attention to the draft document, page 4, where it lists the proximity of potential hazards. She commented on Letter "M", abandoned and currently operating mining. She stated that she would like to add abandoned and currently operating uranium mines because in the southwest there are many abandoned mines neighboring right next to tribal communities. She noted that this was the results of international companies entering the area, conducting business and leaving without cleanup.

Carletta Tilousi, referenced Letter "O", stating that it may refer to nuclear accidents in that there are accidents that are potential and hazardous namely on roadways and public roads. She also noted that the mining companies are known for coming into the community for business and the community does not benefit. She stated that here in 2021, there are still abandoned mines and risks of high rates of cancer in the community.

Dr. Nicky Sheats, WHEJAC Member, responded on the issues discussed previously regarding middle class blacks and others of color. He stated that the platform may be efficient to define both the overburdened communities, where you have a pollution indicator, and also just environmental justice communities where you might want to use only race and income to protect

those middle class Blacks and other communities of color, even if they're not overburdened. He stated that this community is more vulnerable to become overburden than other similarly situated white communities within the same economic strata. He noted that these communities are also more susceptible to whatever pollution is in those communities already and more susceptible to future pollution; thus, they are more likely to be overburdened with a worse reaction to pollution that is there. He stated that this is why it's important to define two types of communities when it comes to environmental justice and overburdened communities. He noted that there are some legal issues being considered, but this is a really important point raised.

Dr. Beverly Wright, WHEJAC Member, explained the scenario of black and brown communities that get one foot up and before you know it the foot is back down. She stated that the families are working hard, going to school, doing all of these positive things, while supporting their less fortunate relatives, only to see the place you live to have a better life become the next ghetto. She stated that it becomes inundated with all of the discriminates, and it makes it hard to ever move up within the black and brown culture or race. She noted that the only way the community is able to get away from this is to move amongst white people and that is not the ultimate goal for these communities. She stated that these communities appreciate living among their own and maintaining their culture. She noted that a step back effects the whole community and puts a burden on the community when trying to better their quality of life for their family.

Tom Cormons, WHEJAC Member, mentioned two potential hazards where mining is listed, it might be good to also explicitly list processing of mined materials and perhaps storage of mined materials, whether that be ore of some kind, uranium, or coal or something else. He also suggested that if particular types of mining is listed, it should be inclusive as not to suggest that other types of mining are excluded. He noted that if it is checked broadly to apply to mining, there may be less risk of inadvertently suggesting that anything is excluded.

Catherine Flowers, Vice Co-Chair, summarized what was stated during the discussion. She stated that it has been real clear that the intersectionality of the work and how all of it relates points out the importance of everyone being engaged in providing feedback that will effectively address as many issues as possible. She reminded the workgroups to keep in mind that the screening tool is also evolving and it may look different as things are implemented and best practices are deployed. She stated that it apparent that everyone is committed to making sure the issues are addressed that have created the environmental justice communities across the United States, no matter what they look like.

Catherine Flowers thanked everyone for their input. She mentioned that as part of this alignment, one question is how do we also deal with these communities right now? She noted that communities like west Memphis, fighting the Byhalia Pipeline, are still being targeted as the WHEJAC speak and meet to deal with legacy pollution. She stated that discussions will continue and hopefully answers will arise. She also noted to the audience that public comments are welcomed and encouraged them to put them in writing as well.

Karen Martin, DFO, thanked Catherine and the workgroups for a great discussion. She stated that the workgroups will go back and address comments and be prepared to share the next version of the document before the next meeting.

Karen Martin moved into the next portion of the agenda, the Public Comment Period. She noted that the registration deadline to speak in the meeting was on Sunday evening at 11:59 p.m. Eastern Time. She stated that there were 57 people that were interested in making public comments. She informed those that did not make the cutoff that comments could be submitted in writing via a webform on the website. She stated that everything submitted will be shared with the members. She stated that comments will be accepted until May 12th, 2021.

ORAL PUBLIC COMMENT PERIOD

Dr. F.E. Kirschner, Public Commentor: It's an honor to speak in front of the WHEJAC committee today. I'm Dr. Kirschner and I've worked in Superfund since 1981 when I was 21 years old. Today, I am 60. Many of the tribal participants know me and my partner, Dr. Barbara Harper, by our work on over ten mega-sites within Superfund in the Manhattan Project. We specialize in both remedial investigation feasibility studies and national resource damage assessments. These sites include the Midnight uranium mine, Couer d'Alene Basin, Upper Columbia River, Hampshire Nuclear Reservation, Leviathan Mine Site, Anaconda Yerington, Sulfur Bank Mercury Mine, Los Alamos, Tar Creek, FMC, and Onondaga Lake. Specifically, we have developed human health risk scenarios for tribal populations living in the major physiographic provinces within the United States. These scenarios are used by tribes nationally to evaluate risk under Superfund and develop their own environmental law, such as Tribal Surface Water Quality Standards, to protect their members from chemical releases.

In summary, in all my years I have not seen a Superfund site on tribal lands that did not involve environmental justice issues. For a more in-depth view of what we do, I've given you a link in our written comments. It's entitled "Early Determination of Pre-Mining Background for Mine Sites Affecting Tribal Lands and Resources." It was put together in response to Scott Pruitt, who was the head of EPA and requested a means to streamline some of these Superfund sites. But it's a fairly short white paper. It was best summarized by 85-year-old Auntie Sharon, who after seeing a 30-minute PowerPoint presentation in response to asking me just exactly what I do, she stated, "So Fred, so people who live close to the land have to have clean lands in order to survive?" And I told her she hit it right on the head, and this is the basic tenant of cleanups on tribal lands or lands utilized by tribes for hunting, fishing, and gathering.

So then the subject now is cleanup and the common man, the common, ordinary citizen. If you ask anybody on the street, they believe cleaning up means to return the property to the condition it was in before it was contaminated, not leaving a residual that results in human health risks forever. My discussion with Mike Cook -- and some of you may be familiar with Mike. He was

one of the original drafters of Superfund under Jimmy Carter. In the late/early '80s, I worked at Lockheed at EPA's Office of Research Development, Environmental Services Monitoring lab in Las Vegas where we were charged with developing the regulatory technical guidance documents for Superfund sites.

Early in the '80s, I asked Mike why the definition of "cleanup" has risked based instead of pre-release conditions. And Mike responded it was a tradeoff with industry. Industry believed they would buy some time on their side and perhaps reduce their costs of cleanup. While such Superfund has been enacted, six administrations have passed through, and many of these administrations have released PRPs from their liabilities.

So, I want to leave you with this statement. I'm narrowing down from a big picture down to one that I'm involved with right now. I'm involved in the fight of a lifetime with the Sulfur Bank Mercury Mine Superfund site where EPA had cut the ELM technical funding just before we entered into alternative dispute resolution under the national contingency plan. As a result, EPA had selected an alternative that is not protective of the tribe or the environment. And as I stated in my opening, in all my years I have not seen a Superfund site on tribal lands that did not involve environmental justice issues. We have the tribe being pressured by DOJ to release the Bureau of Indian Affairs and other federal entities from any future liability, combined with EPA selecting a revenue that continues to contaminate the largest natural lake in California. In my humble opinion, the state and Calpine, a major private utility, are implicated. Chairman Garcia has requested a meeting with Carlton Waterhouse as Assistant Administrator for EPA's Office of Land and Emergency Management. To date, we have not had any response.

So in closing, the question you need to ask yourself is, is this a new day, or just more of the same? Meaning lip service designed to check off a box or a row on the career ladder. The bottom line, racism is alive and well in today's Superfund program. Again, I want to thank you very much for your time.

Mr. Time Guinee, Public Commentor: I'm really honored and excited to speak about the Byhalia Pipeline in Memphis before this extraordinary committee and thrilled with Catherine Coleman Flower's unexpected segue. My name is Tim Guinee. I'm a member of the Climate Reality Project in upstate New York. Southwest Memphis is deserving and in need of investments from the Justice40 initiative. But those investments will have a muted effect if this Administration simultaneously permits new polluting fossil fuel infrastructure buildout in the community, exactly the kind of investment the Justice40 working group paper just said doesn't benefit environmental justice communities. Yet, that is exactly what is happening in southwest Memphis.

Today, there is an environmentally unjust and racist crude oil pipeline project called the Byhalia Connection Pipeline being proposed and funded by Valero Energy Corporation and Plains All American, two companies with records of environmental violations and oil spills across the country, as Dr. Bullard knows in Houston. The communities in southwest Memphis being impacted, including the historic freedman's community of Boxtown are resilient, while lower wealth, 90 percent Black/African-American with an average income of \$26,000 per year.

These are the communities Byhalia Pipeline risk endangering with a high-pressure crude oil pipeline that is being proposed to run atop the Memphis Sand Aquifer, which provides clean drinking water to a million residents over the most seismically active area in the southeastern United States. The pipe would then run through this predominantly Black community which is already overburdened with 17 toxic release inventory facilities that have contributed to a devastating cumulative cancer risk four times the national average. Plains All American told residents in Memphis that the reason they selected this route was because it was the path, quote/unquote, of least resistance.

Today, you can all make a difference in one of the nation's most important fights for environmental justice. The Army Corp of Engineers permitted the project using its fast track nationwide permit 12. We request that the federal government rescind permit 12 for the Byhalia

Pipeline because the Corp, in its process, ignored both the environmental justice issue and the threat to the city's water from a pipeline spill or leak. We further request that the Army Corp require the Byhalia Pipeline to be thoroughly reviewed under the requirements of the National Environmental Policy Act. Please use your influence to create justice. I thank you so very, very much for your service.

Ilana Cohen, Public Commentor: My name's Ilana Cohen. I take she/her pronouns. I am a 20-year-old college student, a climate journalist, and a fossil fuel divestment activist. Before beginning, I just want to thank everyone here for the incredible work that you're doing every day. It's deeply inspiring to me as an activist, and it provides a constant source of hope for me as a young person concerned about me and my peers' futures. I'm here today to bring two issues to your attention.

The first is the need for the White House to act immediately to stop the Line 3 Pipeline currently being constructed in Minnesota at the behest of Enbridge, a Canadian pipeline company responsible for the largest inland oil spill in our nation's history. Although Line 3 is billed as a replacement project, it is really a gross expansion of an industry already on its last legs, Tar Sands, an incredibly dangerous and carbon intense form of energy that, in the case of Line 3, involves blatantly trampling on indigenous rights.

As a body dedicated to environmental and climate justice, I imagine this is already an issue of deep concern to you, and I ask that you do everything in your power to compel President Biden to cancel this pipeline and follow the calls of indigenous leaders and climate activists who are putting their bodies on the line every day for just transition to a renewable, sustainable economy in which new fossil fuel infrastructure has absolutely no place. Really, every piece of infrastructure in the United States that the United States permits should be subject first and foremost to a climate test, which would bar any project that would further contribute to the climate crisis and environmental injustice as Line 3 would.

Secondly, I'm here to ask that you advise the White House Council on Environmental Quality to advance the global call for fossil fuel divestment. Fossil fuel divestment is a moral, financial, and often legal imperative for public and private institutions alike. This is something the Biden Administration could take steps on immediately to integrate into its behavior across all federal agencies such as by divesting federal pension funds from fossil fuels, barring big polluters and perpetrators of environmental injustice from receiving federal contracts, investigating and prosecuting fossil fuel polluters, and adopting a divest/invest ethic across all federal agencies, and, of course, as I previously mentioned, by canceling egregious fossil fuel projects currently in the works, like Line 3, and establishing a climate test for all federally permitted infrastructure.

I hope that you'll take these thoughts to the White House, and I strongly encourage you to make space for indigenous activists to come and share their experiences fighting the Line 3 pipeline. Thank you again so much for your time, your consideration, and your commitment to advancing a more justice and sustainable future for us all.

Michael Goldstein, Public Commentor: I'd like to thank WHEJAC for this community, this opportunity to present comments. My name's Michael Goldstein, and I bring several roles and perspectives to these comments from over 25 years in work in support of EJ communities, specifically as the managing partner of the Goldstein Environmental Law Firm, representing affordable housing developers building in EJ communities, as the president of the Goldstein Brownfield Foundation funding EJ programming in Florida and the southeastern United States; and as the chair of the National Brownfield Coalition's Public Policy Redevelopment Incentives and Regulatory Partnerships committee advocating for more, better, and smarter tools for environmental use.

My comments consisting of eight recommendations are directed to the following items in the WHEJAC charter, 4A, climate change; 4B, pollution reduction in overburdened communities; 4E, clean energy transition; 4F, sustainable infrastructure, including transportation; and 4H, increasing the federal government's efforts to address EJ. These recommendations which are

policy, programmatic, and partnering in nature are, again, based on my experience in the private sector and the public sector and with NGOs.

First, WHEJAC should explore options for dramatically increasing the funding available in the American jobs plan for affordable housing in brownfield sites and EJ communities and if not in the American jobs plan, then in future legislation. Two, WHEJAC should develop an enhanced tax incentive, i.e. further stepped-up basis for redevelopment of brownfield sites requiring actual remediation and opportunity zones located in EJ communities. Three, WHEJAC should encourage U.S. HUD to develop a new brownfields agenda with a focus on EJ communities, including resurrection and enhancement of the historic Betty program for EJ communities specifically.

Four, WHEJAC should evaluate the potential to develop a task force among EPA, DOT, HUD and EPA to create a massive grant program for transit-oriented development projects on brownfield sites in EJ communities. Five, WHEJAC should direct the U.S. Department of Treasury to explore new federal money guarantee program for private lenders who are wanting to finance environmentally risky brownfield reuse projects in EJ communities. This one program could be modeled in many respects on the New Markets Tax Credits program. Six, WHEJAC should convene and moderate a meeting of the Federal Brownfields Partnership so that each agency partner can update and report on its agenda for promoting equitable redevelopment of impaired sites in EJ communities.

Seven, WHEJAC should conduct specific outreach to faith-based organizations to encourage partnering with agencies, local governments, and private sector actors involved in brownfields' reuse in EJ communities. And eight, WHEJAC should recognize the extraordinary journalism that is now being performed on the issue of reusing and repairing sites in EJ communities and analysis such reporting for lessons that can be incorporated into agency directives, regulatory rule making and federal legislation to improve environmental public health and economic

outcomes. I'll include a list of key articles published in the last 12 months along with my written remarks.

And finally, I would like to recognize and thank the U.S. EPA Office of Brownfields and Land Revitalization and U.S. EPA Superfund Redevelopment Program for all of the thought, time, and care they've invested in effective, innovative, and equitable clean up, redevelopment, and use of impaired sites in EJ communities. EPA's institutional and cultural commitment to the cause is the major driver incentivizing the public sector to partner with local governments and EJ stakeholders. Thank you so much.

Brandi Crawford-Johnson, Public Commentor: Hi, my name is Brandi Crawford-Johnson, and I'm an environmental justice advocate from southwest Michigan. I had a lot to say at the last meeting about the frontline community that is next to packaging and international paper mill that is expanding. And they're going to increase greenhouse emissions by 221 percent, so I would really like the WHEJAC members to try to convince President Biden to rescind the permit for them because this frontline community is only going to get sicker. They have the highest asthma rate in the nation, and the gases are trapped.

But also, the American Lung Association just came out with the state of the area report and graded counties that were failing for air pollution. And Van Buren County, Cass County, St. Joseph County, Barian County were all graded F. So I looked at all their environmental justice scores. Every single county was 70 percent or higher, so they definitely need more air monitors in that area. They need health monitors in that area. Ben Harbor, Michigan was 95 percent chance of getting cancer and respiratory disease. Their EJ score was the highest that I saw, predominately in the African-American area like the one is Kalamazoo.

The other communities -- I looked up the city EJ scores, and those were minority communities as well, which is unfortunate. But I have an idea of reaching out to the county commissioners, seeing if they can get funding for air monitors -- purple air monitors are inexpensive. They're

\$250 -- and maybe seeing if they can have their own environmental justice committees to work with the county commissioners because they're just not educated on air pollution like they should be.

A lot of people don't even know what the environmental justice tool is. So I'm taking it upon myself to speak in all those county meetings to let them know their scores and see if they can get funding to get purple air monitors. But I would really like WHEJAC members to do what they can for southwest Michigan because I know Detroit is really bad as well, but southwest Michigan has kind of flown under the radar. And we really need these communities to get funding so that they can get health monitoring because that's the most important thing that needs to be done.

Thank you so much and I really enjoy listening to everyone. And I'm very excited for the future for environmental justice and WHEJAC. Thank you.

Craig Stevens, Public Commentor: My name is Craig Stevens. I'm a sixth-generation landowner in northeastern Pennsylvania, Silver Lake Township. My entire community, along with many thousands of others around the United States, have been completely devastated by gas drilling. This clean fuel they call it, natural gas, is a joke.

I have hundreds of my neighbors in Pennsylvania living without clean water for the last 16 years they've been doing unconventional drilling. Many of my neighbors have had to track water from ponds and creeks and put bleach in it just to shower, bathe, and launder. I've had many of my neighbors killed by truck traffic. We have been ignored by everybody.

When President Obama put in in 2010 in the legislature and Congress to do a water study about fracking, they lied to everybody. In 2015 they announced there was no widespread or systemic harm. We took umbrage. My team showed up at the Scientific Advisory Board panel. By the

way, put the Scientific Advisory Board back in, folks. They had voted 69-1 to overturn the findings of the water study that said there was no widespread or systemic harm.

That was a lie. After we challenged them and the Scientific Advisory Board refused to allow the study to move forward, they basically told them that you have to rewrite it. Now, it says they found a potential for risk to water contamination in all aspects of the drilling process.

I've worked with and met with 10 sitting governors in 13 state houses. Why? Because nobody else is doing it. We're asking this committee along with the President to take this seriously and go out and find out what's happening in the community. Nobody wants to see it, but guess what happens when you go and see it? You can't believe your eyes. This makes the Flint Water Crisis, which was definitely a crisis -- I've worked with the native tribal and First Nations people from all over the United States and Canada on pipeline issues.

We're tired of being told that this is necessary. Export, export, export. We're not interested in you poisoning our communities, President Biden and team, to get cheap gas to other countries. We are not an extraction colony. We refuse to be an extraction colony, and I will stand with all my brothers and sisters. We know about working with brown, Black, red, white. You know why? Because our water comes out brown, Black, green, red, white. It's multicolored, so we don't have any problem working with anybody that is standing up for the Earth.

We have an Article I Section 27 in our constitution in Pennsylvania, it's called the Environment Rights Amendment, put in 40 years ago, and they ignore it. Please stop ignoring the real problems that you're hearing today, President Biden and this team, and stop it. Tell FERC to quite front lining projects and ramming them down our throats. As a private landowner, we're extremely tired of being told that we are some kind of environmental terrorists when we stand on our own property and tell them no more Mountain Valley Pipeline. No more Mountain Valley Pipeline, no more Atlantic Coast Pipelines, none of these pipelines. We don't need them. And

thank you. Please listen to the citizens. This is a great start. I'm looking forward to moving the conversation on and thank you for the opportunity to speak and tell the truth today.

Raymond Kemble, Public Commentor: I live in Dimock, Pennsylvania. My water was contaminated by gas drilling and fracking ten years ago. I still have to truck water into my house with my pickup truck from another town to have drinking water and to be able to take a shower and use my toilet. This is all due to gas drilling and fracking.

Eureka wants to put a water waste facility plant one mile from my house and discharge it into my pristine creek that runs behind my house, which runs into the Meshoppen Creek and then goes into the Susquehanna River. They cannot clean this water up to be dumping it in public waterways. This has to stop.

The uranium content of the wastewater coming out of the wells here in Susquehanna County and Marcellus shale is off the charts. It goes to landfills, and they dump it any way they can. This has to stop. This is more chemicals, the uranium going and being trucked all over the country. And now, we want to take this water, and we want to truck it and dump it out in the Ohio River on barges and dump it into Ohio. This is absolutely ludicrous.

Everybody needs to wake up and smell the air and the water. This is not a D or an R in front of your name. It's not your religion, the color of your skin. This is about clean air, clean water, and clean soil for everybody on this planet to live. Without this, we are all dead. I am going to continue to fight.

I am fighting the impossible here, Cabot Oil and Gas, Eureka, and the injection wells that they want to put in our county and our community. If we let it happen here, this will continue to happen every where in this country, and I have friends from native tribes and everything else.

Very good friends of mine and I've been helping them fight on different reservations to stop all this stuff from going on. We've got pipelines running through.

There's no reason for these pipelines to be here, and there's no reason to be contaminating all of our land and our soil. And nobody will do anything. Our Constitution states we have the right for clean air, clean water, and clean soil for now and future generations to come. But nobody, nobody will stand up for our rights as the people that live here. And this has to stop, so the President has to help us stop this absolute raping of our lands and destroying us. Thank you very much.

June Lorenzo, Public Commentor: Greetings from the Pueblo Laguna in New Mexico. I'm Laguna Pueblo and a resident of Paraje Village at Laguna. I live in a uranium impacted community, and it was once the home of the largest open pit uranium mine in the world. I'm a member of the Laguna Akoma Coalition for a Safe Environment that focuses on legacy issues. And although the uranium mine closed nearly 40 years ago, the communities of Laguna Pueblo and other nearby communities continue to address issues regarding health of the people and the environment.

I want to add something that I think is really critical to the work of the Council, and that is applying international human rights standards. And how? The United States, as you may know, adopted and declared its support, although lukewarm, in 2010 for the UN declaration on the rights of indigenous people.

Hopefully, the Biden Administration will take a much stronger stance on implementing the standards contained in the declaration during his Administration. The United States has adopted very few human rights treaties, but two really critical treaties are on the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights. What I want to stress is that in the monitoring of both these treaties, the human

rights monitoring bodies have said the United States in their reports that these treaties should be enforced at all levels, not just the federal level, but all levels of the government.

In the last round of reports by both these committees -- that is the Human Rights Committee and the International Subcommittee -- they raised issues regarding indigenous people's rights regarding the right to free prior and informed consent when decisions are made affecting their communities, as well as the need to protect indigenous people's right to sacred landscapes. I've included the language from these, but they specifically raised the need to take measures to respectively require informed consent and to take measures to protect sacred areas against desecration, contamination, and destruction.

And they raised in specific areas affected by polluting and disruptive activities, resulting from resource extraction, industrial development, construction of water fences and walls, tourism, and urbanization. And I'll submit the rest of my comments in writing. Thank you very much.

Desmond Ondatje, Public Commentor: All this great work, it seems like from an outside perspective all of this hard work you folks have done, I understand by Dr. Martinez's comment that you can only make recommendations. I'm hoping it seems like from the outside perspective that this is the first step in the crafting of you can call it the Green New Deal. You can call it climate crisis and resilience legislation. Call it what you want. But this seems like the initial steps towards that creation.

I'm hoping that you will have indigenous peoples at the table in the crafting of this and you will have people in the frontline communities in the crafting of this and that the people in government who have the interest of folks like us make sure that government runs the show and has the reins and not business. And therefore, I'm going to be so bold as to say that even campaign financial reform has to be part of this legislation because until you get the monies out of local, state, county, federal governments, you're going to have this going on.

You have to find out who those are. It could be only about 50 or 60 men in charge of all this who are doing this, who are standing in the way. They have to be called out. They have to be -- the light has to be shone on this, and this is by way of saying this will all be part of the process of the crafting of, if you will, a Green New Deal or whatever you want to call it. Thank you for your work.

Kamita Gray, Public Commentor: I'm Kamita Gray. I'm the president of Brandywine TB Coalition. I just have a couple comments, and I will put my comments in writing. But I'm a little concerned about what's not to be funded on the list. We are a community that has three fossil fuel powerplants, and two of them are the largest in the United States. And one still flares. So I'm a little concerned when you say you don't want to fund the best available technology. That would be concerning to our communities.

So I would just ask that y'all in making these lists and recommendations that community is at the table because things are there that are not solutions for the communities, and we are actually looking for solutions. And I will submit my comments in writing. Thank you.

Robert McCaslin, Public Commentor: I'm a member of the Little River Band of Ottawa Indians. I wanted to thank Karen Martin. She responded back immediately when we suggested to talk today. I'm a 31-year master driller, so I know about Dimock, Pennsylvania, so I wanted to touch a little bit about Dimock and the EPA and the way that it gets -- there's a great lack of coordination between agencies and the people that it's impacting. And this is going to carry in waves from the permitting, the mining, to the orphan and abandoned wells that are in Pennsylvania.

There's a whole lot of disbelief there because we've been trying to stop hydraulic fracturing since we knew that it was harmful for everybody involved, even the workers. I also wanted to

touch a little bit about the Superfund site on Ringwood, New Jersey for sludge, and right now the Native community, the Ramapough Lenape Nation, are working through being left out of the process of remediation of that. And right now, we need to move the whole community off that Superfund site. And right now, we're only hanging on by an endangered species.

And the lack of communication with the EPA -- also, I'd like to reiterate about the EPA and the way they conduct business. I'm looking at the people that are of the industry and then the lack of communication. It's only a two part, and the efforts are persistent problems that face the people that it's impacting. And they're the ones being injured by this. They're the ones that are there. So I like what I had to hear today. I hope that you guys can make a difference working on that. Thank you.

Justin Pearson, Public Commentor: Thank you so much and good afternoon to this esteemed Council. I am Justin J. Pearson, a son of Memphis, a son to Kimberly and Jason Pearson, Sr., and a brother to four Black boys, grandson to Gwendolyn Jones Griffin and Eddy Mays Starks Pearson who both died at an early age in their 60s due to cancer and were lifelong residents of south Memphis.

Today, I humbly represent our beautiful city and community members in north Mississippi as well. Over a million people's lives and many unborn children's futures are threatened by the crude oil Byhalia Pipeline that would make billions while exploiting Black folks to do it. We are at a critical juncture in our fight for environmental justice in Memphis. South Memphis' Black residents are dying disproportionately from unnatural causes. This community suffers from decades of industrial siting, including a coal refinery, coal ash pond, a steel mill, wastewater treatment plant, and many other pollutants.

Justin Pearson, Public Commentor: A report by Sarah Macaraeg states, "Of all emissions Shelby County facilities reported in 2017, sites in southwest Memphis accounted for 94 percent of 6.6 million total tons of six criteria air pollutants and the most recent national emissions

inventory.” How can it be fair to now burden this same community with the crude oil pipeline they do not want? Memphis and Shelby County’s elected leaders, including the U.S. congressmen, are galvanizing to protect its people and its water.

The federal government should be striving to do likewise. But instead, the use of nationwide permit 12 was approved by the Biden-Harris Administration and has become a weapon of the crude oil pipeline companies to bludgeon the movement into silence by saying this federal permit supersedes the right of local authorities to protect their people. In fact, there has been the threat of a lawsuit if the city council attempts to pass an ordinance to protect the people’s drinking water this upcoming Tuesday.

Currently, this project has been fast-tracked with the nationwide permit 12 without any project specific environmental review, despite the layers of environmental and public health harm that it could cause. The fast-track permit 12 approval of the Byhalia project should be rescinded immediately, and a thorough review of the Byhalia pipeline should be placed under the requirements of the National Environmental Policy Act.

Southwest Memphis does not need the Byhalia pipeline. Rather, it needs the type of investment envisioned through the Justice40 Initiative. We need investment in many areas outlined in this initiative which we discussed further in detail in our submitted comments. But I’d like to point out some. Clean energy and transit and remediation and reduction of legacy pollution, from the interstate to coal ash pond in the community, we need Justice40 support to heal our community wounded by decades of toxic oppression.

Disadvantaged communities in southwest Memphis can significantly benefit from federal investments and support from the Administration by rescinding the nationwide permit 12 for Byhalia. And also, reconsider nationwide permit 12’s use in other impacted environmental justice communities, such as Line 3, Line 5, Mountain Valley Pipeline, Dakota Access Pipeline,

and Jordan Cove. Thank you so much for listening and please use your influence to create justice. God bless you.

Mr. Scott Eustis, Public Commentor: My name is Scott Eustis. I'm community science director of Health Gulf out of New Orleans or Bulbancha, a place of many nations. We collaborate with and serve communities who love the Gulf of Mexico with research communications and coalition building tools to reverse the long history of exploitation of the Gulf's natural resources. Thank you for the amazing recommendations in Justice40 and the Executive Order. We will submit these as written comments and share our April 22nd letter to the President for the Committee's benefit.

From the communities of the Gulf Coast, there's a lot of overlap in terms of just transition and resources for environmental justice communities. We echo the call for the Environmental Justice for All Act, and we hope the Committee can support that. Residents should not have to prove intentional discrimination, and we support asking FERC and the Army Corp to go door to door in places like Lacassine, Louisiana to analysis how their multiple pipelines, oil and gas, L&G, products, et cetera -- how those pipelines are affecting communities and to determine the impact to very small rural communities along the Gulf Coast. But even just a mere EJ review for FERC and the Army Corp would do wonders from where we are right now.

We find the rurally based meaningfully greater analysis in the 2016 EPA best practices document that references a block group to its local parish our county and determining disproportionate impact. That is very illuminating for where these petrochemical facilities are being permitted and also how it's -- that's who calls it. Who's going to be impacted, that meaningfully greater analysis we find really has identified the communities that we try to prioritize. FERC and Army Corp are your agencies to prioritize if we really want to talk any climate solutions or meeting the President's climate goals at all for the 30 or more new petrochemical plants permitted since or in process of permitting since 2018.

The EJ analysis should be part of the core alternatives analysis under the National Environmental Policy Act. Right now, it's an appendix or an afterthought. It needs to be in the core alternatives analysis, and I would include any historic cemeteries, especially African American cemeteries, along the Mississippi River. We need to avoid those for at least petrochemical developments. In Louisiana, 12 of these projects, oil export, LNG, and methanol export from mostly plastics plants have targeted even just two districts, St. James District 5 in St. James, and District 7 in Port Sulphur Plaquemines Parish, to excavate. It's in historic African American and indigenous communities to excavate historic African American cemeteries along the river.

It's desecration of our history, of our nation, as well as denying the economic development opportunities as the Whitney Museum in St. John Parish and the African American History Museum in Brownfield demonstrate. We know from small business administration data that these petrochemical development suppresses small business, so we're thankful for all the recommendations in Justice40. And we'll submit the rest of this written. Thank you for your time and all of your work.

Ms. Caroline Lewis, Public Commentor: My name is Caroline Lewis. I hail from Miami, Florida, originally from Port of Spain, Trinidad. So, I am so impressed with this group. I have been giving you standing ovations all day long, so thank you for your incredible work. I have four things to bring up, some of which you might have mentioned, and I might have had to drop off for a minute. But let me just start quickly.

Miami is ground zero, and we're getting on in the state of Florida like nothing is happening. So it's very frustrating. I am the founder and senior advisor of the CLEO Institute down here that is building climate leadership in frontline communities and elected leaders. So here's what 12 years in this field has told me, a science teacher/high school principal by trade and an engagement strategist.

One, our people are afraid of dying of heat. And so when we talk about HUD and building more affordable housing, which we must do -- truly affordable housing -- it cannot be optional for them to put in air conditioning units, at least in one room of every home. It is ludicrous to think that we are building homes where -- Miami now has one week of winter if we're lucky. So I'm asking for heat and air conditioning to be addressed in HUD and housing. Secondly, relocation, we have relocation and gentrification of people on the high ground the ridges, the small chunk of southeast Florida where there's a coal ridge is where they built the railroad tracks 100 years ago.

And guess where they sent the Black and brown people to live? On the railroad tracks. And guess who wants this high ground now? Everybody. So the displacement of these populations of color is problematic, and we would like to keep them together in their relocation. In addition, we have adaptation action areas of repetitive flooding, septic tanks that are failing, toilets that cannot flush, and those people need to be relocated. So the whole relocation problem, I hope, will start with Miami, Florida because we really are desperate. Three million people living in our county. More than 50 percent are poor or working poor.

Third thing, can we please merge the NEJAC and NEAC? The NEAC which I was a member of under the Obama Administration, talks about environmental education nationally. What's the status? NEJAC is doing incredible work. I met with Mustafa Santiago Ali when I was part of NEAC, and I asked him then if we could merge it. If we won't merge the two, let them inform each other. Let the environmental education talk a lot more about justice and have the justice community understand the education.

And the last thing, can we please do a national education campaign, a public service announcement? People are clued out as to the justice concerns and the environmental crisis that we're facing. Thank you for your incredible work and those are four more things I'd like you to take on.

Karen Martin, DFO, thanked everyone for their comments. She apologized for having to cut the comments short and encouraged the commentors that did not get a chance to speak to submit comments on the website. She turned the floor to the co-chairs for the WHEJAC members discussion.

WHEJAC BUSINESS MEETING REFLECTION & CONVERSATION

Richard Moore, WHEJAC Co-Chair, thanked the public commentors and reminded them to submit written comments by May 12, 2021, to be shared with the WHEJAC members.

Peggy Shepard, Co-Chair, noted that the pipeline issues are widespread across this country and really mobilizing communities in such a strong way. She stated that there needs to be some advocacy around some of the pipeline issues. She stated that the comment period was reminiscent of all the continuing legacy problems in the country and the lack of progress on this issue.

Cecilia Martinez, Senior Director for Environmental Justice, stated that they are looking forward to the next stage and interested in hearing all the additional comments that were going on. She stated that Chair Brenda Mallory was already texting and emailing questions regarding moving forward.

Catherine Flowers, Vice Co-Chair, stated that this was one of the most robust meetings that she has attended in a long time. She noted appreciation of the engagement of the WHEJAC members as well as the public. She stated that it underscores the importance of the work that must be done related to the environmental degradation of communities around the United States. She reiterated that people were heard throughout the U.S., talking about issues of climate change and issues that are taking place in Miami or on indigenous lands or in Pennsylvania where fracking is poisoning the water. She stated that this underscores that the community is expecting the WHEJAC to do what must be done. She encouraged listeners to continue to offer public comments because it is needed to arrive at the justice that should happen around the country, no matter where you live.

Richard Moore, WHEJAC Co-Chair, thanked everyone. He started off asking the Council members for any highlights regarding what they have heard.

Dr. Beverly Wright, WHEJAC Member, stated that one thing that was quite telling for almost 30 years is the progression of the oil and gas industry. She stated that as it finds itself waning in one area, it very quickly moves to something else that is just as devastating. She noted that when this work was started, it was petrochemical facilities and things in communities. She stated that now, with that particular industry knowing that its days are numbered to some extent, they moved to fracking and underground pipelines. She went on to say that now with that being under attack, it is carbon sequestration which is a continuation the destruction of land, the destruction of the environment and harming people, particularly people of color, taking the path of least resistance. She stated that this says that we should be forward thinking when we talking about legislation or regulations.

Dr. Wright stated that when everyone was fighting for fenceline communities because of Shell Oil or Mobile, or if somebody kept buying up land closer and closer and closer to mostly people of color communities, that no one envisioned fracking. She noted that now with all that is going on with fracking, they're looking at the beginning of legitimizing carbon sequestration. She stated that we can't imagine what's coming next, but we need to look to the scientists and pay close attention to what's going on in this industry to see what the next step is so we can try to get ahead of it. She stated that they are always two steps ahead with another new dirty process that tends to kill people and forward thinking is needed as it relates to this industry.

Susana Almanza, WHEJAC Member, suggested looking into International Human Rights Standards and how several sections of the civil and political rights can be used as well as the covenants in the international human rights. She stated that the way communities have to prove intentional discrimination should be changed, thus looking at the laws, state and federal all the way to international.

Susana Almanza also noted Superfund sites. She stated to not just look at the present Superfund sites but the past. She stated that people are still living with that legacy and still feeling the impacts even though those companies might have left. She also stated that the issue of displacement is massive. She stated that displacement is happening throughout the United States and globally due to climate impact or due to capitalism and all the other issues like water contamination. She noted that people throughout the United States are finally witnessing what people of color have had to endure for centuries and are finally at the table.

Angelo Logan, WHEJAC Member, stated that it is important to recognize the role that pipeline permitting and siting plays in addressing environmental justice. He noted that the WHEJAC has a position and responsibility to articulate the importance of the role that the Administration can play in the siting and/or the rejection of siting of pipelines across the country as they are a very important environmental justice issues.

Jerome Foster, WHEJAC Member, highlighted what Ilana Cohen mentioned about stop Line 3. He stated that as a council, the WHEJAC has to really look at what the purview is in being able to give recommendations to the Biden Administration on key issues like the Dakota Access pipeline and Line 3 and many other pipelines in communities because they are not informed when it comes to those decisions. He stated that looking into an informal way of the WHEJAC recommending that this pipeline be stopped should be looked at.

Jerome Foster also reiterated that it's important to make sure that the WHEJAC identify the Universal Declaration on Human Rights and ensure that through the recommendations a framework is provided that allows for the implementation to actually be free, prior and informed consent. He stated that even though the U.S. hasn't ratified it, through WHEJAC's recommendations, they can make sure that states implement those provisions and are actually making sure that indigenous communities have a seat at the table versus meetings that are listening sessions and are taking into account whether that infrastructure that devastates the community is considering their perspective. He stated that it is crucial, based on statements that

have been made, that the WHEJAC explore other ways to also give recommendations and reach out and go outside the purview a little bit.

Michele Roberts, WHEJAC Member, wanted to echo Jerome Foster and state the importance of education. She stated that it was never thought that we would be to this point thinking about what manifested from the Civil Rights Movement through all other social movements into that of the moment of now. She cautioned the Council not to look at the glass as half empty and really look at the glass as half full in the moment of now. She stated that it is a great time to be working together with the White House, utilizing that space as a major strategic opportunity and looking at the harm that is across this nation and being able to holistically heal and lift up the nation. She encouraged everyone to stand in the moment of now and push forth to make sure that not one community or worker is left behind.

Kim Havey, WHEJAC Member, discussed the Council focusing on the big systemic things that could be implemented within the 51 vote Senate and maintained through an eight-year Biden/Kamala term. He stated regarding the renewal electricity standard, to get 80 percent or to be carbon neutral by 2030 could be huge in bringing private sector investment into things that have been discussed. He noted that the pipelines are the same. He stated that we have to stop the bleed on what is happening that is harmful and make it fast so we cannot get backed out of it by the next administration. He stated that these are the recommendations that should be considered as part of the WHEJAC's advisory to the President and Vice President and the Environmental Quality board and others.

Kim Havey also stated that the commonality seen is a connection to clean air, clean water, clean land, and the rampant disregard for anybody that is not part of the power structure to be able to stop it. He stated that WHEJAC has to stop the bleed on some of these things and make a stand on these things as a policy. He stated that they may be disparate people that were politically in different places but now might be able to be connected on this issue.

Maria López-Núñez, WHEJAC Member, requested that there be a longer public comment period since there were so many people listed that did not get to speak. She stated what resonated was regarding the matter of displacement. She requested more written comments concerning displacement and relocation being that it is a sensitive issue for communities that have been forcefully relocated or displaced. She stated that these conversations will need to take place in the face of the existential threat of the climate crisis. She stated that communities need to have decision making power and be in control of their destiny. She stated that more comments are needed to fully understand this dangerous territory that the WHEJAC will engage in.

Viola Waghiyi, WHEJAC Member, stated that comments about pipelines really made an impact on her as well. She stated that there are communities in Prudhoe Bay whose health has been harmed, including cancer crisis and high asthma rates and there's no data available. She stated that the only data is from the polluter. She stated that there is a need to find a way to make north-south connections with communities, maybe Juan Parra's community in Houston who are facing the same issues. She stated that together they can be stronger as there are small communities, maybe less than 200 people. She stated that finding a way to connect the people that will come out of these groups will be much stronger.

Viola Waghiyi stated that the fossil fuel industries, the petrochemical corporations, are pushing for plastic production. She stated that it is alarming to learn that the Arctic Ocean has the most microplastics and everyone has microplastics in their body now. She noted that Shell Oil Company, centuries ago during the spice trade, committed genocide and tried to kill off the people where all the spices were. She stated that here, centuries later, they are still here as Shell Oil Company. She stated that there needs to be a way to stop these industries and polluters, noting that throughout history they also may have changed their names.

Viola Waghiyi stated as far as Superfund sites, there's some that ranked high enough for the national priorities list or Superfund and were never placed on that, many across the nation. She

cautioned that we cannot forget about those, including Northeast Cape Pole. She noted that her family has been displaced because of the military toxics. She stated that when we talk about water contamination, we need to talk about PFOS contamination. She explained that there are 100 communities in Alaska, and 30 that we know of, that the water has been tested for the very toxic PFOS. She stated that regulators should be held accountable, EPA and the Alaska Department of Environmental Conservation. She stated that there is no proper oversight with the flood sites, with all the industries that are polluting the waters and they need to be held accountable.

Viola Waghiyi stated that she was pleased that the United Nations and the Declaration on the Rights of Indigenous Peoples was being discussed. She stated that it is a good mechanism, but it's not legally binding. She explained that is why they work at the Stockholm Convention at the international level, which is a legally binding, to ban toxic chemicals globally. She noted that when we talk about environmental justice, we need to talk about health, health indicators. She stated not only are our lands and waters and wildlife health is harmed and toxic because of the polluters, but it's the people's health. She stated that the Arctic indigenous woman's breastmilk is at the top of the food chain and the most polluted. She thanked everyone for listening and added that there should be a youth council.

Juan Parras, WHEJAC Member, stated that fracking is a big issue in west Texas. He explained that if you fly into west Texas in the Midland and Odessa area at night, you would think you are landing on a birthday cake because of all the flaring that is going on. He stated that the water contamination is rampant throughout the Permian Basin. He stated that when you open up the water faucets, you can smell the gases coming out and the water is yellowish and oily. He noted that there are earthquakes happening because of the fracking that is going on.

Juan Parras stated that also there are massive pipelines that are coming all the way from the Canadian border down to the Gulf states that transverse through the state, so there are massive issues with pipelines. He also recommended that maybe the workgroups could visit the

communities and do a toxic tour. He stated that the Houston area's Manchester community would welcome the WHEJAC to get a clear picture of what some communities are dealing with.

Tom Cormons, WHEJAC Member, stated that he was also moved by the public testimony with regard to pipelines and agreed with those who have said that it's important for the Council to offer some input on that topic. He stated that every several billion dollars that goes into an unnecessary and disruptive pipeline project is not only causing great harm, but it's not going to regenerative energy projects that we want to see investment in Justice40 under the Biden Administration. He stated that it is time for the rigor of the federal review of pipeline proposals to be what it should. He noted that for too long the rules have been bent and ignored at the federal level to rubberstamp pipeline proposals, and it's been devastating for communities. He stated that it is devastating for the electricity rate payers that have to pay for it and for everyone who would benefit from that money being spent wisely. He closed stated that the public comments really underscored that problem in a very important way.

LaTricea Adams, WHEJAC Member added to the comments surrounding the pipelines, which she admitted was not her area of expertise. She stated that anything regarding eminent domain is a huge issue when thinking from a foundational level what occurs with pipelines. She stated that any expertise yielded in that area would help to make a stronger recommendation. She also stated that it is important when talking about BIPOC communities that language surrounding traditionally or historically underserved populations is also included. She noted that throughout the recommendations there was no explicit mention of the LBGTQIA+ community. She noted, for example, with Black transwomen, their average age is 35 years old and because of discrimination against this group, they oftentimes experience even more exorbitant environmental exposure.

Harold Mitchell, WHEJAC Member stated that one thing that stood out in the public comment period was mention of the campaign finance reform on dark money influence and the contributors to the negative impacts -- basically those that are controlling the decisionmakers.

He stated that there is a common thread, i.e. the oil, the gas, and that should be looked at as to what folks are fighting the privatizing with the prisons, stopping that. He stated that the dark money around a lot of issues needs to be addressed, especially the oil and gas industry.

Ruth Santiago, WHEJAC Member, stated that the public comments showed how interconnected environmental justice issues are. She stated that when people from Pennsylvania and in Texas we're talking about fracking and pipelines and gas infrastructure, that brought home the fact that a lot of the excess gas is being converted to LNG, liquified natural gas, and shipped to the Caribbean. She noted that Puerto Rico would probably be the biggest destination within the Caribbean for that excess gas that the industry is looking to dump in the Caribbean as to prop up the price of their product. She stated that that shows how we need to connect the work that we do all along these environmental justice communities in Pennsylvania and Texas, in all the Eastern Seaboard and the Gulf Coast area, Florida, et cetera. She explained that the importance of the recommendations made for investments in renewable energy, especially in the case of Puerto Rico for investments in federal funding for rooftop solar and battery energy systems and the alternatives to this fossil fired energy system that we currently depend on, so those communities might also have some relief from the pressure of more and more fracking and gas extraction.

Richard Moore, WHEJAC Co-Chair, stated that several pieces have been touched on between the Executive Order, the screening tool and Justice40. He stated that there were very clear intersections between the comments and the some of the previous Council members' discussions. He turned it over to Peggy Shepard for comments before moving to the business section of the meeting.

Peggy Shepard, WHEJAC Co-Chair, reiterated that there is a process for the public comments going from this public process to being investigated or explored or considered. She stated that right now there are a lot of members revved up to advocate and follow this, but do not know what the process is. She stated that some members have been part of the NEJAC process where

sometimes there were months before any follow up. She cautioned the workgroups to just understand what the process is. She stated that on Justice40, most of the comments that remained were predominately reflected in the larger draft. She stated that they may need to be enhanced, and that will take place over the next few weeks to arrive at a final document for a vote. She welcomed members to add any key issues they felt needed to be raised.

Dr. Beverly Wright, WHEJAC Member stated that one issue that kept coming up is the concern of some process for making certain how the money will be dispersed, whether or not there will be a newly created body to oversee the Justice40 money. She stated that the was a concern in the Justice40 workgroup as to what that process might be.

Karen Martin, DFO, state that Dr. Martinez would need to respond to that and will follow-up with Dr. Martinez. She stated that there is definitely other work for the Council to do after completing the first set of recommendations. She stated that she would add an agenda topic for the next meeting to have a discussion about next steps and moving forward after initial recommendations are submitted.

Dr. Kyle Whyte, WHEJAC Member, stated that there have been comments and feedback through different forms. He noted in addition to the public comments, there are notes from the workgroup discussions and also comments within the different documents on the shared file system. He stated that he will do his best in making sure not to leave any comment or idea or note behind and cover all the different sources of the important points.

Andrea Delgado, WHEJAC Member, stated that she wanted to shed some light on some of the separate discussions as it relates to the need for a little more detail when talking about clean drinking water and clean infrastructure investments. She stated not just spelling out rural communities, but also unincorporated communities that face unique challenges in even being able to have access to that. She stated that ensuring that infrastructure investments are not somehow leaving rural and unincorporated communities behind and actually paying particular

attention to those communities in those investments is important. She stated that the allocation for that should not be an afterthought but on the front end of any considerations for federal investments.

Dr. Rachel Morello-Frosch, WHEJAC Member, stated that it's important to make sure that funding is going to the communities and the organizations that can best direct it and not be siphoned off in ways that were unintended. She stated that it would be really great to have some extra time to actually think things through more carefully. She stated that with the consensus on the importance of recommendations, it's important to build accountability mechanisms across the interagency workgroup and the ways in which we might want to track it. She reiterated that it would be great to have more time to think together on this.

Dr. Morello-Frosch also mentioned the issue of the scorecard. She stated that it doesn't fit necessarily neatly in any of the workgroups but seems to be a potential way in which to track that. she stated that she was a little unclear on that piece and asked if Cecilia could address it.

Tom Cormons, WHEJAC Member, stated he was pleased to see the amount of just support from other WHEJAC members for each of the workgroup's recommendations and then also all the good ideas about things that could and should be added. He stated that as a member of the Justice40 workgroup he wanted to make sure that they're not missing great points that other workgroups have put out there. He also stated that he wanted to be sure that suggestions with regard to other workgroups recommendations don't get lost. He stated that as process, Karen, the DFO, has underscored the importance of everyone getting their suggested additions in writing into the documents in Microsoft Teams by the deadline.

Richard Moore, WHEJAC Co-Chair, stated that the workgroups will continue to meet until May 7th, and to address the comments heard during the meeting and then also the additional comments submitted and written by the WHEJAC members. He noted that workgroups will review comments received for consideration as they work to edit recommendations. He stated

that Karen, George, and Paula will edit final documents and send to the WHEJAC members on May 9th for final review.

Richard Moore stated that there will be time on May 13th meeting agenda to hear from workgroups about any major changes or additions. He noted, very importantly, the WHEJAC will vote on May 13th to forward final recommendations of Justice40 and the executive order revisions to CEQ. He reminded the WHEJAC that they should work to get all their questions and concerns clarified over this next week. He stated that the Climate and Economic Justice Screening Tool Workgroup will continue to meet and develop recommendations since their final recommendations are on a different timeframe following the Presidential Executive Order.

Karen Martin, DFO, added that if there were additional comments to add to the document, it should be added over the next couple of days, at least by Friday/Saturday so the workgroups can start focusing on reconciling the comments. She stated that she is expecting to receive final drafts by Friday, 11:59 p.m. from everyone on Eastern Time. She mentioned that notes were taken during the discussion today and will be shared with the workgroups as well.

Richard Moore, WHEJAC Co-Chair asked Dr. Martinez if there were comments in terms of the timeframe.

Peggy Shepard, WHEJAC Co-Chair, restated the question for Dr. Martinez. She stated that the WHEJAC would like to have a couple of meetings dedicated to developing recommendations for the Administration and the accountability of the Justice40 monies and would like to know if that recommendation would have to be in with the rest or whether there could be more time allowed.

Dr. Cecilia Martinez, CEQ, stated that more time can be allowed because this would be in moving stages.

Karen Martin, DFO, stated that someone mentioned about the scorecard, which is also part of the charge. She stated that additional workgroups will be formed as needed even though some workgroups will be phased out. She stated that other workgroups will be formed to address the other outstanding issues. She stated that this will be after May 13th meeting.

Karen Martin directed the members attention to Question 3 for the Justice40 workgroup. She stated that this was the question about a definition and giving some examples. She asked that they pay attention to Question 3 in the Justice40 initiative and give some feedback on that when going through the documents making comments and edits.

CLOSING REMARKS & ADJOURN

Dr. Cecilia Martinez, CEQ, stated that a huge debt of gratitude and amazing work. She stated that in hearing from the public, just an incredible, incredible amount of kudos to each of the Council members. She noted that their work is shining through brilliantly as expected. She thanked the Council.

Peggy Shepard, WHEJAC Co-Chair, expressed appreciation for Jerome Foster on his work on helping summarize all of the recommendations. She stated that it is a big, irritating job and many thanks for helping pull them together.

Carletta Tilousi, WHEJAC Vice Co-Chair, wanted to add that as the workgroups are going back to their work sessions, from the public comments, it seems that there needs to be a focus on funding and enforcement and oversight of some of these corporations coming into the communities. She stated that it is unclear where WHEJAC will fit it in, but that's the only way that the work is going to have some teeth and some grit.

Richard Moore, WHEJAC Co-Chair, thanked everyone, as well as the technology staff, and moved to close out the session. He extended a special thanks Dr. Martinez, George Ward and as well as Paula Flores-Gregg who joined as part of the EPA-CEQ team. He also thanked Chair Brenda Mallory for the earlier comments and stated that he was looking forward to continuing to do the work of this particular advisory committee. He officially closed the meeting.

APPENDIX A – MEETING AGENDA



**THE COUNCIL ON ENVIRONMENTAL QUALITY
WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL
VIRTUAL PUBLIC MEETING
April 28, 2021, 2021
1:00 P.M. – 6:00 P.M. EDT**

AGENDA

AGENDA	
1:00 p.m. - 1:30 p.m.	<p>WELCOME, INTRODUCTONS & OPENING REMARKS</p> <ul style="list-style-type: none"> ○ Karen L. Marlin, Designated Federal Officer – U.S. Environmental Protection Agency ○ Cecilia Martinez, PhD, Senior Director for Environmental Justice – Council on Environmental Quality ○ Brenda Mallory, Chair – Council on Environmental Quality ○ Richard Moore, White House Environmental Justice Council Co-Chair – Los Jardines Institute ○ Peggy Shepard, White House Environmental Justice Council Co-Chair – WE ACT for Environmental Justice ○ Catherine Coleman Flowers, White House Environmental Justice Council Vice Chair – Center for Rural Enterprise and Environmental Justice ○ Carletta Tilousi, White House Environmental Justice Council Vice Chair – Havasupai Tribal Council
1:30 p.m. – 2:20 p.m.	<p>WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION</p> <ul style="list-style-type: none"> ○ Peggy Shepard, White House Environmental Justice Council Co-Chair – WE ACT for Environmental Justice
2:20 p.m. – 3:10 p.m.	<p>WHEJAC E.O. 12898 WORKGROUP UPDATE & DISCUSSION</p> <ul style="list-style-type: none"> ○ Richard Moore, White House Environmental Justice Council Co-Chair – Los Jardines Institute ○ Carletta Tilousi, White House Environmental Justice Council Vice Chair – Havasupai Tribal Council
3:10 p.m. – 3:25 p.m.	<p>BREAK</p>

AGENDA

3:25 p.m. – 4:15 p.m.	<p>WHEJAC CLIMATE & ECONOMIC JUSTICE SCREENING TOOL WORKGROUP UPDATE & DISCUSSION</p> <ul style="list-style-type: none"> ○ Catherine Coleman Flowers, White House Environmental Justice Council Vice Chair – Center for Rural Enterprise and Environmental Justice
4:15 p.m. – 5:00 p.m.	<p>PUBLIC COMMENT PERIOD</p> <ul style="list-style-type: none"> ○ Members of the public will be given three (3) minutes to present comments on their issue or concern to the WHEJAC.
5:00 p.m. – 5:55 p.m.	<p>WHEJAC BUSINESS MEETING REFLECTION & CONVERSATION</p> <ul style="list-style-type: none"> ○ Karen L. Martin, Designated Federal Officer – U.S. Environmental Protection Agency ○ Cecilia Martinez, PhD, Senior Director for Environmental Justice – Council on Environmental Quality ○ Richard Moore, White House Environmental Justice Council Co-Chair – Los Jardines Institute ○ Peggy Shepard, White House Environmental Justice Council Co-Chair – WE ACT for Environmental Justice ○ Catherine Coleman Flowers, White House Environmental Justice Council Vice Chair – Center for Rural Enterprise and Environmental Justice ○ Carletta Tilousi, White House Environmental Justice Council Vice Chair – Havasupai Tribal Council ○ The WHEJAC will use this time to reflect on the meeting proceedings, public comment period, discuss and deliberate action items and finalize next steps.
5:55 p.m. – 6:00 p.m.	<p>CLOSING REMARKS & ADJOURN</p> <ul style="list-style-type: none"> ○ Karen L. Martin, Designated Federal Officer – U.S. Environmental Protection Agency ○ Cecilia Martinez, PhD, Senior Director for Environmental Justice – Council on Environmental Quality ○ Richard Moore, White House Environmental Justice Council Co-Chair – Los Jardines Institute ○ Peggy Shepard, White House Environmental Justice Council Co-Chair – WE ACT for Environmental Justice

APPENDIX B – MEETING ATTENDEES

FIRST NAME	LAST NAME	ORGANIZATION
Abigail	Abrash Walton	Antioch University Department of Environmental Studies
Ibrahim	Absa	Environment Quality Authority
Jose	Acosta	LVEJO
Gerardo	Acosta	Office of Communities, Tribes and Environmental Assessment
Theresa	Adams	Freelance
ASTRIKA	ADAMS	Office of Advocacy
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Rachel	Stein	N/A
Andrea	Stein	Roger Williams Park Zoo
Susan	Sterrett	Wichita State University
Craig	Stevens	Patriots From The Oil & Gas Shales
Amy	Stillings	BLM, CO
Jordan	Stone	Association of American Railroads

FIRST NAME	LAST NAME	ORGANIZATION
Megan	Striegel	RISE
Regina	Strong	Office of the Environmental Justice Public Advocate, Michigan Dept. of Environment, Great Lakes, and Energy
Brandon	Suchan	GreenMichigan.org
Emily	Sullivan	Northern Alaska Environmental Center
Danielle	Sullivan	Harris County
Katy	Super	EJHA
Katie	Surma	Inside Climate News
Joseph	Sussi	University of Oregon
Elyse	Sutkus	US EPA
Robina	Suwol	California Safe Schools
Anastasia	Swearingen	ACC
Shelby	Switzer	USDS
Jeremy	Symons	Environmental Protection Network / Symons Public Affairs
Ellen	Szarleta	Indiana University NW
Richard	Talbott	Richard Talbott Architecture
Jeffrey	Talbott	North Carolina Department of Environmental Quality
Sandra	Talley	NRC
Tea	Tanaka	(self)
Bertha	Tate	MCAP
Carrington	Tatum	MLK50: Justice Through Journalism
Kerene	Tayloe	WE ACT for EJ
Patricia	Taylor	Environment and Human Health, Inc. (EHHI)
Willie	Taylor	Memphis community against the pipeline

FIRST NAME	LAST NAME	ORGANIZATION
Larry	Taylor	Kentucky Department for Environmental Protection
Chandra	Taylor	SELC
Grace	Tee Lewis	Environmental Defense Fund
Leah	Thomas	Intersectional Environmentalist
Kennedy	Thomas	FAA
Stephanie	Thomas	Public Citizen
Paul Michael	Thomson	Metropolitan Water Reclamation District of Greater Chicago
Joyce	Thurman	EPA
Smith	TJ	Deloitte
Emma	Tome	California Air Resources Board
Allen	Townsend	University of Virginia
Ame	Trandem	Plastic Solutions Fund
Denita	Traylor	N/A
Jenn	Tribble	TDEC
Michael	Troyer	U.S. Environmental Protection Agency
Jeffrey	Trulick	Army Civil Works
Hung	Truong	Parsons
Theodora	Tsongas	Self
Kim	Tucker-Billingslea	GM
John	Tuminaro	FPISC
Uloma	Uche	EWG
Amy	Vance	DHS Office for Civil Rights and Civil Liberties
Gloria	Vaughn	EPA

FIRST NAME	LAST NAME	ORGANIZATION
Sidney	Vaught	EPA
Ifetayo	Venner	Arcadis
Julie	Ventaloro	NC Dept of Environmental Quality
Michelle	Ventura	CSU Channel Islands Student
Dilip	Venugopal	U.S. Food & Drug Administration
Catherine	Villa	US Environmental Protection Agency
Cliff	Villa	University of New Mexico
D Aaron	Vinson	Carter Consulting, INC
Stephanie	Vivanco	ToxStrategies
Madeline	Voitier	Association of California Water Agencies
Lisa	Voyce	HDR
Adrienne	Wald	Mercy College - Dobbs Ferry, NY
Kevin	Walgenbach	National Ready Mixed Concrete Association
Pearl	Walker	NAACP MEMPHIS
Wendy	Wallace	Deloitte
Bill	Walsh	Healthy Building Network
Meghan	Walsh	USDA
Jenell	Walsh-Thomas	NAS
Denise	Walters	LCOG
Toby	Warden	National Academy of Sciences
Ron	Ware	MCAP
Sydni	Warner	University of Michigan
Michael	Warren	NJ Advance Media
Audrie	Washington	EPA Region 5

FIRST NAME	LAST NAME	ORGANIZATION
Micaela	Watts	The Commercial Appeal
Raymond	Wayne	Heritage
Julie	Weisgerber	FEMA
Chasity	White	Rise Saint James
Deirdre	White	ASDWA
Chad	Whiteman	U.S. Chamber of Commerce
Sherri	White-Williamson	Environmental Justice Community Action Network
Siobhan	Whitlock	R4 EPA- Superfund and Emergency Management Division
Kristin	Whitman	Shell
Zachary	Wilkins	Oak Ridge Site Specific Advisory Board
Jane	Williams	California Communities Against Toxics
Dana	Williamson	EPA
Liz	Williamson	WM
Lawrence	Willie	N/A
Renee	Willis	N/A
Wenona	Wilson	EPA R10
Sam	Wilson	Washington Department of Ecology
rosemary	winters	NAACP
Nsedu	Witherspoon	Children's Environmental Health Network
Mary	Wojcicki	Private citizen
Katherine	Wolf	University of California at Berkeley
Elaine	Wolter	Sierra
Claire	Woods	Greenfield Environmental Trust Group
Jenny	Word	Ecology

FIRST NAME	LAST NAME	ORGANIZATION
Jennifer	Wyatt	Chevron Canada Limited
Deede	Wyatt	Team Upstream Church of the River
Dominick	Yacono	Navy
Say	Yang	Center for Earth, Energy and Democracy
Naomi	Yoder	Healthy Gulf
Ansha	Zaman	Center for Earth Energy and Democracy
Hilary	Zarin	DOI
Maria	Zeman	WA Dept. of Ecology

APPENDIX C - SUBMITTED WRITTEN PUBLIC COMMENTS

Full Name (First and Last): FREDERICK KIRSCHNER

Name of Organization or Community: Elem Pomo Tribe

City and State: VALLEYFORD

Type of Comment: Written Comment Only

Brief description about the concern: In order to support their intended and legally reserved uses, Superfund sites on reservations must be truly cleaned-up (to pre-contamination levels). Realizing this early-on negates the need to conduct human arduous and contentious health or ecological risk assessments, saving valuable time and resources.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

To follow the attached entitled "Whitepaper: Early Determination of Pre-Mining Background for Mine Sites Affecting Tribal Lands and Resources", when Tribal lands are involved in Superfund sites.

Full Name (First and Last): Ahimsa Porter Sumchai MD

Name of Organization or Community: Hunters Point Community Biomonitoring Program

City and State: San Francisco

Type of Comment: Written Comment Only

Brief description about the concern: Human biomonitoring applied to vulnerable populations and sensitive receptors at federal Superfund sites and hazardous waste facilities

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

The Hunters Point Community Biomonitoring Program launched in January of 2019 as the nation's first human biomonitoring program established to offer residents at a federal Superfund site urinary toxicology screens capable of detecting 35 potential toxicants. HP Biomonitoring is the first human biomonitoring program to detect an aggregate of radioactive biomarkers and carcinogenic heavy metals in multiple screenings of residents within a one mile perimeter of the system of federal Superfund sites at the Hunters Point Naval Shipyard. HP Biomonitoring is using the EPA EJScreen index variables in combination with urinary screenings and geospatial mappings of toxins detected at a specific address within the one mile buffer zone of the federal Superfund site. We would like to present our findings to you. These findings promise to advance environmental science and environmental public health.

Full Name (First and Last): John Cheney

Name of Organization or Community: Enera Power

City and State: San Francisco, California

Type of Comment: Written Comment Only

Brief description about the concern: As a fellow renewable energy business leader working or investing in projects in Mexico, you know as well as I do the catastrophic consequences of the Mexico government's actions to advance the state-owned fossil fuel sector at the expense of U.S. investments in renewable energy.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We need the U.S. government to step up and speak up against these actions. To encourage the Biden administration to do so, and that a group I belong to, E2, is sending to top Biden officials next week in advance of the international climate leaders summit that President Biden is convening on April 22.

Full Name (First and Last): Arnold P Wendroff, PhD

Name of Organization or Community: Mercury Poisoning Project

City and State: Brooklyn

Type of Comment: Present Comment at Meeting

Brief description about the concern: Failure of Federal, State, and Local government agencies, specifically the CDC/ATSDR, NIEHS, EPA, NYCDOHMH, NYSDOH etc. to assess and address the latent epidemic of mercury poisoning due to the contamination of housing from intentional sprinkling of elemental mercury in the magico-religious beliefs that it attracts good and repels evil. I first reported this phenomenon in the journal Nature on October 18, 1990, and have been the major advocate for two abortive EPA R2 Environmental Justice Pollution Prevention awards (1996 & 1998), as well as the recipient of an EPA R2 2003 Environmental Quality award. In March 1999, the ATSDR's Toxicological Profile stated that: A unique exposure pathway that has received little research attention is the exposure to children from religious and ethnic uses in homes and cars or in remedies containing metallic mercury (ATSDR 1997; Johnson [in press]; Wendroff 1990, 1991). In some religious practices of Latin American or Caribbean origin, there are traditional rituals or remedies that involve mercury. These include intentional sprinkling of liquid elemental mercury on the floor, burning candles made with mercury, using mercury in baths, adding it to perfume, or wearing small containers of mercury around the neck for good luck. There is an urgent need to obtain information on the levels of exposure from these practices to determine if children or adults are at risk. Mercury vapor concentrations may be much higher after use during the winter months when the heat is turned on and the windows are closed, so data that reflect a variety of possible exposure scenarios are also needed. This "urgent need" of 1999, to measure mercury vapor concentrations inside dwellings, of 1999 has never been operationalized. On July 13, 2010, the EPA R2 Administrator Judith Enck, wrote to me stating that "EPA has an ongoing concern about potential mercury (Hg) exposure associated with its use in ritualistic practices. Conceivably, such exposures can even extend to non-users through a scenario where ritualistic Hg practices by previous occupants of residential dwellings have contaminated the living space of the current unsuspecting residents. EPA Region 2 is exploring ways to characterize this potential exposure scenario." She included a FY11 Regional Applied Research Effort Proposal stating that: Research Objectives and Expected Outcomes: Despite knowledge of the existence of ritualistic practices involving mercury, no data exist on levels of in-dwelling exposure. A study conducted previously by NJDEP relied on indirect indicators outside apartments of conditions inside apartments and could not provide an estimate of the airborne concentration of mercury inside the apartments. Measurement of mercury vapor inside a dwelling, at the point of exposure, is the best environmental indicator of potential hazard. This pilot level study of targeted housing will inform the potential extent and magnitude of mercury

vapor contamination secondary to ritualistic practices by directly measuring mercury vapor concentration in targeted housing units." Please Google / Google Scholar using the Key Words < mercury Santeria > and < mercury Wendroff >

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do? I

want the WHEJAC to advise the White House Council on Environmental Quality to ensure that the aforementioned agencies carry out the ATSDR's 1999 advice to address the urgent need to measure mercury vapor levels in a representative sample of Caribbean dwellings, and to measure urinary mercury levels and perform neurotoxicological assessments of occupants of mercury contaminated housing. I advise the White House to prepare a response plan that would establish the infrastructure to assess and decontaminate large numbers of homes certain to be contaminated.

Dear Karen Martin,

Having such events, webinars, and doing written comments are making working work for the career staff for this office when the staff needs to be assigned or deploy to be working with those impacted and vulnerable communities and neighborhoods. Get out of the office and desk, feet on the streets of those who have been here from the beginning 12989.

Looking to hear from you,

Ms. Margaret Gordon/Co-Director
West Oakland Environmental Indicators Project

Full Name (First and Last): Heather Croshaw

Name of Organization or Community: St. Croix Environmental Association

City and State: Christiansted, VI

Type of Comment: Present Comment at Meeting

Brief description about the concern: The St. Croix Environmental Association - known as SEA - strives to be a community voice for the people of St. Croix, US Virgin Islands, and fight against environmental injustice. Recently, Limetree Bay Refinery - which you may have read in news - restarted operations in February. Yet, the St. Croix community has already experienced harmful and scary pollution: unscheduled flares, an airborne chemical release, oil spills, fires, and a vapor release that dirtied homes, gardens, cars, and cisterns. It literally rained oil on people's homes. We cannot live in fear of extreme pollution.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We ask you for help to protect our home from environmental injustice. Due to these pollution incidents, we asked our community members to observe and report on Limetree Bay Refinery because of enforcement lapses by the facility and regulators. The Limetree Bay Refinery has barely operated for three months, and there are already serious non-compliance issues. We ask for strict enforcement of the law and to investigate violations that happened since the refinery restarted. St. Croix's residents have major concerns regarding Limetree. Frankly, we still do not know what is a normal operation for an oil refinery. The public was not notified that refining started until after the fact. We need better transparency and reporting on incidents. We and other members of the community have seen large plumes of gray smoke, lots of flares flaming, and even woken up by the smell of strong fumes. In order to protect our community, we need more money for monitoring air and water quality. We cannot rely

on Limetree or any facility to self-monitor their pollution. Our island home has already experienced lax monitoring and enforcement with Hovensa in 2011. This cannot happen again. We ask you to take a hard look at the Reactivation Policy that EPA abandoned under the Trump Administration to grandfather Limetree Bay as an operating facility. Why are old refineries such as Limetree Bay allowed to be grandfathered back into existence? Their approved air emissions levels are outdated and dangerously high for public health and the environment. They must be recognized as a new facility and go through a new source review. We need to require these facilities to adopt the best available control technology - rather than using outdated technology from more than 40 years ago. The community of St. Croix, located in a U.S. territory far away from the U.S. mainland, has commonality with other fenceline communities. We cannot let a similar event like the Texas City disaster happen to our island. We are way behind in regulation and enforcement and need the best technology to prevent disasters. We fear for our lives every time we see a large flare or smoke plume. Finally, we ask for the EPA's ECHO database and EJSCREEN tools to be updated with demographic and environmental information for St. Croix and the USVI in general. We rely on these public tools to hold Limetree Bay accountable and to protect the lives of our community. Thank you.

Full Name (First and Last): Edward C Lorenz

Name of Organization or Community: Pine River Superfund Citizen Task Force **City and State:** Alma+MI

Type of Comment: Written Comment Only

Brief description about the concern: Funding under Superfund for potential human health consequences of exposures.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Many Superfund sites, and specifically the three in our low-income community (St. Louis, Michigan) are sources for contaminants emitted into the regional environment and we have years of study demonstrating a variety of serious human health consequences in the many people who worked, lived near or inadvertently consumed food with contaminants from our site. While we appreciate EPA spending hundreds of millions on remediation on the sites, there is no mechanism under CERCLA to cover the clinical costs for treatment of health conditions aggravated by exposures. We would be glad to supply more information documenting needs. We have a large amount of research funded by various non-Superfund sources documenting one group of thousands exposed to contaminants directly from our sites (in what is called the Michigan PBB Registry), we have no funds to cover the health care costs of exposed people. We also have documented evidence of exposure to other major contaminants from our sites and numerous human health studies proving documenting the harm of such exposures (for example to DDT which drives much of the Superfund spending at our sites), but no CERCLA mechanism to pay for clinical costs of exposed humans. We are not making this comment solely to benefit our community. We know in working with other communities with similar exposures that the human health clinical needs are a fundamental gap in remediating Superfund sites. If requested, I would be glad to make this comment orally.

What concerns me in environmental justice is the injustice of how animals and trees and land and rivers are treated by the council on environmental quality, whose actions I have followed over the years and which actions I find to have absolutely no compassion or protection for any living thing in this world.

They are ruthless and I ask for this council to be terminated. I find their actions to be totally politically negative and ruthless in how they treat the environment. Nothing alive matters to this sneaky group. The first objective is to protect all living things in this world. Protection is a key factor. The ruthless, abusive way we treat all animals in farm factories needs to be stopped totally. We cannot continue to make their lives into hell on earth. This is dangerous since these farm animals are sick and when people eat their dead bodies they get sick too. We have the pandemic because of that clear abuse of animal life. Humans destroy every place they try to live. The animals move away from humans and try to get away but the human vipers run after them and continue to destroy them no matter how far they fly or run to get away. We need to consider animals first. We have been selfishly involved in continual progression for humans, meanwhile destroying all nature. We need to make nature have a voice. We need to make sure animal populations have a voice in court, trees have a voice in court, rivers have a voice in court, all of them deserve to have an attorney representing their interests. We cannot continue to maul and destroy all of this planet and all of this country. We need to practice the population control of humans which is at 7.5 billion, far too much for this earth to carry. We need to control human population here in America. This comment is for the meeting since I know I will never get 3 minutes.
Jean Publiee

[Federal Register Volume 86, Number 74 (Tuesday, April 20, 2021)] [Notices] [Pages 20493-20494] From the Federal Register Online via the Government Publishing Office [www.gpo.gov] [FR Doc No: 2021-08107]

Full Name (First and Last): Katherine Probst

Name of Organization or Community: Kate Probst Consulting

City and State: McLean

Type of Comment: Written Comment Only

Brief description about the concern: Recommendations for improving how the Superfund program addresses sites in EJ communities.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Take action to improve how the Superfund program addresses public health impacts at Superfund sites and implements cleanup and enforcement activities. I am submitting my comments with specific recommendations to whejac@epa.gov

Full Name (First and Last): Desmond Ondatje

Name of Organization or Community: Private citizen

City and State: los Angeles

Type of Comment: Written Comment Only

Brief description about the concern: - Where do mandates play a part in order for many of the changes required to be realized (i.e. mandating building industry to include carbon sequestration capture at a minimum specific % when concrete is utilized)? - Enforcement. - Indigenous communities have a seat at the decision making table (from funding, enforcement, etc). -education, education, education!

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

exercise mandates -make enforcement a priority -establish national greenhouse gas sequestration task force (State of Hawaii already has one). -government works in partnership with private industry to solve problems, but does not become subservient to business, by way of taking orders just because public officials have had their campaigns financed by business interests. The people as a whole come first, not profit.

Full Name (First and Last): Kathy Beckett

Name of Organization or Community: Steptoe & Johnson PLLC

City and State: Charleston, West Virginia

Type of Comment: Written Comment Only

Brief description about the concern: As a native and resident of West Virginia, I have had numerous opportunities to observe the challenge of encouraging significant business and federal investments in Appalachia that have sustaining economic impacts. My legal career in environmental law representing business and industry has taught me that all public and private stakeholders genuinely work to implement state/federal environmental policy to protect the environment against harm. I have engaged in public policy research, debates and discussions about how best to establish impactful environmental strategies and community solutions on behalf of business. We have been invited by President Biden to renew the assessment of environmental justice and injustice. I personally have experienced the perception and prejudice that assumes cultural mayhem of all sorts, to include environmental ignorance, when considering my Appalachia. The WHEJAC and the White House Administration must resist the temptation of making the prejudicial mistake of assigning to rural Appalachian Communities, or for that matter any struggling community in the US, an added label of negative Environmental Justice (EJ) assessment. Environmental Justice as it is being vetted today, must embrace positive strategies and outcomes to foster investment and entice all stakeholders to want to play a contributory role. EJ must not be used as a tool for enforcement and blame because that will suppress opportunity, enthusiasm and therefore growth. The revitalization of struggling communities will be successful if we are able to bring together a collaborative effort that has focus. For example, the Justice40 Initiative should be implemented in a manner that directs investments to those significant projects (easily identified by local community leaders) that bolster the foundation of the community. The business sector often highlights the need to level the economic playing field, so that others do not possess an unjust economic advantage. For communities left behind, they need to be delivered forward by the Justice 40 funds. Proposed investments of the Justice40 Initiative funds vetted and scored by a metric that prioritizes the costly projects designed to cure the larger disbenefits will deliver community growth. The outcome of such investments will allow these communities to actively manage, promote, and attract complementary interests that but for Justice 40 investment were unachievable. Communities will then have the luxury of assessing and entertaining follow-on projects proposed by enabled private citizens, private investors located outside the community and from within, new or expanded business, innovators, and collaborative ESG commitments that will demonstrate good faith and good will. Attached is an opinion editorial submitted for publication in the Philadelphia Enquirer I coauthored with Samantha Beers, USEPA, that explores the opportunity to consider the merit of inviting business to apply its voluntary ESG commitments to join the federal government in celebrating Environmental Justice. I offer my experience and observations to the WHEJAC to help advance EJ in a manner that

fosters an inclusive and diverse partnership based on common goals. Thank you for this opportunity to comment. Kathy

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

See narrative in brief description above that more fully describes the need to consider a positive role for EJ relative to the business community.

Full Name (First and Last): Chandra T. Taylor

Name of Organization or Community: SELC on behalf of Memphis Community Against Pollution

City and State: Memphis, TN

Type of Comment: Written Comment Only

Brief description about the concern: Southwest Memphis is at least 97% African-American, and has environmental burdens including a Valero refinery, a shuttered TVA Coal plant and its coal ash pond, a railroad yard, and a Steel Plant. It is now facing a proposed crude oil pipeline that would run directly over the drinking water well field that provides water to the historic African-American community and greater Memphis.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

MCAP would like for the WHEJAC to advise the White House to reconsider the use of a nationwide fast track permit for the Byhalia pipeline, because it is a threat that should be reconsidered, and stopped. MCAP would also like the WHEJAC to recommend that southwest Memphis receive federal investments for environmental protective and environmentally sustainable investments as a part of the Justice 40 Initiative.

Full Name (First and Last): Julie Boetger

Name of Organization or Community: Ohio Poor People's Campaign

City and State: Ashtabula Ohio

Type of Comment: Present Comment at Meeting

Brief description about the concern: Low income communities and the ecological devastation that has occurred

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Please hold current facilities accountable for violations. We have a facility in my town that has exceeded its water pollution permit on at least 198 occasions between Jan. 2017 and March 2020.

Full Name (First and Last): Allen McGill

Name of Organization or Community: Lane Plating Community Advisory Group

City and State: Dallas

Type of Comment: Written Comment Only

Brief description about the concern: LP CAG's concern is the weakness and utility of meaningful involvement tools that will allow residents and impacted neighborhood stakeholders to realistically or significantly affect the development, implementation and enforcement of environmental laws, regulations, and policies as they apply to the clean-up of Superfund sites. e.g. EPA laws, regulations, and

policies expressly prohibit EPA's subcontractors from advocacy while at the time, the subcontractor is providing the CAG with critical technical information about the Superfund sites.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do? LP CAG recommend a separate agency be given the authority to fund technical assistance and advocacy. On at least 34 occasions from April 2020 to Jan 2021. Who is protecting the people? Please enforce these current laws. Our population in Ashtabula was exposed during a pandemic and the facility not held accountable???? How does this happen?

Good Morning WHEJAC, I have an activist group that would like to offer support in opposition to the Memphis, TN, Byhalia pipeline and the use of eminent domain to take properties from Boxtown neighbors. I am motivated by Vice President Al Gore's anger at the possibility of this act of environmental injustice and egregious systemic racism against Black neighborhoods. President Biden says that his Administration is committed to ending and to repairing decades pollution of neighborhoods that are predominantly those of POC by industry. Will you take a stand against this injustice in Memphis, TN? What will the WHEJAC do? And where can a small activist group put public pressure? What can we do? Approval of this pipeline is wrong! Thank you for listening to my concerns. Respectfully, Martha Bardach

Full Name (First and Last): Soh Tanaka

Name of Organization or Community: Stop EtO

City and State: Gurnee, IL

Type of Comment: Written Comment Only

Brief description about the concern: The OIG report and investigative journalism have shined a spotlight on the willful misconduct and cover-ups regarding ethylene oxide emissions in Lake County, IL, which have deeply impacted our communities. These misconducts must end. We need your immediate help to bring justice to our EJ communities.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We would like WHEJAC to advise them on influencing USEPA to conduct fence line air monitoring around EtO polluters in Lake County, IL and to hold public hearings to inform citizens on the cancer risks we face from elevated EtO emissions.

To Whom it May Concern:

Stop EtO, a citizen led movement seeking to curb cancerous ethylene oxide (EtO) pollution and environment racism in northeast Lake County, IL, is requesting immediate assistance and help from the federal government to take the following steps to correct harmful misconduct from federal and local agencies pertaining to ethylene oxide emissions in Lake County, Illinois, [as outlined in a recent OIG report](#), affecting tens of thousands of our residents:

1. Conduct public notification to the communities of Gurnee, Waukegan, North Chicago, and Park City, IL regarding risks of ethylene oxide emissions from Vantage, Gurnee, IL, and Medline, Waukegan, IL, within 30 days.

2. Conduct public notification to the communities of Libertyville, Mundelein, Grayslake, and Waukegan, IL, regarding the potential risks of ethylene oxide emissions from Medline warehouses located in their towns within 30 days.
3. Conduct public hearings for the communities of Gurnee, Waukegan, North Chicago, and Park City, IL, regarding risks of ethylene oxide emissions from Vantage, Gurnee, IL, and Medline, Waukegan, IL, within 60 days.
4. Conduct public hearings for the communities of Libertyville, Mundelein, Grayslake, and Waukegan, IL, regarding the potential risks of ethylene oxide emissions from Medline warehouses located in their towns within 60 days.
5. Release a risk assessment calendar within 14 days detailing the plan for creating risk assessments for communities in close proximity to an EtO emitter, including Gurnee, Waukegan, North Chicago, and Park City, IL, and those communities housing Medline warehouses, including in Libertyville, Mundelein, Grayslake, and Waukegan, IL.
 - a. Risk assessments must be based on physical measurement data and not on modeling given the fact that air testing at the Sterigenics facility in Willowbrook showed EtO air emissions around Sterigenics in Willowbrook were ten times higher than what modeling predicted, rendering modeling undependable.

Independent fence line air monitoring for EtO must be conducted immediately at Vantage in Gurnee, IL, Medline in Waukegan IL, and at Medline warehouses located in Libertyville, Mundelein, Grayslake, and Waukegan, IL to accurately provide for completion of risk assessments as stated in step (5). Testing must last for a continuous period of 180 days, results should be transparent, and data should be released within 7 days. Physical measurement results must be used to create reliable risk assessments as communities have the right to know their levels of exposure.

A full and thorough US EPA investigation of a massive leak of EtO by Vantage Specialty Chemicals Inc. in Gurnee, IL, which allegedly occurred in November 2016, according to a lawsuit (see below). Lake County, IL, has two confirmed emitters – Vantage Specialty Chemicals Inc. and Medline Industries Inc. - and the potential for a total of 7 emitters when Medline warehouses are taken into consideration. Illinois does not treat sterilizer warehouses as polluting facilities and these warehouses remain unregulated. In late Summer of 2020, *Stop EtO* paid to conduct our own air testing (using EPA-approved TO15 method and a validated and qualified laboratory). We learned the [air near a Medline warehouse in Libertyville, IL, had levels 500 to 1,350 times higher than EPA standards](#). *In addition, east Gurnee, Park City, Waukegan, and North Chicago are particularly vulnerable to ethylene oxide pollution as they are environmental justice communities consisting of racially diverse populations.*

According to the OIG report, former EPA Office of Air and Radiation (OAR) Director William Wehrum, orchestrated the EtO coverup and prevented testing and the timely dissemination of information to residents of Gurnee, Waukegan, Park City, and North Chicago, IL. In addition, Illinois EtO laws SB1852 & SB1854, passed in Spring 2019 without adequate understanding of the level of ethylene oxide pollution in Lake County as testing had not been conducted, are [filled with loopholes](#) that continue to allow polluters to legally pollute without impunity, through a system of *self-reporting for emissions and leaks*. Furthermore, recent actions by Illinois politicians and agencies, including IL State Senator and Chair of the Senate Environmental Committee Melinda Bush and IL EPA Director John Kim, have prevented additional testing of EtO facilities, including sterilizer warehouses, and the correction of EtO laws loopholes, leaving residents to continue to breathe ethylene oxide pollution. In early 2021, *Stop EtO* became aware of a personal injury lawsuit (attached pdf) by a former contractor employee against Vantage Specialty Chemicals Inc. in the Circuit Court of Cook County, IL (case number 2018L011925). According to the lawsuit, the plaintiff was employed by Aerotech Inc., and Mostardi Platt, Inc., as an environmental

scientist, and was assigned to measure stack emissions for ethylene oxide at Vantage in Gurnee, IL. The lawsuit alleges that on November 15, 2016, the stack emission measurements for EtO obtained by the Plaintiff and his co-workers reached as high as 30,000 part-per-million. (For point of reference, the OSHA limit of exposure for EtO for workers for an 8-hr shift is 1 part-per-million). Furthermore, these emissions appear to have continued at dangerously high levels for a period of at least several days. The lawsuit claims that Vantage Specialty Chemicals was informed of the high toxic levels being emitted, and yet, Vantage “negligently, carelessly and/or improperly failed to shut down the facility after being told of the toxic and hazardous levels of chemicals being emitted from the smokestack”. Currently, Vantage Specialty Chemicals is countersuing Aerotech Inc. and Mostardi Platt, Inc. Publicly available documentation from the Circuit Court of Cook County, IL, show that Vantage, Aerotech, and Mostardi Platt are legally contesting which company was responsible for calling off air testing, training, equipping, and warning the contract employees of the dangers of their assignment. It appears the 30,000 ppm EtO emissions readings are not being disputed from the countersuits public records that Stop EtO has reviewed. We also cannot find evidence this incidence was reported to the IL EPA. There are no violation notices on Vantage for November 2016. However, IL EPA staffers were aware of and had approved stack emission testing protocols for November 2016 timeframe at Vantage and should have expected a stack emission report from Vantage or Mostardi Platt Inc. for that testing timeframe. ***Allowing polluters to self-report emissions results in disastrous consequences for communities and the environment.*** In April 2020, *Stop EtO* met with IL EPA and requested the agency investigate another potential EtO leak at Vantage from November 2019, which was also not reported. The IL EPA response during that meeting was “there was no leak because Vantage never reported one.” Furthermore, award-winning investigative journalist Sharon Lerner [reported in *The Intercept*](#) how Vantage in Gurnee, IL retroactively revised EtO emissions in the TRI database for every year from 2010 to 2016, *thus erasing 64,000 pounds of emissions from public records.* Vantage was not the only company to do so. The article reports how up to 12 facilities changed their previous EtO emission records, erasing a total of 270,000 pounds of emissions from TRI database. The OIG report and investigative journalism have shined a spotlight on the willful misconduct and cover-ups regarding ethylene oxide emissions in Lake County, IL, which have deeply impacted our communities. These misconducts must end. We need your immediate help to bring justice to our EJ communities. Respectfully, Stop EtO team

Full Name (First and Last): James Starkewolf

Name of Organization or Community: Circle of 100

City and State: Salinas CA

Type of Comment: Written Comment Only

Brief description about the concern: All Indian treaties, including the 18 suppressed California treaties should be honored for ecological and environmental justice.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do? Honor Indian and Native treaties and treaty rights.

Full Name (First and Last): Tim Guinee

Name of Organization or Community: New York Climate Reality Chapters Coalition

City and State: Stone Ridge, New York

Type of Comment: Present Comment at Meeting

Brief description about the concern: The Byhalia Pipeline in Memphis was fast-tracked by the previous administration (using Nationwide Permit 12) - It would run through a resilient, lowwealth, Black community already overburdened by 17 "toxic release inventory facilities" resulting in cancer rates four times the national average. Further the proposed pipeline would cross over the aquifer providing drinking water to 1 million people in Memphis through an area with the worst seismic activity in the Southeastern United States. Neither the environmental injustice or the threat to the water were taken into account in the Army Corps permitting process.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do? Ask the White House to rescind the Army Corps Nationwide Permit 12 approval of the Byhalia Pipeline (because it entirely ignores the issues of environmental injustice and the threat to the Memphis water supply)

Hello WHEJAC,

The news release about the DOE's failure to prepare a Programmatic EIS on plutonium "pit" production for nuclear weapons, including lack of a serious analysis of Environmental Justice issues, was sent to inform the WHEJAC about the matter, with the anticipation that it would be reviewed by the WHEJAC.

It is hoped that the WHEJAC will review: 1. The determination by DOE's National Nuclear Security Administration (NNSA) not to prepare the legally required PEIS on the pit-production issue; and 2, the complete lack of an EJ analysis in the site-specific NEPA documents that were prepared on pit production for DOE's Los Alamos National Lab and Savannah River Site. See the letter sent (also linked below) by the South Carolina Environmental Law Project (SCELP) on April 20, 2021, for mention of the lack of EJ review on the matter by DOE. We thus solicit the involvement of the WHEJAC to support the mandated PEIS that does not simply wave off EJ issues, as is the case now. If DOE/NNSA does not affirm the at it will prepare a PEIS with a credible EJ analysis, we will file a NEPA lawsuit. We would hope that filing a lawsuit can be avoided. The role of the WHEJAC in making sure that DOE/NNSA prepares the mandated PEIS and accompanying EJ analysis could be crucial in making sure that the Biden administration does the right thing on this important issue, including the EJ aspects of it. See SCELP webpage on plutonium pits, including a section entitled "Environmental justice ignored": <https://www.scelp.org/cases/plutonium-pits> Thank you very much to your attention to this important matter. Regards, Tom Clements Director, Savannah River Site Watch

Full Name (First and Last): Ilana Cohen

Name of Organization or Community: Fossil Fuel Divest Harvard

City and State: Brooklyn, New York

Type of Comment: Present Comment at Meeting

Brief description about the concern: Need for immediate executive action on Line 3 pipeline & support from the Biden Administration for fossil fuel divestment

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Hello, my name is Ilana Cohen. I'm a 20-year-old college student, climate journalist, and fossil fuel divestment activist. I'm here today with two requests. The first is that you leverage your position and advise the White House to act immediately to stop the Line 3 pipeline currently being constructed in

Minnesota at the behest of Enbridge, a Canadian pipeline company responsible for the largest inland oil spill in our nation. Although Line 3 is billed as a replacement project, it is really a gross expansion of an industry already on its last legs — tar sands, an incredibly dangerous and carbon-intense form of energy that, in the case of Line 3, involves blatantly on Indigenous rights. As a body dedicated to environmental and climate justice, I ask that you do everything in your power to compel President Biden to cancel this pipeline and follow the calls of Indigenous leaders and climate activists, who are putting their bodies on the line every day for a just transition to a renewable, sustainable economy in which new fossil fuel infrastructure has absolutely no place. Really, every piece of infrastructure the United States permits should be subject first and foremost to a climate test, which would bar any project that would further contribute to the climate crisis and environmental injustice — as Line 3 would — from moving forward. The second is that you advise the White House Council on Environmental Quality to advance the global call for fossil fuel divestment. At this point in time, divestment is undoubtedly a moral, financial, and in some cases, legal imperative for all of our institutions, private and public alike. Institutions cannot truly claim to care about our planet and communities so long as they continue investing in companies known to undermine climate science, spread disinformation, lobby against climate policy, and sustain a core business model that is fundamentally incompatible with the nation and the world's goals of decarbonization. Already, nearly 1,320 institutions controlling almost \$14.6 trillion worth of funds have recognized this truth and partially or fully committed to fossil fuel divestment as a result. There are clear and concrete steps the Biden Administration could take today to integrate divestment from extractive and exploitative industries, which certainly include but are by no means limited to fossil fuels, and reinvestment into just and sustainable industries throughout its work. These steps include divesting federal pension funds from fossil fuels, barring big polluters and perpetrators of environmental injustice from receiving federal contracts, investigating and prosecuting fossil fuel polluters, adopting a divestinvest ethic across federal agencies, and as I previously mentioned, establishing a climate test for all federally permitted infrastructure. I hope you will take these thoughts, which I am happy to elaborate on at your convenience, to the White House. Thank you so much for your time, your consideration, and your commitment to advancing a more just and sustainable future.

Full Name (First and Last): Jessica McCarty

Name of Organization or Community: Miami University

City and State: Oxford, Ohio

Type of Comment: Written Comment Only

Brief description about the concern: Almost 400,000 acres of sugarcane are burned annually in south Florida during the harvest season from September to April, and it is currently not actively monitored by EPA Air Now or the GHG Inventory. Alternatives exist and investment in monitoring and transitioning away from open burning is needed now to help communities of color in south Florida.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Communities of color, mainly Black, African American, and Latino, in south Florida living in the Everglades Agricultural Area are regularly subjected to high levels of air pollution from sugarcane burning. Since 2004, the sugarcane harvesting season - which is burned in the field prior to harvest - has expanded from six months (November - March) to nine months (September - May). Currently, there is only one non-regulatory PM2.5 sensor in Belle Glade, which is not maintained regularly and has only been working since 2019. To ensure environmental justice for the Glades communities, the EPA should:

1) Establish a regional network of regulatory air quality sensors throughout these rural and suburban communities in Glades, Hendry, Martin, Palm Beach, and Okeechobee. 2) Include sugarcane burning in the annual GHG Inventory. For example, in the first draft of the 2019 GHG Inventory, sugarcane burning is completely absent from Chapter 5.7 Field Burning of Agricultural Residues (CRF Source Category 3F; starting on page 456 here: <https://www.epa.gov/sites/production/files/2021-02/documents/us-ghginventory-2021-main-text.pdf>). As the author of McCarty et al. (2009), sugarcane is even missing from the list of commonly burned crops in the contiguous U.S. To exclude this crop is to underestimate the amount of greenhouse gas emissions from agricultural burning. 3) Invest in green harvesting practices, potentially working in tandem with USDA to transition farmers towards this internationally accepted practice, and ultimately eliminating the need for sugarcane burning. This can also serve as a way to diversify green manufacturing in south Florida, using the sugarcane "trash" leaves for use in textiles, paper products, bioplastics, and cleaner fuels for cruise ships. These actions can clean the air, increase agricultural production, improve soil carbon, and provide access to rural jobs for community of colors.

Full Name (First and Last): Elaine Wolter

Name of Organization or Community: Sierra Club

City and State: Cincinnati, OH

Type of Comment: Written Comment Only

Brief description about the concern: As a retired public health nurse for the city of Cincinnati, I would like for you to address the impending crisis to our water supply here in Cincinnati from the petrochemical hub that will be centered in the upper Ohio region. We in public health have worked long and hard cleaning up the petro chemical companies lead that they have dumped into our inner cities causing brain damage slow development and heartache for millions across this country. We are tired of citizens and government agencies having to clean up ever after the environmental catastrophe's that are coming out of the petrochemical industry. As I sit in my home in Cincinnati eye watch barges taking natural gas to foreign countries. This should be left in the ground for our children. We are in Ohio are now the new dumping ground for toxic waste. The oil companies need to start immediately on CO2 sequestration and solar, wind and ocean for sustainable new energy sources.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Make the oil companies responsible to clean up the mess they have made by implementing CO2 sequestration shutting down these polluting coal companies turning to solar wind and ocean technologies for sustainable power. There are many new technologies coming out of Europe that are amazing including outer space solar collections beaming through lasers energy to stations on the earth. We in the United States are way behind Europe and what can be done to combat this growing environmental catastrophe.

April 27, 2021, To: The White House Environmental Justice Advisory Council (WHEJAC), Via email: whējac@epa.gov, Occupational Knowledge International is a nonprofit organization working to reduce disparities in global environmental health. We welcome the Biden administration's focus on environmental justice and encourage the White House Environmental Justice Advisory Council (WHEJAC) to focus on what may be considered the lowest hanging fruit of environmental injustice. It has been well documented for decades that childhood lead poisoning disproportionately impacts communities of

color and low-income families. Despite progress in significantly reducing lead exposures, a huge gap remains between white children and black and Hispanic children in the U.S. This disparity in blood lead levels that persists to this day remains even when controlling for known risk factors including housing age and socio-economic factors. As the most common sources of exposure include contaminated soil and dust from lead paint in housing, and contributions from lead in water pipes and faucets, more investment in lead abatement is needed. In addition, there are some important measures that can help to alleviate these health disparities including:

- 1) **Ban Lead Paint and Lead in Plastic:** Since 1978 the Consumer Product Safety Commission restricted the use of lead paint for specific applications but lead paint is still allowed to be used in the U.S. for “industrial” purposes including on metal structures such as water tanks, elevated subways, bridges, and for roadway marking paints and even in products that are not intended to be used by children (e.g. automobile paint). There are substitutes for all these applications. In 2009, the U.S. took a leadership role at the UN International Conference on Chemicals Management (ICCM) and voted along with more than 120 other countries to eliminate all lead paints and coatings. Since that resolution, countries including the Philippines and others have put in place a ban on all lead paint products but the U.S. has not. In addition, about half of the global production of lead chromate, other lead pigments and most lead stabilizers are being used in the manufacture of PVC and other plastics. The U.S. has no regulation on the lead content of plastics that are ubiquitous in our society and end up polluting air and soil. This administration should address the need to finally eliminate lead paint and lead in plastics.
- 2) **Update Soil Lead Hazard Standards:** Current Environmental Protection Agency (EPA) standards for soil hazards are inconsistent with Centers for Disease Control and Prevention (CDC) guidance on prevention of childhood lead poisoning. The regulatory standards in use today dating back to the early 1990s were intended to protect most children from exceeding a blood lead level of 15 ug/dl. While California is using a screening level of 80 ppm for soils (California Human Health Screening Level), EPA is using a range of levels up to 1,200 ppm to address residential soil hazards. The Committee must urge Federal agencies to update soil lead hazard and abatement standards to be consistent with the current CDC guidelines.
- 3) **Reduce Occupational Exposures:** Approximately 10 to 20 percent of childhood lead poisoning in the U.S. is linked to parental occupation in construction or other lead-related industries. Take home lead exposures contribute directly to elevated blood lead levels among children. There is consensus among public health experts and industry that the current Occupational Safety and Health Administration (OSHA) standard is out of date and not protective of workers’ health. There is an immediate need for federal OSHA to initiate rulemaking to significantly revise the lead standards for both construction and general industry.
- 4) **Stop Exporting Environmental Injustice:** Finally, concerns for environmental justice must not stop at our border. The U.S. must act responsibly and stop exporting hazardous waste to low and middle-income countries with fewer regulations and resources to safely recycle or dispose of these materials. For example, every year the U.S. exports more than 445,000 metric tons of used lead vehicle batteries to countries around the world without adequate facilities to recycle these in an environmentally friendly manner. The Basel Convention is the global treaty that seeks to prevent uncontrolled exports of hazardous and other wastes to developing countries. Despite having signed the Convention in 1989, the U.S. is the only developed country that has never ratified the Convention. The WHEJAC must urge the administration to take the necessary steps to facilitate and approve ratification of the Basel Convention. I wish the new advisory council good luck in taking on these important challenges to address environmental justice.

Sincerely, Perry Gottesfeld, MPH Executive Director Occupational Knowledge International San Francisco, CA 94118

Full Name (First and Last): SHANIQUE SCOTT

Name of Organization or Community: Stop The Burn Go Green Campaign

City and State: South Bay, FL

Type of Comment: Written Comment Only

Brief description about the concern: My name is Shanique Scott, resident and business owner in the Glades area (South Bay, Belle Glade, and Pahokee), as well as the former Mayor of the City of South Bay. During my term as an elected official and lifelong resident of these communities, it is with urgency I speak on the importance of how HB 1601 will AFFECT us all here in the Glades communities. We have petitioned and only tried to create conversation with the Sugar Industry to be BETTER NEIGHBORS!! The billows of smoke, ash, harsh smell and air pollution needs to STOP. We have suffered long enough dealing with what we all know to be INJUSTICE. We are exhausted, pleading with those who have sworn an oath to protect the quality of life. I know the Sugar Industry is all about its money and unfortunately those with little(check our communities poverty level) get overlooked or bribed, however, this is literally a SILENT killer. Would you want smoke ash falling out the sky into your home, schools, parks, businesses and you just had to accept it. I don't think so. We have no clue of the pollutants that are adversely affecting our lungs and immune system due to its invisibility to the eye, other than the smoke and ash of course. It is not my intention to appear harsh, however, how can one turn a blind eye to this. If GREEN HARVESTING is an alternative process to a better quality of life and protecting our families well-being then at least they can consider it. The world has evolved since the Sugarcane companies adopted the burning process. I have personally witnessed my students and family members struggle with asthma flare ups and respiratory issues during the burning seasons, which is sometimes 8 months out of a year, depending upon their dividends. This is sad. My grandmother and spiritual-mother died of cancer, both lived within 8-10 feet of a sugarcane burning field. It is definitely difficult to prove those burning fields were the cause of their cancer, however I often question the unfavorably pollutants and particles being released over their homes, seeping through their vents, straight to their lungs. I recall a doctor's visit with my spiritual-mother and her complaining about having respiratory issues and the doctor suggested she move after discovering where she lived. The doctor had shown her films of her liver and lungs where it displayed "black unknown particles, as he described. We are surrounded by sugarcane, our schools, our homes, basically it's literally everywhere. We would literally have to move out of the area to escape it. That is not an option for many. And to think, we now have COVID-19 and this to deal with, in which it only makes matters worse. STOP SUGAR BURNING!

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do? I

hope the WHEJAC can allow policies to be put forth to provide incentives for the sugar industry to transition away from toxic pre-harvest sugar field burning towards full implementation of burn-free green harvesting which can: end the health, environmental and quality of life that threats and impose our communities by sugarcane burning; And help mitigate climate change while creating new green jobs for our communities in the process, Thank you.

Full Name (First and Last): Patrick F Ferguson

Name of Organization or Community: Sierra Club

City and State: Belle Glade Fl

Type of Comment: Present Comment at Meeting

Brief description about the concern: Pre-harvest sugar field burning is a toxic and outdated harvesting practice that takes place every year from October through May over the approximately 400,000 acres of sugarcane fields in and around the Everglades Agricultural Area (EAA). Farmers burn sugarcane crops before harvest to remove the leaves and tops of the sugarcane plant leaving only the sugar-bearing stalk to be harvested. This unnecessary harvesting practice negatively impacts the health, quality of life, and economic opportunity of residents living in and around the EAA. Discriminatory burn regulations based on wind direction ensure more affluent communities to the east are spared when the wind blows their way, while residents in and around the Glades, predominantly lower-income communities of color, remain unprotected from the smoke and ash; when the wind blows toward them, burning permits are granted. The discriminatory burning regulations are under the authority of Florida's Agricultural Commissioner, Nikki Fried, who oversees the Florida Forest Service; the agency that hands out pre-harvest burn permits. see:

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fstopsugarburning.org%2Ftheburning-problem%2F&data=04%7C01%7CNejac%40epa.gov%7C6250db060749466b272c08d909bcac46%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637551529874491877%7CUnknown%7CTWFpbGZsb3d8eyJWljoicM4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikk1haWwLjCjXVCI6Mn0%3D%7C3000&sdta=BxHtwNFBz5XNPGnN%2FEbR4sgSie5GarQGP053UWK8SBc%3D&reserved=0>

The Stop The Burn Campaign is a grassroots environmental justice campaign to replace pre-harvest sugar field burning with modern, sustainable, burn-free green harvesting. Green harvesting is practiced by major sugarcane producers around the world, including growers in Louisiana. Florida growers even green harvest, but only when it is convenient for them. Where green harvesting has been embraced large-scale, the sugarcane leaves and tops, instead of going up in smoke, are utilized to create additional sources of income or savings for the growers and more sugar-related jobs. In addition, stopping the burn also means less climate impacts, less water pollution, and more soil regeneration — all critically important for the restoration of the Everglades. Green harvesting is a win-win-win situation. See:

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fstopsugarburning.org%2Fgreenharvesting-solution%2F&data=04%7C01%7CNejac%40epa.gov%7C6250db060749466b272c08d909bcac46%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637551529874491877%7CUnknown%7CTWFpbGZsb3d8eyJWljoicM4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikk1haWwLjCjXVCI6Mn0%3D%7C3000&sdta=3Ugno0u%2FVZI7B3NunbS2N%2FTs%2BysMe4o4WL7YJnZXqNE%3D&reserved=0>

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Make sure to identify the sugarcane growing region in Florida within and around the Everglades Agricultural Area as eligible for the funding of programs aimed at promoting the sustainable burn-free practice of green mechanical harvesting which is the alternative to the environmental injustice caused by pre-harvest sugar field burning. Identify USDA and DOE grant programs that can help existing businesses partner with farmers to use sugarcane leaves and tops "trash" instead of burning it for use in textiles, paper products, bioplastics, and cleaner sustainable biofuels such as VLSFO for the shipping industry as Verde Visions LLC is seeking to do in Florida as one example (see:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fverde-visions.com%2F&data=04%7C01%7CNejac%40epa.gov%7C6250db060749466b272c08d909bcac46%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637551529874491877%7CUnknown%7CTWF>

[pbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I6k1haWwiLCJXVCI6Mn0%3D%7C3000&am
p;sdata=QbCgvuDc0A1L3jdfOL%2FecrfojFVNAqMLTkr8a34xwrg%3D&reserved=0\)](https://www.epa.gov/sites/production/files/2021-02/documents/us-ghg-inventory-2021-main-text.pdf)

Include sugarcane burning in the annual GHG inventory. For example, in the first draft of the 2019 GHG Inventory, sugarcane burning is completely absent from Chapter 5.7 Field Burning of Agricultural Residues (CRF Source Category 3F; starting on page 456 here:

[https://www.epa.gov/sites/production/files/2021-02/documents/us-ghg-inventory-2021-main-text.pdf\)](https://www.epa.gov/sites/production/files/2021-02/documents/us-ghg-inventory-2021-main-text.pdf)

To exclude this crop is to underestimate the amount of greenhouse gas emissions from agricultural burning

Full Name (First and Last): Marcus Russell

Name of Organization or Community: Commissary Is Very Necessary

City and State: Desoto

Type of Comment: Present Comment at Meeting

Brief description about the concern: My concern is businesses that cause environmental disaster in residential areas but fail to clean their mess up?

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Finds ways to encourage companies to clean their own mess up or face losing business licenses in the USA.

Full Name (First and Last): Celeste Murphy Greene

Name of Organization or Community: University of Virginia

City and State: Virginia Beach

Type of Comment: Written Comment Only

Brief description about the concern: Farm workers in the U.S. are exposed to and poisoned by pesticides each year due to lack of enforcement of existing laws and loopholes in those laws.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Examine the following existing laws and close the loopholes that hurt migrant workers: National Labor Relations Act of 1935-Excludes agricultural workers Fair Labor Standards Act-Excludes small farms Federal Insecticide, Fungicide, and Rodenticide Act-Applicators are not required to keep records of pesticide usage Occupational Health and Safety Act of 1970-Excludes small farms employing fewer than 11 workers Federal Worker Protection Standards-Require yearly training and require water at all times.

Full Name (First and Last): Leatra J Harper

Name of Organization or Community: FreshWater Accountability Project

City and State: Grand Rapids, Ohio

Type of Comment: Written Comment Only

Brief description about the concern: The fact that the Ohio River Valley is becoming more economically depressed because of the proliferation of fracking and fracking-related infrastructure, including toxic, radioactive waste and petrochemical industries being enticed to locate along the Ohio River as

Appalachians continue to be exploited by boom/bust industries that will only make them sicker and poorer.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Advocate for a cleaner, healthier economy for the valley that will lead to long-term prosperity and lift people out of sickness, depression and hopelessness created by a legacy of pollution and exploitation often called the "resource curse."

Dear Advisory Council,

Because it appears there will not be time for verbal remarks as #44 on the testimony spreadsheet, we have elected to enter written comments today. Please see the attached testimony, copied below, to enter into testimony for today's hearing on behalf of the Fresh Water Accountability Project and many economically-disadvantaged Ohioans detrimentally impacted by fracking industry exploitation and its associated harms. Please also note on the spreadsheet that was circulated that we are testifying from OH and not AR. Thanks so much for this opportunity! Best, Lea (Leatra) Harper Managing Director

Please accept this written testimony in lieu of verbal remarks today. Please also note in the spreadsheet that Fresh Water is testifying for Ohio, and specifically the Ohio Valley, not AR. I am alarmed about the future for the Ohio River Valley because of the legacy of fossil fuel extraction that has polluted the air and water, and now the impact of the fracking industry. The Ohio river is one of the most polluted rivers in the US, and cancer clusters are found all along it because of heavy industrialization and pollution for years. When the fracking industry first came to Southeast Ohio where I lived, it took over our local government. The industry touted jobs with gross exaggerations, and people were so desperate to feed their families and the schools needed the revenue, so from the beginning, people looked the other way. We were threatened when we questioned the industry. I will never forget one of our first meetings to present on the downsides of the industry. The director of the public library was called at home and told we shouldn't be allowed to speak. Our flyers would be taken down, and some were not allowed to be put out. We had no funding, and economic development money went to the industry. We drove around and documented damages, but we were followed on the roads and threatened and discredited in our meetings. There was so much money behind fracking, and everyone was told they would get rich and we would be energy independent and the industry would bring America's clean energy future. That was just a huge propaganda campaign to cover up the downsides that no one wanted to study. Fake research was commissioned to justify the industry. Our local conservancy district leased our reservoirs and sold our water – public resources given to it by the federal government for recreation, conservation and flood control – not to be destroyed. But that is what happened. Despite appeals in court and two False Claims Act appeals to the US Supreme Court that were not heard but should have been, the Muskingum Watershed Conservancy District has been allowed to keep the hundreds of millions of dollars it made to lease land and sell water to support fracking, but it is still allowed to tax residents for the revenue it needs to build a separate, unaccountable rogue government over 20% of Ohio's land mass. We knew right away fracking was not going to turn out well. If it was, why would they have to lie and squash the truth and exaggerate the jobs? The fracking industry is the ONLY industry in the United States allowed to operate with special exemptions from important environmental regulations, to the extent that it can legally make people sick from its polluted air and water. Fracking destroys massive amounts of precious freshwater for its one-time singular use, so it takes our drinking water and turns it into a toxic soup of

brine, proprietary chemicals and radium to be cheaply processed and disposed of as non-hazardous, mostly in injection wells that can leak into our aquifers and surface water, contaminating the remaining freshwater. Limited liability corporations invaded the region to drill and process hazardous waste, with some of the injection wells more economically repurposed conventional wells that were never meant to flow downward. What we are seeing already about the toxic nature of this industry is of great alarm, and if it continues as is, we will be left with a terrible mess and more sickness in a region that will become much poorer in the long run because of yet another boom/bust industry taking advantage of the Ohio Valley's valuable resources and workforce desperate enough to take the toxic jobs without long-term employment, benefits or retirement. Fracking will make the region poorer rather than richer in the future, and that is already the case as people like me leave the area because of the industrialized countryside and the smell of benzene and other chemicals in the air. We knew we could not drink the water, even the public water, which was already polluted and getting worse. We were afraid of the release of radioactive particulate matter from all the flaring and the odorless, tasteless water soluble Radium 226 and 228 that could be found in the water. The Pandora's Box of fracking has been opened, and we are already paying the price with our health while economic indicators show promised prosperity is not happening. Instead, the industry grows with tangible and intangible subsidies, opening up offices in our public courthouses and buying off dissent with a few thousand dollars donated to a ballpark or senior center. We just found out about an approved "statistical region" being proposed along the Ohio River, which could be used to attract funding for diversified and growing jobs for the region's workers so desperate for employment, but we question the intention. The fracking industry moves very quickly behind the scenes, obtaining local support and public funding while trying to keep its plans secret from the rest of us. The fracking-related industry of ethane storage and cracking for petrochemicals continues to try to qualify for federal loan guarantees. The proposed PTT Global petrochemical plant was given \$70 million by JobsOhio for site development without even a final investment decision and no public knowledge or input. That money could have gone a long way to developing a more diversified growth economy, but instead, was given to entice the Thailand-based chemical company. The industry has full-time experts on staff for the legal and paperwork requirements to get as much investment to support the faltering fracking industry and to develop downstream users and foreign markets for the excess product. We do not need more oil, natural gas and wet gas, or plastics. Downstream markets are being artificially incentivized by even more investments which double down on the industry gamble. The industry continually lobbies for ways the government can subsidize it. Financial guarantees are inadequate. The industry does not even have to post bonds high enough to cover clean up and abandonment costs. The LLC's are poised to go bankrupt if necessary. There is little liability for the environmental and public health harms the industry causes because of legislative compromise and captured regulatory agencies. No one will take responsibility. The buck stops nowhere as the OEPA points to the ODH that points to the ODNR. The federal government could intervene to mitigate harms but looks the other way as profits are taken while environmental degradation makes people sicker and sicker in a region that is already poor becoming poorer as the boom becomes a bust. Fracking will end eventually, and it is obvious it will leave a real mess. We have enough research to assign the harms and prove the long-term costs are not worth the short-term benefits. If the fracking industry had to adhere to the same environmental regulations as everyone else, the industry would not be able to get off the ground and, perhaps, the region would be able to compete for a better economy based on cleaner growth industries. There are much needed infrastructure improvements, clean energy programs and regenerative agriculture programs needed, all of which are very viable and growing industries. The valley would have a chance to survive and thrive if given a chance rather than be

condemned to the mono economy of fracking, frack waste and petrochemicals. People are losing hope for a better future, and the opioid epidemic grows. People know they are living in a sacrifice zone. This is the way it has long been in Appalachia, and if you want a healthier life with better job opportunities, you have to go elsewhere, which our people who can are doing by the droves. If anyone thinks that no one knows what is going on, they are wrong. There is a growing awareness, and even though the legislators and regulators think they will be able to get away by ignoring it, that will not be the case. We continue to document pollution and health harms as volunteers without much funding because people need our help. There is already enough evidence gathered and presented by now to justify stopping this industry before it can create more harms. This document compiled by Physicians for Social Responsibility provides all the evidence needed for our government to stop fracking now:

<https://www.psr.org/blog/resource/fracking-compendium/> . Instead, the harms are growing as the industry tries to find cheap ways to keep going. Just recently, the fracking industry has been given special accommodations to allow this radioactive soup of unknown chemicals to be barged on the Ohio River, a drinking water source for 5 million people. So, the long-term prospects for the Ohio River Valley to recover and thrive are dwindling as the industry ravages the region, and plans proceed to turn the valley into another petrochemical cancer alley like the Gulf region. Investors are seeing that there is not a good return on fracking. Increasingly, it is being realized the costs are not worth the benefits. The externalized long-term costs are yet to be quantified but will likely be much greater. There are warning bells, and they are turning into sirens. It is time to listen before it is too late. History will point the finger at all those who could have done something to avoid the harms of fracking but who looked the other way. We must stop the exploitation creating the environmental injustices that entrench the long-term poverty of a region long trampled by those who want to leave the costs and pollution with those living in the sacrifice zone to export the profits out of the region. As with the abandoned and orphaned oil and gas wells in the region, those who took the profits are not paying for the cleanup of their mess, and that is the industry playbook. We continue to advocate for investments in better growth industries before it is too late and ask that the Oil and Gas industry stop being subsidized and enabled to externalize its real costs upon us. I know too many people who have become sick because of living next to fracking and its infrastructure. I know people who have had their land taken by eminent domain for fracked gas pipelines. I have seen things happen legally that I cannot believe could take place in the United States. Fracking not only destroys water and creates massive amounts of toxic pollution and radioactive waste, it violates human rights. People who are harmed cannot find or afford to pay for lawyers to help them, and even if so, still have to prove the industry caused the injuries. Even if that is done, they still often have to wade through years of court and maybe eventually settle with a gag order just to get compensated, but money will not replace the loss of health and home. The injustices of the fracking industry are numerous, and many have been harmed. It is so hard to believe that can happen here and the industry can operate legally as it does for so long. This is not the United States I thought it was to let this happen to its citizenry without recourse, yet our evidence and appeals continue to be ignored, and the corruption continues. What will it take to stop fracking and hold the industry accountable for its harms? Climate change is here, and perhaps, that is what will help shift the region away from fracking and the associated petrochemical industry. The warning signs are obvious. The federal government's intervention is needed so a shift can be made in time to stop fracking, clean up the mess, and build back better! We are putting a great deal of faith in President Biden and Vice-President Harris and this Advisory Council to lead the charge to stop fracking and be the leader the world needs to tackle climate change and grow an economy not tied to fossil fuel development. Those policy initiatives and

investments will also give the hard-working, honest people in Appalachia a real opportunity for a better future, and we pray the necessary initiatives, investments and public protections will take place in time!

Full Name (First and Last): Meryl Siegal

Name of Organization or Community: Clean Air Berkeley

City and State: Berkeley, California

Type of Comment: Written Comment Only

Brief description about the concern: Because of redlining in the 50s, the City of Berkeley, California has conveniently set up a zone of pollution for poor people as well as BIPOC. The community has been fighting the pollution for years. The city has not toxics specialist and relies on the county's air quality department. The county was found to have illegally destroyed documents a few years back regarding air quality in the county (Alameda County). The city lies in an earthquake zone; the hazardous materials are in a liquefaction zone. Recent fire at the Asphalt Plant not investigated. Problem: Regulation of emissions is based on the plant's own reports.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We want WHEJAC to make sure that there is a community advisory council that creates and monitors tighter regulations on polluting industry within a mile of residential communities. The control must have regular, but unannounced, regulatory visits to polluting industry and measures the emissions and inspects the facilities for safety. Without this one is dealing with "regulatory capture" where the corporation monitors itself, with disregard for human health.

Full Name (First and Last): Ezekiel Martin, PhD

Name of Organization or Community: MACOMA Environmental Technologies

City and State: Las Vegas

Type of Comment: Written Comment Only

Brief description about the concern: Problem: too many disinfectants due to the pandemic are polluting the indoor air. Solution: Photocatalysis as an Environmental Disinfectant What do you want the

WHEJAC to advise the White House Council on Environmental Quality to do? Cleaning is essential to protecting our health in our homes, schools, and workplaces. However, household and cleaning products—including soaps, polishes, and grooming supplies—often include harmful chemicals. Studies show that photocatalytic disinfection systems are extremely effective in destroying viruses and bacteria.

Full Name (First and Last): Aranzazu Lascurain

Name of Organization or Community: NC State University/ SE Climate Adaptation Science Center **City and State:** Raleigh, NC

Type of Comment: Written Comment Only

Brief description about the concern: The climate crisis is ravaging communities nationwide and disproportionately affecting Black, Indigenous and People of Color, who are losing their homes and livelihoods due to more severe and frequent storms, rising seas, erosion, flooding, extreme heat, wildfires, and various other climate events. These communities are further disenfranchised through inadequate and inequitable public policy responses. Our coalition has developed a set of policy recommendations to guide policy makers to address the shortfalls of our current responses but also

challenges them to launch a concerted effort to respond to this urgent crisis. At the heart of these policy recommendations is the need to center the agency, leadership, and self-determination of frontline communities in addressing climate-forced displacement. Within 100 days of President Biden's term, his administration has made a monumental policy shift to address climate migration. However, the issue is still framed as a matter of international migration and national security. In truth, the vast majority of climate-forced displacement takes place within borders, and the United States is no exception. Our politicians have to take this threat seriously and follow the lead of communities already confronting these challenges on the ground. Our coalition of community leaders, legal advocates, and researchers has developed a set of recommendations to guide policymakers. Our Policy Brief shows a path forward to address the already-present reality of climate-forced displacement, centering the leadership and self-determination of communities who are working each day to address the problem.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We respectfully ask that the WHEJAC read our full POLICY BRIEF with specific recommendations available at this website hosted by the Unitarian Universalist Service Committee:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.uusc.org%2Faddressingclimate-forced-displacement-in-the-united-states-a-just-and-equitable-response%2F&data=04%7C01%7CNejac%40epa.gov%7C6089f9b26a4b4f50578f08d90a66f299%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637552260420651903%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000&sdta=7M97BrSwghruQWOvcnGzE2nzpGojVID6XdIri8YCV7E%3D&reserved=0>

Here are the TOP LEVEL recommendations: • INCREASE RESOURCES FOR FRONTLINE COMMUNITIES • GRANT FUNDS DIRECTLY TO COMMUNITIES • MAKE FEMA MORE EQUITABLE • ESTABLISH A JUST RESPONSE TO SUPPORT ADAPTATION-IN-PLACE AND/OR RELOCATION

Full Name (First and Last): Mary Aguilera

Name of Organization or Community: Buckeye Environmental Network/Ohio Poor People's Campaign: A National Call for Moral Revival

City and State: Cincinnati

Type of Comment: Present Comment at Meeting

Brief description about the concern: The petrochemical buildout /Radioactive Brine Spreading/Injection Wells

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Stop the Petrochemical Build Out/Stop barging of Radioactive fracking waste on the river /Stop spreading of radioactive brine spreading.

Full Name (First and Last): Nalleli Hidalgo

Name of Organization or Community: Texas Environmental Justice Advocacy Services

City and State: Houston, Tx

Type of Comment: Present Comment at Meeting

Brief description about the concern: Recommendations for the Justice40 Workgroup - Community/University Partnership. A priority should be place on k-12 public schools in Environmental Justice communities within close proximity to industry. Dispersal of information and outreach should be intentional and meaningful in order for schools to know about opportunities available.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Justice40 Workgroup - Community/University Partnership. A priority should be placed on K-12 public schools and universities/local colleges in Environmental Justice communities within close proximity to industry. Dispersal of information, grant opportunities, outreach should be intentional and meaningful in order for schools to know about opportunities available for them. As well there should be more funding that helps support universities with participatory research addressing and informing communities with cumulative health impacts in EJ communities.

I am writing to you in your capacity as WHEJAC Designated Federal Officer with a general question about Justice40. I am newly listening in, and in reviewing the project discussions today online, I noted the title and that the work group's first recommendation (hence the title of the program) is that 40% of investments should go to EJ communities. Why is the investment towards EJ communities at 40%? Why is it not 50%; or, in the spirit of reparations and historical analysis of inequity and injustice, not 60%? I understand why investments and benefits that would improve infrastructure, remediate and improve air, soil and water, and provide for mitigation and adaptations to the climate crisis might provide for the community-at-large, but if the purpose of WHEJAC is to advise on equity and environmental justice, why is their recommendation to provide less for EJ communities and more for the community-at-large, when EJ communities have and are suffering disproportionately due to systemic racism? I am wondering if there was some mandate or deeper reasoning to recommend that investment ratio - what am I missing? Thank you for your response, or for redirecting my query. Sincerely, Patricia Taylor

Full Name (First and Last): Patricia Taylor

Name of Organization or Community: Environment and Human Health, Inc. (EHHI)

City and State: Milford

Type of Comment: Written Comment Only

Brief description about the concern: In reviewing and listening in to the project discussions today (April 28) online, I noted that the Justice40 Workgroup's first recommendation (and hence, perhaps, one reason of two for the project title) is that the workgroup's early recommendation is that 40% of investments should go to EJ communities. Why is the investment towards EJ communities recommended at 40%? Why is it not more equitably set at 50%; or, in the spirit of reparations and historical analysis of inequity and injustice, not 60%? I understand why investments and benefits that would improve infrastructure, remediate and improve air, soil and water, and provide for mitigation and adaptations to the climate crisis might provide for the community-at-large, but if the purpose of WHEJAC is to advise on equity and environmental justice, why is their recommendation to provide less for EJ communities and more for the community-at-large, when EJ communities have and are suffering disproportionately due to systemic racism? I am wondering if there was some mandate or deeper reasoning to recommend that investment ratio - what am I missing? Thank you for your consideration of my comment. Patricia Taylor Director of the Plastics and Waste Project, EHHI

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Please consider more equitably recommending that investments meant to provide equity and environmental justice for historically and currently underserved and vulnerable communities that have suffered disproportionate health impacts from environmental harms be distributed at a ratio of at least 50% to directly benefit those communities.

Full Name (First and Last): Andrea Perez

Name of Organization or Community: Intersectional Environmentalist **City and State:** Corona

Type of Comment: Present Comment at Meeting

Brief description about the concern: Lack of intersectionality in approach to the conversation around Environmental Justice.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

The WHEJAC should address the inequities created by the climate crisis. When aid has been distributed after national disasters it has been done so with Black and Brown communities having inadequate access to the same resources as White and wealthier communities. The US has failed to support Puerto Rico and other US territories with support after climate caused disasters. It is important to recognize that Black and Brown communities are disproportionately affected by fracking, there needs to be federal policy that protects communities from having oil and fracking wells in their backyard. Organizations like People not Pozos have been fighting for ages to have the right to not live next to fracking sites that cause health problems: cancer, miscarriages and more. The WHEJAC needs to take into account disability, mental health, and socioeconomic status as it seeks to address the inequities and strives towards Environmental Justice. There are many local battles that can be won through the passing of federal policy.

Full Name (First and Last): Virginia Richard

Name of Organization or Community: SouthWings

City and State: Bvlbancha (colonial name: New Orleans), Louisiana

Type of Comment: Present Comment at Meeting

Brief description about the concern: The area of Louisiana known as "Cancer Alley" has a large minority population and one of the heaviest pollution burdens in the country. The air at Fifth Ward Elementary School in St. James, LA ranks in the 3rd percentile of toxic air at schools across the United State. (Source:https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgrconnect.com%2Ftox100%2Fschoolry2018%2Findex.php%3Fsearch%3Dyes%26school_name%3Dfifth%2Bward%2Belementary%26city%3DSt.%2BJames%26state%3DLA%26state_sum%3D&data=04%7C01%7CNejac%40epa.gov%7Cb61c2d4126cd457a646208d90a7f5593%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637552364601855931%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IjE6IiwiaWwiLCJXVCI6Mn0%3D%7C3000&reserved=0) Many white residents of Cancer Alley have had their properties bought out, while many Black residents have not. Their decreasing property values and massive pollution risk have made it difficult to impossible to relocate. Formosa Plastics wants to build a massive plastics plant complex that would not only substantially increase the toxic pollution load on an oppressed community, but would also drive global climate change. No amount of jobs can make up for the health impacts and loss of life in Cancer Alley. No amount of economic development (a lie of industry that rarely, if ever, comes to fruition for local communities) can "compensate" or the pollution dumped on marginalized communities, as well as people who live downstream and downwind. What happens in Cancer Alley does not happen in a vacuum. It impacts all of us. A look at 2020's hurricane season will tell you that

climate change is already here and Louisiana is just one of the many places on its frontlines. Now is the time to not only stop, but reverse, petrochemical-friendly policies.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

The WHEJAC should advise President Biden and Chair Mallory to direct the U.S. Army Corps of Engineers to revoke Formosa Plastics federal permits. The WHEJAC should send a letter to the President and the White House Environmental Justice Interagency Council to address the environmental injustices of the proposed Formosa Plastics petrochemical plant and call for the revocation of the permits. The WHEJAC should advocate for a ban on all new or expanded petrochemical facilities.

Full Name (First and Last): Patricia Taylor

Name of Organization or Community: Environment and Human Health, Inc. (EHHI)

City and State: Milford

Type of Comment: Written Comment Only

Brief description about the concern: This comment is directed to the WHEJAC Climate Justice Screening Tool Workgroup. I appreciate your discussion deeply and point you to research published today in Science Advances (see below). I hope your recommendations will include a health disparities map that makes air, soil and water quality monitoring information available in real time to residents. Most recently, the State of Washington has implemented such a map, and such a tool might be coordinated with phone Amber Alert systems and/or other public notices via online or television weather alerts to alert people to their exposures so they might better protect themselves from exposures.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Please consider recommending health disparity mapping tools. Also, Dr. Robert Bullard's thoughtful comments about having the community participate in their own protection might include new, inexpensive technologies for monitoring air pollution such as Purple Air Quality Monitors that download information in real time and are easily installed on the facings of buildings. Your discussion is excellent, and I appreciate its thoughtfulness and nuance, and I look forward to your report. Patricia Taylor
Director of the Plastics and Waste Reduction Project, EHHI

Full Name (First and Last): Patricia Taylor

Name of Organization or Community: Environment and Human Health, Inc. (EHHI)

City and State: Milford

Type of Comment: Written Comment Only

Brief description about the concern: This comment is directed to the WHEJAC Committee as a whole. Here is research published today (Science Advances) that will be of interest to you.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Wanted to know you'd seen this because it provides background information on your discussion of disproportionate health harms due to environmental exposures. See <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fadvances.sciencemag.org%2Fcontent%2F7%2F18%2Ffeabf4491&data=04%7C01%7CNejac%40epa.gov%7C330135ebac26437ae36d08d90a8025d2%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637552367768753242%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikk1haWwiLCJXVCi6Mn0%3D%7C1000&data=N5jcYmDKShIQ44x4dTVeQOurWU1EYVcBGjbxHoW9Pvo%3D&reserved=0> and

attached. Racial-ethnic minorities in the United States are exposed to disproportionately high levels of ambient fine particulate air pollution (PM2.5), the largest environmental cause of human mortality. However, it is unknown which emission sources drive this disparity and whether differences exist by emission sector, geography, or demographics. Quantifying the PM2.5 exposure caused by each emitter type, we show that nearly all major emission categories— consistently across states, urban and rural areas, income levels, and exposure levels—contribute to the systemic PM2.5 exposure disparity experienced by people of color. We identify the most inequitable emission source types by state and city, thereby highlighting potential opportunities for addressing this persistent environmental inequity. Citation - PM2.5 polluters disproportionately and systemically affect people of color in the United States BY CHRISTOPHER W. TESSUM, DAVID A. PAOLELLA, SARAH E. CHAMBLISS, JOSHUA S. APTE, JASON D. HILL, JULIAN D. MARSHALL SCIENCE ADVANCES 28 APR 2021 : EABF4491 Nearly all major emission categories contribute to the systemic PM2.5 exposure disparity experienced by people of color. Patricia Taylor Director of the Plastics and Waste Reduction Project, EHHI

Full Name (First and Last): Jim Puckett

Name of Organization or Community: Basel Action Network

City and State: Seattle, Washington

Type of Comment: Written Comment Only

Brief description about the concern: The Biden Administration must aggressively promote the rapid and full ratification of the Basel Convention. The Basel Convention which aims to prevent the global export and dumping of toxic wastes in other countries and in particular developing countries, has been called the world's first global treaty for environmental justice. And yet, while the Biden Administration promotes environmental justice at home, they have failed to take obvious action in this regard on the global stage. The US is currently the only developed country in the world that has not ratified the Convention. And the US as actively opposed its initiatives to date. For example, the Convention has embraced a full ban on the export of hazardous wastes from developed to developing countries and the US has opposed this landmark agreement, known as the Basel Ban Amendment. Meanwhile US actors export toxic electronic wastes and plastic wastes without the controls called for in the Convention. This must end. On May 13 BAN will be forwarding a letter to the President, Secretary of State, EPA Administrator, and CEQ Chair signed by over 100 organizations which will call on the Biden Administration to take action as explained below. This sign on letter can be found at:

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdocs.google.com%2Fforms%2Fd%2Ffe%2F1FAIpQLSeR4_o7pUuUoOLI79jP05JqQmnt5k8sAIYzCBbwk-cegNC6tg%2Fviewform&data=04%7C01%7CNejac%40epa.gov%7C5afd116a7e204aecbbf208d90a85e00c%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637552393283205288%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000&data=IgwHXzadh8bhUB9puOpr5apeyV4X7qKt7wwF95Mv98%3D&reserved=0

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We call on the Biden Administration to Promote Global Environmental Justice by doing the following: 1. Cease US antagonism to the Basel Convention and the Basel Ban Amendment and take the necessary steps to facilitate and approve ratification of the full Convention, including the new Article 4a and Annex VII (Ban Amendment), at the earliest possible date. 2. Ensure that the implementation legislation for adoption of the Basel Convention includes a full ban on exports, not only of hazardous wastes as prescribed by the Ban Amendment, but also of Basel Annex II wastes (which include the new listings of

mixed and dirty plastic waste, household waste, and incinerator ashes). 3. Reverse the US position taken at the OECD and allow the automatic adoption of the new Plastic Amendments by the OECD in their Council Decision on trade in recyclable wastes. 4. Annul the ill-advised and illegal US -- Canada Arrangement, signed on October of 2020, allowing rather for the OECD agreement to once again preside over trade in Basel wastes between the US and Canada and other OECD countries.

The EPA published a report that finds black communities face dangerously high pollution levels. African Americans are more likely to live near landfills and industrial plants that pollute water and air. Because of this, more black Americans are three times more likely to die from exposure to air pollutants than their white counterparts. My name is Renada Harris, and I am here to confront the environmental injustice that threatens people who live in a predominantly African-American freedman community known as Brown Grove. As a Brown Grove native, I know the harms caused when elected, and appointed officials neglect the environmental issues that impact minority communities. As a child, I would ride my bike to my cousin's house down the street. But that's not the case anymore. Wegmans grocery plans to build a 220 acre 24 hr. distribution center in Brown Grove, which is already overburdened with a landfill, a truck stop, an airport, and concrete and construction facility. Wegmans would mark the 6th industrial business planted in the middle of a family neighborhood. Impacts of the Wegmans distribution center include:

- Disturbance of slave graves
- Fumes from their fleet of trucks moving throughout the Brown Grove neighborhood daily
- An estimated 2,864 additional vehicle trips per day
- 24-hour noise and lights from the distribution center and truck traffic
- Destruction of 15 acres of wetlands causing more flooding on roads and resident property.

Brown Grove continues to organize and fight for the right to breathe clean air, drink safe water, and live our lives in the community our ancestors built without polluting industries knocking on our doors. With over 5000 signatures on our protect Brown Grove petition, it's clear the community opposes the project. It adds no value to the quality of life for the people that live here. The Dutton and associates cultural resource survey recommended this site be avoided and undergo further research because history and artifacts were found and deemed eligible for the national registry of historic places. For years, the Hanover County Board of Supervisors has ignored the community's concerns regarding this industrial gentrification and improper zoning so people can't build homes in the community. This historical community is overburdened with environmental degradation and one of the heaviest polluted neighborhoods in Virginia. Hanover County approved of the project in December 2019, with the groundbreaking projected for the spring of 2020. The County notified the "church" but did not inform Brown Grove residents, many of whom do not attend the church. FIOA requests show that the developer and supportive parties met in secret for nearly a year to plan out the development with no community input. The only chance the community had to comment was after the developers had secured promises from Hanover County to change the zoning. Companies that hold clout with legislators and agencies can exploit communities of color with limited political sway or other economic prospects. Wegmans nor the DEQ have not met its burden to promote environmental justice through the Brown

Grove community's meaningful involvement as required by Va. Code § 2.2-235. Meaningful involvement means that "affected and vulnerable community residents have access and opportunities to participate in the full cycle of the decision-making process about a proposed activity that will affect their environment. This is the true essence of environmental injustice. Neither the Department of Environment Equality nor the US. The Army Corps of Engineers has conducted an appropriate environmental justice review to study the cumulative impacts of industrial encroachment on the community. Wegmans has minimized and devalued the oral history of Brown Grove elders, disregarding graves' existence on site. Even though Brown Grove is Mentioned in the African American Smithsonian museum, we are still trying to prove our existence of 150 years to the DEQ. Davis Paylor, director of DEQ, stated in a webinar, "It's clear that we haven't done as good of a job as we should have done with communicating and connecting with the public, and that's not OK, We need to learn how to listen better and how to include and connect with folks better." In a statement, Gov. Ralph Northam stated that establishing the Virginia Council on Environmental Justice would "ensure communities are directly involved in the decisions that affect them most and will help prevent vulnerable Virginians from being disproportionately impacted by pollution, climate change, and environmental hazards." This all sounds good, but where does our Governor stand on this? Although Northam established the Council, he supports Wegmans coming into a residential community. Of course, it will bring 700 jobs under his belt. He says "environmental justice is important" but also said, "Wegmans will be a good neighbor." With no help from our elected officials who are supposed to represent us and with the Department of Environmental Quality not concerned with the environment's quality, we, the community, with zero budget, have turned our careers from hairstylists, counselors, and retirees to surveyors, scientist, and lobbyist...during a pandemic. With our supporters, we are putting pressure on the DEQ and USACE to do their jobs with this 2.7 million dollar budget that they have been given. We are not willing to sacrifice our history and health for Wegmans or Hanover County profits. <https://www.change.org/p/help-fightenvironmental-injustice-in-this-african-american-community>
<https://patch.com/maryland/annapolis/virginia-board-gives-wegmans-permit-impact-wetlands>
<https://iyervr6.medium.com/brown-grove-preserving-a-way-of-life-14ddf3e43a3f>
<https://www.hcbnaacp.org/2021/03/01/hanover-county-naacp-condemns-the-decision-of-the-virginiastate-water-control-board-to-allow-a-permit-for-wegmans-distribution-center-in-brown-grovecommunity/> council Renada Harris

Full Name (First and Last): June L Lorenzo

Name of Organization or Community: Laguna-Acoma Coalition for a Safe Environment

City and State: Paguete, New Mexico

Type of Comment: Present Comment at Meeting

Brief description about the concern: Application and implementation of human rights standards to the work of the WHEJAC.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Apply the human rights standards contained in the UN Declaration on the Rights of Indigenous Peoples , as a guide for implementing human rights treaties to which the USA is a party

Thank you WHEJAC members for considering my comment. We are all in this Environmental Justice fight together and I'm honored to be working towards justice with you. I would like WHEJAC members to

recommend that Graphic Packaging International in Kalamazoo, Michigan have their permit revoked by the EPA. They are set to increase greenhouse emissions by 221% this year and are located behind a frontline community with high asthma and cancer rates. They also have no pollution prevention in place and are taking millions from taxpayers to poison them without contributing a dime in taxes themselves. All of their locations in the U.S. should have unannounced inspections. They are located in frontline communities in several states and they need to be stopped before more people die. I also would like WHEJAC to recommend the EPA work with local governments in Michigan to form an EPA Environmental Justice Taskforce. I will volunteer to help the EPA in Southwest Michigan Counties to advocate for that partnership. It would be helpful to send out materials to counties showing their EJ Screen scores and work with them to have air monitors installed. EPA has used purple air monitoring data last year during the wildfires. I recommend they switch to these monitors so more can be installed all over the United States because they are inexpensive. It will also help to get more air monitors in every city because as you know, there are clearly not enough air monitors in this country detecting pollution. It's really difficult to find the source of the pollution, if you don't have a monitor in every city. I also would like WHEJAC to recommend the EPA get health monitoring vans set up in every EJ community that has a score above 70%. The 40% in funds the President has allocated to disadvantaged communities could cover the cost of the new air monitors and the health monitoring vans. This will also provide jobs. I also would like WHEJAC to recommend the EPA to take over enforcement for states that have not enforced pollution laws like The Clean Air Act and Clean Water Act in the last four years. Michigan (EGLE) air enforcement has allowed many polluters to obtain permits while being out of compliance. This defeats the purpose of the EPA's goal of protecting humans and the environment.

Thank you, Brandi Crawford-Johnson, EJ Advocate Southwest Michigan

Full Name (First and Last): Robert Mitchell

Name of Organization or Community: Muck City Black Lives Matter

City and State: Belle Glade, FL

Type of Comment: Written Comment Only

Brief description about the concern: Blessings to all.....There is a real environmental and racial injustice of Pre-harvest sugar fields burning in 3 small cities Belle Glade, South Bay, and Pahokee Florida where I was born and live. The practice is toxic and outdated and other Large Sugar Growers like Louisiana, Brazil, Australia, Cuba, Thailand, and Zimbabwe have all merged and found it to be a profitable and effective solution of Green Harvesting. Our communities have to endure this "Bad Neighbor" practice 8 months out of the year. Can you imagine breathing in harsh smoke(smells) while washing off the ash known as "Black Snow" from your clothes, and property? Or the Black Snow falling during your wedding and other special occasions held outside? Well the people of the Glades have been experiencing this unnecessary practice for many years and it has negatively impacted our health, quality of life, and economic opportunity of residents like myself who have no direct relationship with the industry. Actually 79 percent of the residents in all 3 cities are not employed by the Mills instead we are teachers, law-enforcement, health care providers, social workers, business owners, and other professions not related to the Sugar industry not allowing the communities to breathe clean air. Especially when they have Discriminatory burn regulations that prohibit burning when the wind blows to the direction where you have more affluent(White) communities to the East. However, when the wind blows toward my community in the West, majority Black and Brown Low-Income Communities, the burn permits are

allowed. This is unfair and the industry has recently gone so far to produce a right to farm Florida House Bill 1601 also known as the "Right to Harm Bill" to block and intimidate residents' rights to seek legal actions for the "Bad Neighbor" burning practices affecting our health and property. The discriminatory burning regulations are under the authority of Florida's Agricultural Commissioner, Nikki Fried, who oversees the Florida Forest Service; the agency that hands out pre-harvest burn permits. Shame on Nikki Fried for not even providing provisions during a World-Wide Pandemic of COVID which attacks the respiratory system. And our 3 main cities were hit hard by the Virus and we are still battling it. Yet we have to deal with Covid and Toxic Smoke on our lungs and Black Ash. We are being forced to choose jobs over health in the Glades. We need and deserve to have both clean air and opportunities in which the solution is Green Harvesting.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Please advise the White House Council on Environmental Quality to specifically help Muck City BLM and The Stop The Burn GO GREEN Campaign, which I'm a representative of both these grassroots environmental justice campaigns to replace pre-harvest sugar field burning with the WIN WIN solution of burn-free green harvesting. The very leaves of the cane that they are burning have high value and significant benefits if Green Harvested instead of the Toxic burning. The leaves actually make Biofuel, Plastic Goods, Mulch, and produce Electricity to name a few. So in a community that is ranked #1 poorest City in Florida, this merger will bring economic engines to benefit more than only 19 percent of locals and increase the Sugar Industry profit as well. Florida growers already green harvest, but only when it is convenient for them! And we have a new company "TELLUS" in Belle Glade that is using Green Harvesting to make plastic goods and the current Sugar Mill workers are trying to get hired with this new company TELLUS because the pay and experience is better! Green harvesting is a win-win-win situation for everyone. Please give any real support for this commonsense solution. Thank you so much for your time and consideration. We are very appreciative in the Glades for any positive attention given to this choking experience happening in 2021 to a community of loving neighbors who deserve the right to raise our families with clean air. Again thank you from Robert C. Mitchell founder of Muck City Black Lives Matter and Blessings for the energy of doing what is right.

Full Name (First and Last): June Downs

Name of Organization or Community: Stop the burn Go Green

City and State: Indiantown Florida

Type of Comment: Written Comment Only

Brief description about the concern: Burning sugarcane fields before harvesting is a health risk for those of us who live in the path of the smoke and ash. Our health, economy and environment are being adversely effected. The industry has proven that with political campaign donations they can influence the laws in a way that protects them from all responsibilities of their actions.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Make Big Sugar stop the practice of burning sugarcane fields before harvesting and turn to Green harvesting. Don't allow Big Sugar to escape responsibility for their actions which effects our health, environment and economy.

Hello, I'm writing to provide a copy of the public comments I shared at yesterday's meeting, which you can find below. Thank you for your time and consideration, and all of your critical work. Best Regards, Ilana Cohen Fossil Fuel Divest Harvard

Hello, my name is Ilana Cohen. I take she/her pronouns. I'm a 20-year-old college student, climate journalist, and fossil fuel divestment activist. Before I begin, I want to thank you all for the incredible work that you do every day. It is deeply inspiring to me as an activist and provides a constant source of hope for me as a young person concerned about me and my peers' futures. I'm here today to bring two issues to your attention. The first is the need for the White House to act immediately to stop the Line 3 pipeline currently being constructed in Minnesota at the behest of Enbridge, a Canadian pipeline company responsible for the largest inland oil spill in our nation. Although Line 3 is billed as a replacement project, it is really a gross expansion of an industry already on its last legs — tar sands, an incredibly dangerous and carbon-intense form of energy that, in the case of Line 3, involves blatantly trampling on Indigenous rights. As a body dedicated to environmental and climate justice, I imagine this is already an issue of deep concern to you and I ask that you do everything in your power to compel President Biden to cancel this pipeline and follow the calls of Indigenous leaders and climate activists, who are putting their bodies on the line every day for a just transition to a renewable, sustainable economy in which new fossil fuel infrastructure has absolutely no place. Really, every piece of infrastructure the United States permits should be subject first and foremost to a climate test, which would bar any project that would further contribute to the climate crisis and environmental injustice — as Line 3 would — from moving forward. Secondly, I'm here to ask that you advise the White House Council on Environmental Quality to advance the global call for fossil fuel divestment. At this point, divestment from fossil fuels is undoubtedly a moral, financial, and in some cases, legal imperative for all of our institutions, private and public alike. Institutions cannot truly claim to care about our planet and communities so long as they continue investing in companies known to undermine climate science, spread disinformation, lobby against climate policy, and sustain a core business model that is fundamentally incompatible with the nation and the world's goals of decarbonization. Already, nearly 1,320 institutions controlling almost \$14.6 trillion worth of funds have recognized this truth and partially or fully committed to fossil fuel divestment as a result. There are clear and concrete steps the Biden Administration could take today to integrate divestment from extractive and exploitative industries, which certainly include but are by no means limited to fossil fuels, and reinvestment into just and sustainable industries throughout its work. These steps include divesting federal pension funds from fossil fuels, barring big polluters and perpetrators of environmental injustice from receiving federal contracts, investigating and prosecuting fossil fuel polluters, adopting a divest-invest ethic across federal agencies, and as I previously mentioned, establishing a climate test for all federally permitted infrastructure. I hope you will take these thoughts to the White House. I also strongly encourage you to hear directly from and engage with the Indigenous groups leading the Line 3 resistance including the Stop Line 3 coalition, Honor the Earth, Giniw Collective, and Gitchigumi Scouts. Thank you again so much for your time, your consideration, and your commitment to advancing a more just and sustainable future.

Full Name (First and Last): Jeannie Economos

Name of Organization or Community: Farmworker Association of Florida

City and State: Five offices in Florida

Type of Comment: Written Comment Only

Brief description about the concern: Farmworkers and exposure to pesticides, including the compounding effects of exposure to pesticides and high temperatures (heat stress) simultaneously.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We are sharing these two reports and are asking for the White House CEQ to ask OSHA to promulgate a national worker heat stress protection regulation and for EPA to phase out the most toxic pesticides and fund more research into alternatives to agricultural pesticides. Farmworkers at Risk:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ucsusa.org%2Fresources%2Ffarmworkers-at-risk&data=04%7C01%7CNejac%40epa.gov%7Ca364f04f18614f2c811208d90b4804b1%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637553227469273963%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C3000&sdata=IWDIP3oj%2BuxJLQ2WhAQf3Bg4ifGmSbboIHB34Yc5FQw%3D&reserved=0> And, Unworkable: Dangerous Heat Puts Florida Workers at Risk -

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.citizen.org%2Farticle%2Funworkable-dangerous-heat-puts-florida-workers-at-risk-2%2F&data=04%7C01%7CNejac%40epa.gov%7Ca364f04f18614f2c811208d90b4804b1%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637553227469273963%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C3000&sdata=AOR7PX7q24DQmqFU55n9BZsbXt3PqYU09m8znYK95H0%3D&reserved=0>

Thank you, Jeannie Economos

Full Name (First and Last): Kina Phillips

Name of Organization or Community: Stop The Burn Go Green Harvest Campaign

City and State: South Bay

Type of Comment: Written Comment Only

Brief description about the concern: I'm Kina Phillips the 4th generation of 6 of my family that's made the City of South Bay our home. We've not just lived here, we've had business here, served here, met needs here, learned and taught here, and the work continues. I'm one of the original Leaders and I've been on the Stop The Burn Go Green Harvest Campaign for 5 plus years. The present practice of burning is a constant hazard to our Communities. It shows absolutely no consideration to the people in the western communities of our county. We grew up thinking having asthma and respiratory problems were normal. Adapting to a practice that trespassed on our culture, we've settled long enough! It doesn't take a scientist to know we're being forced to breathe in toxics over 6 months out of the year while others east of us are being protected. We have never wanted to end the jobs of the Sugar Companies, our goal is to get the Industry to do what's right by our people and that's Consider is and be a Good Neighbor. This practice negatively impacts in other ways, but stopping the burn can mean less climate impacts, less water pollution, and more soil regeneration. There's over 400,000 acres of sugarcane fields in and around the Everglades Agricultural Area (EAA). Our back yard, around or parks, and schools are included in these acres. To not consider giving us a 30-mile buffer around these must Intimate areas within our communities. We're not asking that you go cold turkey, but to phase out, adapting to the process of Green Harvesting. Green Harvesting is a practice being use all around the world for the sake of lives and creating jobs to build the economic system

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Please recommend that the Federal agencies like the USDA provide funding to help sugar growers transition from sugar burning to Green Harvesting and also recommend funding be provided for biofuel companies that use sugar cane leaves to create green jobs that can provide jobs for the community and help our health and environment at the same time.

Full Name (First and Last): Melissa Hoffmann

Name of Organization or Community: Sunrise Movement

City and State: Alpine, NJ

Type of Comment: Written Comment Only

Brief description about the concern: There is a tar sands pipeline being constructed unconstitutionally through Anishinaabe treaty land and poses a huge threat to the water supply and wild rice fields, as well as to climate change.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Tell the Biden Administration to stop the construction of Line 3.

Full Name (First and Last): Denise Patel

Name of Organization or Community: Global Alliance for Incinerator Alternatives (GAIA)

City and State: New York, NY

Type of Comment: Written Comment Only

Brief description about the concern: On March 2, 2021, the House Energy and Commerce Committee released a new draft of the CLEAN Future Act of 2021. While we applaud the provisions pausing the permitting of new plastics production facilities, requiring essential environmental justice protections and investments in zero waste solutions, unfortunately the act allows waste incineration, aka "waste to energy" to be considered a clean electricity source. Waste to energy (WTE) facilities are the dirtiest source of energy production on the grid today and are some of the most polluting facilities located in environmental justice communities. The majority (79%) of WTE facilities are located in environmental justice communities. The inclusion of WTE as "clean electricity" undermines the very positive environmental justice protections in the bill. WTE facilities add to the cumulative burden of pollution on low-income, and Black, Brown, and Indigenous communities that causes long-term, multi-generational health impacts from toxic air pollution. These same communities also bear the greatest burden from climate-driven extreme weather events, as we have witnessed annually in communities that suffer from climate-driven hurricanes, wildfires, heat waves, and most recently winter storms in Texas and Mississippi, which left hundreds of thousands of Americans without homes, power, and clean, safe drinking water.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Our demands for the CLEAN Future Act are: 1. Remove WTE as a 'clean energy source'. 2. Remove the EPA certification provision. 3. Ensure WTE facilities do not receive clean energy credits nor should they qualify for loan programs. Please see our briefing paper on the CLEAN Future Act at:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.no-burn.org%2Fnocleanfuturewte%2F&data=04%7C01%7CNejac%40epa.gov%7Cb1eb28c2d526484f228d08d90b75c916%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637553423210143049%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ikl1haWwiLCJXVCi6Mn0>

[%3D%7C3000&sdata=DbpIMsuiSNjyAK4chJ3rlbfabKpWKVyhJ%2FRVBav4Zto%3D&reserved=0](#)

Full Name (First and Last): Marie Lavallee

Name of Organization or Community: Indianwood

City and State: Indiantown FL

Type of Comment: Written Comment Only

Brief description about the concern: Sugar cane burning in South Florida. From Nov- May, our 55+ community in Indiantown is frequently inundated with smoke and ash from the pre-harvest burning of sugar cane.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Force the Big Sugar companies to green harvest the sugar cane. They already have the equipment and do it near certain communities but refuse to do it near poorer communities.

Full Name (First and Last): Sylvia Dove

Name of Organization or Community: Consumers for Dental Choice

City and State: Washington, DC

Type of Comment: Present Comment at Meeting

Brief description about the concern: Consumers for Dental Choice urges the WHEJAC to advise an increase in federal government efforts to address the environmental injustice of mercury pollution resulting from dental amalgam use. Dental amalgam is a filling material that is 50% mercury. Many people in low-income communities and communities of color are disproportionately exposed to a double dose of this mercury: first when it is implanted in their teeth and a second time when it contaminates their environment. First, amalgam is one of the largest uses of mercury[i], accounting for 35-57% of U.S. mercury consumption.[ii] Much of this amalgam is implanted in people of color and lower-income individuals.[iii] Second, mercury from amalgam then enters the environment via many pathways, polluting -- Air via cremation[iv], dental clinic emissions[v], municipal waste incineration, and sewage sludge incineration[vi] -- Water via dental clinic releases not caught by separators[vii], landfill runoff[viii], and human waste[ix] -- Soil via landfills[x], burials[xi], and sewage sludge used as fertilizer[xii] Amalgam's mercury disproportionately pollutes lower-income and minority neighborhoods that are more likely to be located near incinerators [xiii] and crematoria[xiv]. Then fish contaminated by amalgam's mercury[xv] are more likely to be eaten by subsistence fishermen, American Indians, and Native Alaskans[xvi]. No separator or waste management practice can stop amalgam from continuing to pollute these communities; only ending amalgam use can accomplish this goal. Our government is the largest user of amalgam. While private dentists are switching to mercury-free alternatives, the federal government is purchasing mercury amalgam for military personnel, American Indian children, people incarcerated in federal prisons, and others receiving dental care through federally-funded programs. [i] U.S. Geological Survey, Changing Patterns in the Use, Recycling, and Material Substitution of Mercury in the United States (2013), pp.1, 26 [ii] Ibid. [iii] Mark Mitchell, Rueben Warren, David Bellinger, Doris Browne, Is Dental Amalgam Toxic to Children of Color?, Journal of the National Medical Association (2018) [iv] OSPAR Commission, Overview assessment of implementation reports on OSPAR Recommendation 2003/4 on controlling the dispersal of mercury from crematoria 2011) [v] KA Ritchie et. al., Mercury vapor levels in dental practices and body mercury levels of dentists and controls, British Dental Journal (2004 [vi] U.S. Geological Survey, p.23 [vii] Ibid. viii] Ibid. [ix] Skare, I. & Engqvist, A. 1994.

Human exposure to mercury and silver released from dental amalgam restorations. Arch. Environ. Health 49(5) [x] U.S. Geological Survey, p.23 [xi] Ibid. [xii] A Cain, S Disch, C Twaroski, J Reindl and CR Case, Substance Flow Analysis of Mercury Intentionally Used in Products in the United States, Journal of Industrial Ecology, Volume 11, Number 3 [xiii] Skare, I. & Engqvist, A. 1994. Human exposure to mercury and silver released from dental amalgam restorations. Arch. Environ. Health 49 (5):384-394 [xiv] OSPAR Commission, Overview assessment of implementation reports on OSPAR Recommendation 2003/4 on controlling the dispersal of mercury from crematoria (2011) [xv] EPA, EPA will propose rule to protect waterways by reducing mercury from dental offices (27 September 2010), [xvi] National Congress of American Indians, Resolution #TUL-13-051 (2013)

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

To solve this problem, Consumers for Dental Choice asks WHEJAC to recommend an increase in efforts to eliminate the use of dental amalgam, starting with federal government programs. In light of the disproportionate mercury exposure and pollution from dental amalgam in their communities, both the National Medical Association and the National Congress of American Indians have already called for an end to amalgam use in these federal programs: -- National Medical Association Policy Number 20-003R on Dental Amalgam supports “requiring payment for and use of non-mercury dental fillings in all governmental insurance and programs, including Medicaid, Medicare and Indian Health Services...” [i] -- National Congress of American Indians Resolution #TUL-13-051 requests that “the Indian Health Service phase down, then phase out on a timetable, all sources of mercury contamination in the US, including the use of dental amalgam in IHS programs; favor the use of non-mercury alternatives to dental amalgam in IHS programs in the interim...” [ii] It is time for federal agencies to start purchasing only mercury-free dental filling materials in order to protect our environment – and the lower-income communities and communities of color that are most affected by dental mercury pollution. Thank you for your attention to this important environmental justice issue. [i] National Medical Association, Policy Number 20-003R on Dental Amalgam (2020) [ii] National Congress of American Indians, Resolution #TUL-13-051: Calling for US Ratification of the Minamata Convention on Mercury (2013)

Dear WHEJAC Members: I have attached additional materials supporting Consumers for Dental Choice’s comments urging WHEJAC to recommend an increase in efforts to eliminate the use of mercury amalgam, starting with federal government programs. The attachments include: -- Mark Mitchell, Rueben Warren, David Bellinger, Doris Browne, Is Dental Amalgam Toxic to Children of Color?, Journal of the National Medical Association, Volume 110, Issue 4, August 2018, Pages 414-416 (“This circumstantial evidence all points to low-income children of color bearing a disproportionately large mercury burden from amalgam and this is in addition to the mercury they are exposed to in their environment, which is often also disproportionately high.”) -- National Congress of American Indians Resolution #TUL-13-051 (recognizes that “this is a matter of urgency for American Indian and Alaskan Native Nations because mercury pollution severely impacts the subsistence rights and traditional diets of Indigenous Peoples and consumption of contaminated fish by women of childbearing age, pregnant women and children has serious impacts on the developing brain, kidneys, and nervous systems of unborn and nursing babies and young children...” and requests that “the Indian Health Service phase down, then phase out on a timetable, all sources of mercury contamination in the US, including the use of dental amalgam in IHS programs; favor the use of non-mercury alternatives to dental amalgam in IHS programs in the interim...”) -- National Medical Association Policy Number 20-003R on Dental Amalgam (supports “requiring payment for and use of non-mercury dental fillings in all governmental insurance and

programs, including Medicaid, Medicare and Indian Health Services....”) Please feel free to contact me if you have any questions. Thank you for your attention to this important environmental justice issue. Sincerely, Sylvia Dove, Consumers for Dental Choice Washington, DC

Full Name (First and Last): Charles G. Brown

Name of Organization or Community: World Alliance for Mercury-Free Dentistry

City and State: Washington

Type of Comment: Present Comment at Meeting

Brief description about the concern: Mercury is so toxic it is the single subject of an entire environmental treaty, the Minamata Convention on Mercury, now ratified by 131 nations. The person most responsible for this convention was President Obama, who as a Senator took the lead in mercury legislation and who within his first month as President called for a legally binding international convention on mercury. After several years of negotiation, the convention was signed in 2013; the first nation in the world to ratify the Minamata Convention, by executive order of the President was . . . the United States of America! Envisioning a world free of mercury use in products, industry, and mining, the Minamata Convention calls for reduction in use of all major polluting mercury uses, including dental amalgam, the dental filling that is 50% mercury but is marketed, deceptively, as “silver fillings.” Amalgam is a primitive, pre-Civil War pollutant. By contrast, the mercury-free alternatives like composite resin and glass ionomer are non-polluting. The U.S. Geological Survey confirms: The #1 intentional use of mercury in the United States is dental amalgam. And most of that mercury walks out of the dental office and later into the environment. It is therefore a major pollutant. The U.S. Food and Drug Administration issued a safety communication on September 24, 2020, advising that the risks of amalgam are too great for the following dental patients – and that they should be given mercury-free alternatives to amalgam fillings instead: •Children •Women who are pregnant, breastfeeding, or planning to become pregnant •People with kidney disease •People with neurological disease The FDA’s recommendation could help protect lower income people and people of color from exposure to dental mercury and its pollution. But in fact, many of these patients still receive amalgam – and encounter the resulting pollution in their communities. Dentistry is increasingly a two-tiered system: as an NAACP witness testifying before Congress about today’s dentistry put it, it’s “choice for the rich and mercury for the poor.” One would assume that the federal agencies administering dental care would be the first place to implement the FDA recommendations, especially since it is consistent with environmentally responsible purchasing – but in truth, it is the opposite. The private sector is moving toward mercury-free dentistry, but government agencies are continuing their practices without regard to the harm they are causing to children of color and others. They refuse to even listen to community concerns about mercury exposure and mercury pollution from dental amalgam.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We are greatly appreciative of the outreach of the White House Environmental Justice Advisory Council. We believe that the starting point must be for the United States to get its own house in order: the federal government needs to stop using dental amalgam – a polluting mercury product – especially in lower-income communities and communities of color. This solution is a practical one, and it is being done worldwide – but not by the United States government agencies providing or financing dental care: ☐Prisons in Maine ended the use of amalgam, but the U.S. Bureau of Prisons continues its use. If Maine can do it, so can the United States federal government. ☐Indonesia ended amalgam in its public

programs in 2016, but U.S. Medicaid continues to fund amalgam use in lower-income children. If Indonesia can do it, so can the United States federal government. ☐The Bangladesh Armed Forces ended all amalgam use for its soldiers, sailors, airmen, and their families, but the Indian Health Service continues to use this mercury product even in children. If Bangladesh can do it, so can the United States federal government. The World Alliance for Mercury-Free Dentistry asks for the same environmental justice remedy as the National Medical Association calls for: Federal agencies that provide dental care need to stop placing dental mercury amalgam now to prevent the long-term harms of mercury exposure and mercury pollution, especially in communities of color and lower-income communities.

Full Name (First and Last): Gregory Simpson

Name of Organization or Community: Nauraushaun Presbyterian Church & The Hudson Valley Environmental Justice Coalition

City and State: Kingston

Type of Comment: Written Comment Only

Brief description about the concern: The promise of STEM education as a pathway to securing the green jobs of the future is an environmental justice issue.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Dear WHEJAC members, Adequate STEM education in our society is an environmental justice issue for two reasons. First, future green jobs, irrespective of how simple they may be perceived, will continue to demand complex analytical skills, critical thinking agility, and an ability to understand and interpret cross-disciplinary datasets for optimum decision-making. Second, within communities, local government will continue to require a greater understanding of the STEM issues, often at the heart of environmental justice, environmental racism, and climate change amelioration. Suppose our public schools are not adequately tooled for labs or teachers not adequately prepared to teach STEM subjects, on a large scale, including incorporating climate science as part of the elementary, middle, and high school curriculum. In that case, the promise of well-paying or livable wage-earning jobs for EJ populations in the green economy of the future will remain unrealized! I encourage WHEJAC members to forcibly convey the message that STEM education is a priority and that reforming and retooling our public schools' education system to meet that priority is foundational. Why? Because meeting and solving the problems of the climate crisis, now and in the future, depends on ALL our citizenry's scientific and engineering creativity. Not just those who have access to the best labs, information, and teaching. I leave you with two comments for you to consider. The first was made by a colleague and former superintendent of schools in New York. Who wrote the following: "Not surprisingly, school districts with the economic means to afford STEM programs (often those with little racial and cultural diversity or that are rurally isolated) are often eager, and able, to implement STEM programs. Many of those do not have the means and do not have these and other programs. For example, Rhinebeck CSD has a K-12 STEM program based upon ample support from a local community foundation. Tragically, these same opportunities are not available to many other school districts, often those with fewer resources and a significant percentage of students of color." – JP And second, in President Biden's inaugural address to Congress, he stated that; "Our history has been a constant struggle between the American ideal that we are all created equal and the harsh, ugly reality that racism, nativism, fear, and demonization have long torn us apart." Equality is as much embodied in the rights of an individual to learn as it is to have the right to live, work and enjoy all the benefits of society. As a scientist, theologian and pastor, I believe that

education holds the key, and STEM education is one of the hands that will help unlock the door to the ideals of true justice for all and the formation of "a more perfect union." I pray that you find the strength, courage, and fortitude to connect these issues and, again, forcibly recommend that you include STEM education as a priority in the fight for environmental justice. Respectfully submitted, Rev. Dr. Gregory I. Simpson, Ph.D. (Chem)

As a former federal employee, some of the issues raised by public is under the jurisdictions of their Governors and elected representatives. For example, WHEJC must understand the difference in federal laws vs state, city, county, boroughs, and municipalities. PowerPoint and environmental concerns, such as in Region 3 are decisions incurred by their elected officials; and no farming regulations in Pennsylvania to stop pollution from seeping into waterways and power plants were decided by officials not government. Those individuals should be having elected legislature write policies, then see how those federal laws in existence, such as clean water,, air, i.e., can aid them. Just some thoughts.

As a former federal employee, this book has been our Manuel. Building platforms for non-profits, etc., is not federalism, if they don't know it then as educated individuals they must become familiar to understand their roles as an advisory council, which dates back to 1960s hmm

Jacqueline V. Norris

Full Name (First and Last): Marilyn Berlin Snell

Name of Organization or Community: Urban Renewable

City and State: Los Angeles, CA

Type of Comment: Written Comment Only

Brief description about the concern: Unless state and federal tax codes are aligned to promote and expedite what we at Urban Renewable (urbanrenewable.org) call "integrated sustainability" projects, meaning projects that tackle the legacy of redlining and the resulting racial wealth divide; gentrification and minority displacement; and the disproportionate impact of pollution and the climate crisis on minority communities, many potentially transformative projects -- like ours -- will die on the vine, unable to be implemented.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Enter the tax debate and deliberations to advocate for IRS code changes that expedite racial equity and integrated sustainability in residential development projects, including single-family, in low- and moderate-income Black neighborhoods. Urbanrenewable.org has a plan but the tax code threatens to derail what could be a nationally replicable all-in-one development concept that sets the standard for racial, economic and environmental justice projects. I have emailed with an attachment that explains Urban Renewable, FYI.

Thank you for putting together this important meeting. I have submitted written comments via the portal you provided but want to attach the description of Urban Renewable so as to elucidate what we mean by "integrated sustainability." Our development concept redresses the legacy of redlining and the resultant racial wealth divide; gentrification and minority displacement; and the climate crisis at the same time. Sincerely, Marilyn, Marilyn Berlin Snell, co-founder, Urban Renewable,

Full Name (First and Last): Susan Halpern

Name of Organization or Community: South End NRZ

City and State: Stamford CT

Type of Comment: Written Comment Only

Brief description about the concern: South End of Stamford CT was an industrial part of the city as well as an historic working class community. Developer has excavated, stockpiled, transported and re-used contaminated soil thru neighborhood over the years. We had to call in DEEP several times due to air quality issues especially in 2019 and 2020. Kosciuszko Park, the park in our neighborhood was once a toxic land fill and now thousands of people who have moved into high rises recently built , use this park on a daily basis. We have asked for the site management plan that was to include periodic site testing since 2004 but we have not gotten little if any response.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

There are many contaminated sites on this small peninsula that the developer wants to build on. There are many working class families, living in multifamily homes that also live in this community. We also live next to a sewage treatment plant, a Junk yard, and a cement and asphalt plant. We are concerned about our air and water. We need air quality and water testing to make sure that what we all are breathing is not detrimental to our health and quality of life. The Covid 19 virus was found in our sewage treatment sludge last year. What else could be happening here. Could this be another Love Canal issue? We can provide multiple email's from DEEP and other information to warrant our concerns. Thank you

Full Name (First and Last): Zulene Mayfield

Name of Organization or Community: Chester Residents Concerned for Quality Living

City and State: Chester, Pennsylvania

Type of Comment: Present Comment at Meeting

Brief description about the concern: environmental justice issues

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

factor in community suffering, reparations and mitigating responses

Full Name (First and Last): Louis Morse

Name of Organization or Community: Chester Residents concerned fir quality living

City and State: Chester Pa

Type of Comment: Present Comment at Meeting

Brief description about the concern: I would like to voice my concern about the Covanta plant that is located in my backyard. I would like to speak about the conditions that I'm living within.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do? I

would like WHEJAC help with stopping the environmental racism in our area and help us discontinue burning trash at that plant and close it down . Thank you

Public Comment to the White House Environmental Justice Advisory Council: We are all affected by environmental and other injustice. Although my home in the Pacific Northwest is across the country

from Appalachia, I share their concerns about cleanup from pollution caused by coal mining, such as toxic coal ash spills and unsightly mountain top removal. I strongly support efforts to help communities formerly tied to fossil fuels, such as but not limited to coal mining, to build vibrant, diversified economies, by identifying land/forest/mountain reclamation projects and offering the displaced workforce training for good paying jobs in clean, renewable energy. Thank you for the opportunity to comment. Sara Bhakti Kirkland WA

Please take a few moments to read our article in The Diplomat concerning the U.S. nuclear testing legacy in the Marshall Islands: <https://thediplomat.com/2021/04/the-us-should-apologize-to-themarshall-islands-for-nuclear-tests/> The US Should Apologize to the Marshall Islands for Nuclear Tests – The Diplomat thediplomat.com, The United States tested 67 nuclear weapons from 1946 to 1958 in what is now the Republic of the Marshall Islands. An official U.S. apology to the Marshallese - like that given to the survivors of the infamous Tuskegee Syphilis Experiment by President Clinton in 1997 - would go a very long way to heal this historic wound for an important Pacific ally of the United States. The people of the Marshall Islands deserve no less. Thank you in advance for your kind consideration of these wonderful people. Sincerely Yours, Glenn Alcalay Associate Professor of Anthropology, John Jay College of Criminal Justice/CUNY, Ivana Nikolic-Hughes, Senior Lecturer in Chemistry, Columbia Univ., Director of K=Project, Hart Rapaport, Junior at Columbia Univ.

- Dear Members of the White House Environmental Justice Advisory Council, On behalf of members of the National Economic Transition coalition, I have attached a letter describing the specific and deep-rooted challenges faced by many coal-impacted communities across the United States. The letter's signers include:
- Suzanne Singer, Executive Director, Native Renewables
- Chelsea Barnes, Legislative Director, Appalachian Voices
- Robert LeResche, Coal Team Chair, Western Organization of Resource Councils
- Rebecca Shelton, Director of Policy & Organizing, Appalachian Citizens' Law Center
- Brandon Dennison, CEO, Coalfield Development
- Peter Hille, President, Mountain Association
- Anthony Flaccavento, Executive Director, SCALE
- Natalie Roper, Executive Director, Generation West Virginia
- Tony Skrelunas, Founder, Tribe Awaken
- Jeremy Richardson, Senior Energy Analyst, Union of Concerned Scientists
- Heidi Binko, Executive Director & Co-founder, Just Transition Fund

Thank you for considering this letter in advance of the Advisory Council's public meeting on May 13, 2021. Sincerely, Max Shipman, Program Associate, Just Transition Fund, Max Shipman | Program Associate, Just Transition Fund, A Philanthropic Initiative Housed at Rockefeller Philanthropy Advisors,

Full Name (First and Last): Robert Dean

Name of Organization or Community: Center for Neighborhood Technology (CNT)

City and State: Chicago, IL

Type of Comment: Written Comment Only

Brief description about the concern: We would like to offer supportive comments concerning Justice40. These are stated in a letter that we have submitted by email, and also restated below.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

We would like to reinforce comments already made by the Equitable and Just National Climate Platform, all of which we support. There are several other considerations that we think are important to include within Justice40:

- Reinforcing the Platform’s recommendations on stakeholder engagement, Justice40 should be co-designed with community-based organizations (CBOs), particularly those who directly confront environmental justice problems. Definitions (of environmental justice communities, and benefits of federal investment) should be determined with CBO collaboration, and decision-making in the implementation of Justice40 should also have active involvement of CBOs – and, crucially, should compensate CBOs for their participation.
- Further, Justice40 needs to combine quantitative data with qualitative data, collected from outreach to frontline communities, and incorporating their identification of problems they face and the benefits that federal investments would bring, rather than relying solely on national-scale data analysis. In other words, any tool should be data-informed at the local level, not solely data-driven.
- In addition to supplementing EJSCREEN by incorporating measures from CalEnviroScreen, Justice40 should go beyond traditional environmental justice measures (e.g. pollution, exposure to hazards) to include climate justice (e.g. flooding, utility costs) and mobility justice (e.g. pedestrian and bicycle safety, transportation costs, access to electric vehicle infrastructure) and address cumulative impacts.
- We support the Platform’s recommendations to report a gradation of environmental justice conditions, so that the degree of environmental justice concern can be reflected and the most vulnerable communities which face multiple and overlapping concerns can be prioritized.
- Finally, Justice40 would be most valuable if it acknowledged federally-driven harms such as redlining, included these factors in identifying impacted communities, and provided a pathway for redressing harms to specific communities. Thank you for your consideration, and please see our emailed letter for further content.

Justice40 subgroup, working group. Background: Ramapough Lenape Nation state recognition as (Historical Indian Tribe of New Jersey). Ringwood New Jersey, Ford Superfund Site and the abandoned mines, burden and factors associated living in the superfund area of our tribal resident members, effects is a persistent problem and the lack of funding has hindered our Nations, in this quiet crisis of unmet needs what appears as at the county/city/state process we’ve been experiencing this for many, many years. As Governor Jon S. Corzine Executive Order 122, October 1, 2008. A lot of good recommendations, we all know the realities in the situations living the superfund areas over the years, the lack of coordination between agencies. Emergency stop response is critical adjusting in a third wave of contamination unless they are recommendations here that are swift measure in relocation our tribal members community and technical assistance for native people who are entitled to adequate, safe and sanitary home like other Americans. Often there is overlap in responsibilities and lack of coordination between the federal agencies as well as state agencies that administer housing-related programs from construction to sanitation services living on superfund area in the development of new activities. Reduce pollution through permitting effects are a persistent problem for the Ramapough Lenape Indian Nation, as it well documented in the concerns, we could use a primary resource and some technical assistance here and a more comprehensive approach is needed. As in the information below has not indicated a relocation act for our tribal residents in (NPL). As of the same contractors are being used in the first clean up attempt, plans are to get even more aggressive in the cleanup. As we’ve partnerships

with universities, in support our communities addressing the legacy pollution problems and challenges that overflow in the Wanaque Reservoir in the habitation of plants fish and wildlife. The reservoir supplies the drinking water for over 6 million New Jersey residents. Chief Vince Mann Turtle Clan Ramapough Lunaape Nation Tribal Practitioner Robert L McCaslin Grand River Ottawa member of LRBOI.

3Information about the Ringwood Mines/Landfill Superfund Site. The Ringwood Mines/Landfill Superfund site comprises approximately 500 acres in a rural area of Passaic County, New Jersey. The site was added to the National Priorities List (NPL) in September 1983. The Agency removed the site from the NPL in 1994; however, in 2004 significant amounts of paint sludge was discovered and the site was return to the NPL. Approximately 1.5 miles long and 0.5 miles wide, the site includes abandoned mine shaft and surface pits, an inactive landfill, and industrial refuse disposal area, small surficial dumps, a municipal recycling center, Ringwood Borough garage, and about 50 private homes. Many of the residents living within the site are members of the Ramapough Lenape Indian Nation, which is recognized as a tribe by the state of New Jersey. Portions of the site are currently utilized as Ringwood State Park, utility corridors, Borough facilities, and Wanaque Reservoir, located approximately one mile south of the site. Operable Unit 2 is divided into three areas of concern: the Peters Mine Pits, Cannon Mine Pit Area, and the O'Connor Disposal Area. All three areas contain waste fill material, and contaminated soil.

2Information about the Ringwood Realty Corporation The Ringwood Realty Corporation (RRC) was a subsidiary of the Ford Motor Company and owned the property from 1965 to 1974. Beginning in 1967, RRC began disposing and/or allowing others to dispose of various types of waste materials, including scrap car parts, paint sludge, and drums containing hardened sealing and insulating material generated at the Ford facility in Mahwah, New Jersey. RRC also directed O'Connor Trucking and Haulage Corporate, a Ford contractor, to dispose of waste material from Ford in various areas of the site.

4Overview of the Consent Decree for Remedial Action The consent decree, approved by the District Court of New Jersey, requires Ford and the Borough of Ringwood to perform the cleanup work as selected in the record of decision—and later altered by an explanation of significant differences—for OU2, including the excavation of lead-contaminated soil, off-site removal of drummed waste, and construction of remedial caps. The consent decree is unique in its division of financial assurance responsibilities between the EPA and the state. This division addresses the state's concerns about having sufficient funds to support operation and maintenance (O&M) costs in the event the settling defendants fail to perform or are unable to perform the O&M in the future.

Full Name (First and Last): Mary Todd

Name of Organization or Community: Team Upstream

City and State: Memphis TN,

Type of Comment: Written Comment Only

Brief description about the concern: The Byhalia Pipeline proposed for parts of Memphis would adversely affect the community's health and endanger our aquifer, the source of the county's drinking water.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Please review any policies at the federal level that could prevent the installation of this crude oil pipeline. Thank you

Full Name (First and Last): Miyoko Sakashita

Name of Organization or Community: Center for Biological Diversity **City and State:** Oakland, CA

Type of Comment: Written Comment Only

Brief description about the concern: Please see PDF letter mailed to whejac@epa.gov. Generally, the environmental justice topics concern: (1) Plastic manufacture and pollution (2) Offshore oil and gas pollution (3) Other polluting projects

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

(1) Environmental justice in petrochemical corridors that make plastics, including denying permits to Formosa Plastics to pollute a Black community in Louisiana; (2) Ending federal leasing and permitting for offshore oil and gas projects that harm cultural resources and disproportionately burden communities of color; (3) Stop pollution from Limetree Refinery in St. Croix and ports, including Seattle Port

To whom it may concern: Environmental justice should include the basic human right to clean air and water of all those in underserved rural communities. Currently in our very rural Grayson County in Southwest Virginia, the Christmas tree business is buying and razing thousands of acres of our natural woodlands per year., and converting them into heavily sprayed, poisoned monoculture, with no regard for the wells or lungs of the populace. Many of us are dying of cancer, and there is apparently no recourse at any level of government. "Life, liberty, and the pursuit of happiness" -- Surely 'Life' includes the right to live our natural lifespan. Current agricultural law was created for the farms of the 1930's, and farming now is a completely different beast that included chemicals that devastate the land and surrounding areas for generations. Please reform the laws of agriculture to include: 1.) Requiring a permitting process just as for a factory. 2.) More oversight on environmental issues by an agency that has teeth. 3.) Enforcement of current law by something other than tiny fines which don't get paid anyway. Thank you, Elizabeth Kafka

WHEJAC April 2021 Meeting Public Comments, Members of the Whitehouse Environmental Justice Advisory Council: Thank you for your work on these difficult and complicated problems and for the opportunity to comment. I am an environmental health scientist specializing in environmental and occupational epidemiology and public health. I would like to draw your attention to environmental injustices in the management of wastes, in their production, failed attempts at disposal and remediation, impacts on climate disruption, and the public health implications for communities experiencing decades of discrimination. There are two forms of waste generated that I would like to focus on: radioactive waste from mining, milling, processing, transportation and use in the nuclear industry, and the increasing amounts of accumulating medical, hazardous, and domestic wastes generated by the response to the COVID 19 pandemic. I am concerned that the waste management problems are being left out of the discussion of our nation's response to three interrelated emergencies, climate disruption, systemic racism, and the pandemic, with increasing and disproportionate health impacts on low wealth and communities of color where these industries are located and/or downstream, downwind, and near transportation routes. These impacts are due to contamination of the environment, human exposure to hazardous pollutants, and the adverse effects on the health of those impacted communities. In the rush to find ways to ameliorate the climate crisis, nuclear power is proposed as a low carbon solution with no discussion of the carbon emitted during its extraction, processing and transportation, storage, and during (so-called) remediation of hazardous waste sites. No

consideration is given to the loss of natural resources, food, water, arable lands, wildlife, cultural and religious resources and the burden of illness and death imposed on workers and communities without their informed consent to the siting or execution of the extraction process. The nuclear extraction process is a part of the development of nuclear energy and is not a solution to climate change, only a disruption making it more difficult to adapt and build resilience. The real continuing environmental justice issues affecting resilience are the long term irreparable harm to human life in 'fenceline' communities. And if that isn't enough, so-called advanced nuclear is not advanced in that it generates as much or more nuclear waste than current nuclear power, it is still and always will be a feedstock for nuclear weapons, it is too slow to be useful in meeting 2030 deadlines and too expensive to justify incentives, investments and prioritization to cut carbon from the electricity sector when those funds should be used for real clean energy sources (wind, solar) that are available, less costly, and effective in reducing our carbon footprint now. The long term legacy of nuclear extraction has been felt by indigenous, Latinx, minority and low wealth communities since before the development of nuclear weapons. Uranium mining and processing generates hazardous waste and contaminates air, water, and soil with little or no effective clean up, or even a way to put that waste where it can be held safely for millennia until its radioactivity diminishes. Meanwhile, the affected communities have to live (and die) with compromised health, compromised food and water, displacement from contaminated land with no place to go. We cannot address climate disruption by sacrificing people and the lands in which they live.

The COVID 19 pandemic is generating mountains of waste and has particularly disproportionate impact on frontline workers handling that waste and communities of color because of historic redlining and similar unjust policies making siting of landfills and incinerators in and near those communities with the least ability to influence those policies, who do not benefit from those industries, and in fact are disproportionately and adversely impacted by the legacy of pollution of air, land, water. There is inadequate to non-existent regulation or safeguards to prevent contamination and exposure to chemical, biological, and radioactive substances, with resultant long term devastating impacts on the health and well-being of these communities. In our rush to stem the epidemic by producing disposable personal protective equipment, and implement testing and vaccination, there seems to be no coherent management of the results of this effort. Much of the personal protective equipment and disposable medical equipment is plastic. Most plastics are manufactured from fossil fuels, with resulting CO2 and methane emissions with impacts on climate disruption. Frontline workers are tasked with collecting and transporting that waste and suffer the most immediate effects of exposure. Much of the waste goes to landfills and/or incinerators, with toxic emissions to air, soil and potentially surface and ground water, and food supplies affecting the health and well-being of local and regional communities. This is an historic situation of placement of these facilities where local residents have little power to object. And is part of a larger waste mismanagement issue affecting workers and communities. Contamination of air, water, soil, ecosystems and human bodies is costly and is not limited to geographic areas. If there is an incinerator next door or in the next county, the air emissions and ash going to a landfill may be crossing political boundaries. And water flows through and carries the waste elsewhere. But the people close by suffer the worst impacts. Thank you for the opportunity to add these two concerns about the intersections of generating wastes, our inability to manage those wastes in a safe manner, impacts on environmental justice, and response to climate disruption.

Full Name (First and Last): Theodora Tsongas

Name of Organization or Community: self

City and State: Portland Oregon

Type of Comment: Written Comment Only

Brief description about the concern: EJ issues generated by mismanagement of hazardous wastes in placement in or near communities of color with resultant exposures and health impacts.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

Mismanagement of nuclear and covid19 wastes adversely impacts EJ communities and must be regulated effectively to prevent these impacts.

Full Name (First and Last): Kim Duncan

Name of Organization or Community: none

City and State: Roanoke

Type of Comment: Written Comment Only

Brief description about the concern: Too many unnecessary pipelines are being approved by FERC. After the approval process the pipeline companies are running rampant and using 'Eminent Domain' to confiscate private property for 'for profit' companies. The use of Eminent Domain should be excluded from ALL for profit pipeline companies.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

WHEJAC needs to review pipeline approvals by FERC and, if possible, reverse the approval of the Mountain Valley Pipeline that is currently destroying Southwest Virginia.

The Federal Energy Regulatory Commission DOES NOT REGULATE. It is a rubber stand for the fossil fuel big money. The fossil-fuel corporation EQT, newly named Equitrans Midstream Corporation, will continue to collude with FERC, the ATC, and any other such government or quasi-official organization which accept their bribes/influences. Because of steep slopes and already-documented failure of many pipe-weld x-rays, hundreds, possibly thousands of individual Mountain Valley Pipeline pipe sticks will torque and continue to leak. One joint? Meh!.... but hundreds, and we have a methane disaster on our hands. We all know methane leaked to the atmosphere is a huge order of magnitude more toxic than CO2. It is 84 times more GHG lethal than CO2. The Marcellus Shale Play is just a juicy short-term peach orchard, and EQT has sticky fingers from stealing ripe fruit. With millions of fellow citizens and for our Planet's future generations, we won't back down! EQT must not be allowed to ruin A.T. viewscapes or to cross the Appalachian Trail itself. I urge the White House: "Reform FERC and require it to regulate. No more revolving door for industry onto FERC. Just Say No to EQT." Richard H. "Freeman" Allan III - 1425 Trailside Ct #102 Charlottesville VA 22911 Independent Scholar-Virginia Foundation for the Humanities; Author; Researcher; Iconologist; Environmental Activist, Aim to serve others and Planet Earth. Try a smaller footprint. Laugh more! Need less stuff.

Good Morning, I am writing to help inform the future work of the White House Environmental Justice Advisory Council, and request that the information be incorporated into the record for federal agencies' consideration. Thank you. I would also request that it be shared with other relevant agencies (Immigration/USAID/International Aid for the Northern Triangle). I volunteer with the Inga Foundation and know from our 10+ years in Honduras that there are simple, inexpensive solutions to helping families there who cannot feed themselves from becoming climate refugees--and our low-cost program

(the Inga tree model) is unmatched. Many of the 300+ families who participate tell us that they had reached a point of desperation with food insecurity that they considered fleeing the country. Now they are producers--proud of their work as they have lifted themselves out of poverty. May we tell you or your staff person how to start solving the integrated problems of environmental and economic destruction with fast, low-cost regenerative agroforestry that keeps people on their land? The peasant farmers are hemmed in by land barons and big Ag, are forced to slash and burn rainforests every few years, just to have arable land to raise their food. But when a farmer plants an Inga tree alley--he stops slash and burn immediately, sowing his corn or beans in the space between tightly spaced trees and achieves 100% food security. We are a small NGO in the US and UK--which over the last 9 years has built a thriving organic, regenerative agroforestry program. Our 17-person Honduran team and subsistence farming families (300+) have planted more than 4 million trees in Honduras, securing 100% success for food security for ALL the farming families in 2 years or less. But don't call us tree-planters (even though we were recently chosen as 1 of 3 world-wide winners in the Trillion Trees Challenge sponsored by the World Economic Forum). We are alley-croppers--growing crops between tightly spaced rows of Inga trees with the crops planted in the spaces (alleys) between the rows. And what does this do for the farmers? It stops destructive slash-and-burn agriculture because the nitrogen-fixing Inga trees enrich the soil, providing arable land indefinitely. And what does it do for all of us? First--because it anchors the soil, it prevents all erosion and mudslides (all our alleys survived the November 2020 back-to-back hurricanes with no damage and families are now pruning and planting). Second, because the Inga trees are pruned annually, farmers are automatically provided with firewood and protective leaf mulch for cooling and moisture. The Inga Tree Model also addresses the climate refugee crisis. Indeed, the main reason families flee Central America is that they cannot grow food and face starvation. Inga alleys allow them to grow basic grains and cash crops--lifting themselves out of poverty with a low-cost, bottom-up solution. In a region receiving the worst climate shocks, Inga alley-cropping has proven to be the most resilient system ever known; having withstood both 7-months of pure drought and 8 inches of rain falling in 18 hours; the bean and corn crops survived and produced nearly a full yield. We have facilitated Inga tree alleys in 15 countries and want to share Inga alley-cropping with the world. We are far beyond proof of concept; we have achieved proof in the landscape--all with no debt, loans, heavy equipment, chemical fertilizers, herbicides, pesticides, or GMO seeds. Inga Alley-cropping positively addresses 11 of the 17 United Nations SDG goals with no negative impacts whatsoever on the remaining 6. We have the professional collaborations, experience, and most importantly, relationships built on trust in the region to expand and create training hubs for scaling and replicating the inexpensive program to regenerate land, save rainforests, keep families from being forced to flee, and sequester carbon. We would love to share more with you and your staff. Thanks for your time and looking forward to connecting. Hope you have two minutes to watch the video below. Best wishes, Lorraine

www.ingatree.org <https://vimeo.com/312129881> 2 MINUTE Vimeo link <https://vimeo.com/358993031> 10 MINUTE Vimeo link

History/background/process: The Inga Foundation is based on 25 years of research by tropical ecologist Michael Hands of Cambridge University into slash-and-burn agriculture (a subsistence farming method used by millions of families in the tropics). 200,000 acres a day are burned and the carbon released is estimated to be 2 billion tons per year. Farmers cut down/burn a patch of rainforest, however, the soil fertility does not last--the bare soil is rapidly stripped of nutrients. This crop failure/erosion forces families to keep clearing fresh areas of rainforest every few years just to survive. But through the implementation of Inga alley cropping, families achieve "land for life," the ability to remain on the same plot of land indefinitely--a method capable of regenerating steep, degraded land that has been abandoned as "sterile" for over 50 years. Hedgerow (alley) planting of Inga tree seedlings

along the contours of steep, degraded land (with seedlings 20 inches apart and rows 12 feet apart) requires no technology or equipment and the entire family works together, close to home. Mrs. Lorraine B. Potter Secretary, Inga Foundation USA 101 Mortimer Drive Evington, VA 24550

I'm commenting from the perspective of Charlottesville, VA. While known as a desirable community for retirees and other relatively well-off families, a fifth of the population consists of low income and minority residents. The housing pattern perpetuates de facto segregation, with the higher rates of air pollution and other triggers of serious health problems concentrated in the lower income, largely rental, neighborhoods. Charlottesville is working on both climate and racial justice and needs all the help we can get. Please do not make program plans that exclude the "underclass" residents of cities like mine. Thank you, Marcia Geyer

Full Name (First and Last): Sandy Spiegel

Name of Organization or Community: Private citizen

City and State: Geneva, IL

Type of Comment: Written Comment Only

Brief description about the concern: My concerns are that we are dumping plastic. Plastic is everywhere, cannot avoid it. recycling is difficult, if not sporadic depending on where you live. Plastics end up in the Oceans. It is time to do something about this, creatively why not use ONLY plastic that breakdown easily and is recyclable. Also our drinking water though out this country is contaminated with PFAS and other cancer causing toxins. Our drinking water is part of our infrastructure. How much costs will go into healthcare due to liver disease, immune problems and cancer because we did not clean up our water sources.

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?
YES!!!!!!!!!!

Dear WHEJAC, Remove ALL pipelines from all Native American reservation lands. Sincerest Regards,
Croitiene n. ganMoryn, Ocala, FL 34480

NO GREEN DEALS OR BUILD BACK BETTER FROM THE CRIMINAL TYRANT FASCIST TECHNOCRAT DAVOS ELITES KLAUS SCWAB AND HIS CRONIES FROM THE WORLD ECONOMIC FORUM. STOP THE TERRIBLE TYRANNY OF THE TECHNOCRATS GLOBAL AGENDA OF TOTAL SURVEILLANCE AND CONTROL USING THE VIRUS AS EXCUSE AND PROPAGANDA TOOL! NO MUZZLING STIFLING MASK MANDATES! NO FORCED VACCINES! END TORTUROUS DEVASTATING LOCK DOWNS NOW! I WANT MY LIFE BACK.

<https://wrenchinthegears.com>, <http://www.wrongkindofgreen.org/2020/10/14/klaus-schwab-and-hisgreat-fascist-reset-an-overview/>, <https://www.thelastamericanvagabond.com>, <https://sonsoflibertymedia.com/covid-19-roadmap-12-step-plan-to-create-a-totalitarian-new-worldorder-were-on-number-8-headed-towards-number-9/>, <https://questioningcovid.com>, <https://www.corbettreport.com/interview-1581-james-corbett-breaks-down-the-great-reset/>, <http://www.stopcp.com/GlobalResetPSYOP/GlobalResetPSYOPMindMap.html>,

<https://everydayconcerned.net/2020/09/04/breaking-major-investigative-report-by-association-offrench-reserve-army-officers-finds-covid-19-pandemic-to-have-a-hidden-agenda-for-globaltotalitarianism-nanotech-chipping-of-all-5g-irradia/>, Pam Popper:

<https://makeamericansfreeagain.com>, Del Bigtree: <https://www.brighteon.com/channels/highwire>,
<https://www.technocracy.news>

If this were rich community, this would not be an issue. Rita Meuer

Thank you for your commitment to environmental justice. The most pressing issues I see are three: New oil and gas pipelines need to be stopped immediately. The planet needs to move with lightning speed to stop the use of fossil fuels. These pipelines will be obsolete soon and the forests and communities that are being torn apart need to be protected. New permits for fracking wells need to be stopped, for the same reasons. Coal ash impoundments needs to be stabilized or safely drained to protect human life and the life and health of surrounding remaining forests. Thank you, Susan Righi, New Marshfield, OH 44766

Full Name (First and Last): Charlotte King

Name of Organization or Community: United Nations RE

City and State: Stockbridge

Type of Comment: Present Comment at Meeting

Brief description about the concern: Sustainable Affordable Housing The EPA Environmental Justice focus provides a foundation to examine a range of causation for disproportionate environmental impacts. While much has been examined around energy efficiency, contaminants in marginalized communities, affordable housing speaks to the United Nations Sustainable Development Goal 11, sustainable cities and communities:

What do you want the WHEJAC to advise the White House Council on Environmental Quality to do?

“What measures can be strengthened to prioritize sustainability in affordable housing that can better inform strategies to achieve measurable outcomes?” -- including: • Significant increase in mortgage financing tied to sustainability for affordable housing • Leveraging social cost of carbon metrics for federal funding to more accurately reflect environmental impacts • Connect more comprehensive sustainability policies for zoning, community planning, and enforcement of planning system controls • Require sustainability disclosures for urban planning grants and housing policy

Halito. MOWA Chahta ohoyo sia. Sv hochifo yvt Virginia Richard. Hello, I am a MOWA Choctaw woman. My name is Virginia Richard, and I live in the city my people call Bvlbancha. You probably know it by the colonial name “New Orleans”. You’ll be hearing from me as a private citizen, but today I come to you as the Gulf Program Manager for the non-profit SouthWings, on behalf of our sisters and brothers in Cancer Alley. The area of Louisiana known as “Cancer Alley” has a large minority population and one of the heaviest pollution burdens in the country. The air at Fifth Ward Elementary School in St. James, LA ranks in the 3rd percentile of toxic air at schools across the United States. (Source: https://grconnect.com/tox100/schoolry2018/index.php?search=yes&school_name=fifth+ward+elementary&city=St.+James&state=LA&state_sum=) Even worse, the air at Fifth Ward Elementary School in

Reserve, LA ranks in the top one percent of toxic air at schools across the United States. Its air toxic concentration is 370.61 times the national average at schools nationwide!!! (Source: https://www.grconnect.com/tox100/schoolry2018/index.php?search=yes&unique_id=39029) Some residents of Cancer Alley report that even plant life that used to be abundant in the area can no longer grow. The ground, air, and water are polluted at deadly levels. Many white residents of Cancer Alley have had their properties bought out, while many Black residents have not. Their decreasing property values and massive pollution risk have made it difficult and even impossible to sell their homes and move. Formosa Plastics wants to build a massive single use plastics plant complex that would not only substantially increase the toxic pollution load on an oppressed community but would also drive global climate change by emitting 13 million tons per year of greenhouse gases, the equivalent of three coal-fired power plants. Appallingly, industrial sites already in existence have made it difficult for descendants to have access to the graves of their loved ones, many of whom were killed by cancer. To add unspeakable insult to injury, the proposed Formosa plant complex would desecrate significant cultural and historical resources, including two burial grounds of people who were enslaved. No amount of jobs can make up for the health impacts and loss of life in Cancer Alley. No amount of economic development (a lie of industry that rarely, if ever, comes to fruition for local communities) can "compensate" for the pollution dumped on marginalized communities, as well as people who live downstream and downwind. What happens in Cancer Alley does not happen in a vacuum. It impacts all of us. A look at 2020's hurricane season will tell you that climate change is already here and Louisiana is just one of the many places on its frontlines. Now is the time to not only stop, but reverse, petrochemical-friendly policies. The WHEJAC should advise President Biden and Chair Mallory to direct the U.S. Army Corps of Engineers to revoke Formosa Plastics federal permits. The WHEJAC should send a letter to the President and the White House Environmental Justice Interagency Council to address the environmental injustices of the proposed Formosa Plastics petrochemical plant and call for the revocation of the permits. The WHEJAC should advocate for a ban on all new or expanded petrochemical facilities. The WHEJAC should hold longer comment periods and enforce time limits for speaking so that all stakeholders are able to speak. During the April meeting, I virtually raised my hand, per the instructions, and waited for two hours without opportunity to speak. Meanwhile, other speakers were able to take up more than their allotted three minutes. The WHEJAC should vastly expand its outreach to frontline communities. It should expand accessibility to communities without consistent and/or affordable broadband access, communities in which breadwinners are not able to attend a meeting during regular business hours, and to communities who are disenfranchised from political processes and may need education about how and why they should participate. The communities that WHEJAC represents are largely not able to participate in meetings and commenting due to a variety of factors that should be considered and accommodated for in planning. Thank you for this opportunity to be a part of the process. I look forward to what we will achieve together.

Environmental Justice and Environmental, Social, and Governance (ESG) Criteria

By Kathy G. Becket esq. and Samantha Phillips Beers esq.

Historically, underserved communities have disproportionately shouldered the adverse health impacts of pollution. On a state level, New Jersey Governor Phil Murphy signed a law to protect the overburdened communities from pollutants last September. And the issue gained national attention after the 2020 elections set in motion a more inclusive focus on improved economic, environmental, and public health. President Biden signed Executive Order 14008, which addresses historical environmental justice by monitoring in real-time areas of significant pollution and creates the Justice40 Initiative directing federal investment in clean energy to 40 percent of disadvantaged communities which launched discussions about environmental justice (EJ), climate change, and economic challenges.

While this new Executive Order increased focus on EJ it left many in business, industry, states, and community groups feeling challenged to figure out how best to “comply” with this Executive Order. The concept of EJ and Justice40 and whether that means raising the standard of living of all remains a mystery.

It is time to explore the ways that corporations can integrate environmental justice principles using existing Environmental Social Governance (ESG) criteria that many businesses already use to gauge and direct their contributions. performance.

With a genuine commitment by private business to ESG that serves to support certain EJ principles, we believe the nation really will “build back better” as President Biden has promised.

EPA defines Environmental Justice as “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.” ESG criteria are a set of standards used by socially

conscious investors to screen potential business investments. Environmental criteria consider how a company performs as a steward of nature, social criteria examine how it manages relationships with employees, suppliers, customers, and the communities where it operates, and governance deals with a company's leadership, executive pay, audits, internal controls, and shareholder rights.

The Biden Administration's goals include identifying the needs of low-income, minority, and indigenous populations disproportionately impacted by debilitating conditions. Although recent Executive Orders invoke steps to achieve environmental justice, they are silent on who is responsible, and to whom. For this to succeed, the responsibility must be shared among stakeholders: local, state, tribal, and federal regulators, communities, and industry creating opportunity for all to invest in the spaces where we live, work, go to school, and pray.

The most efficient way to advance these Executive Orders' visions for environmental justice, then, are to plan action in a way that benefits businesses and communities alike. Existing ESG principles embraced and acted upon by business can complement and supplement activities that advance environmental justice goals.

The ESG ecosystem encompasses more than a hundred organizations producing lists, rankings, ratings, and scorecards of companies vying to be ranked as "most sustainable." Widely used ESG criteria based on a framework developed by Global Reporting Initiative (GRI) can be grouped into six general categories. Working alongside companies, the GRI should address how these six categories might be used to address EJ as defined by EPA, and ESG rankings should consider how corporations' actions will meet EJ goals. Here's what an environmental approach to the six categories might look like:

- Environmental: permitting for generation of hazardous material should be at the lowest possible level with robust, demonstrable waste minimization commitments
- Human Rights: ensuring freedom of association of whether to unionize and ESG (or do you want to say: ensuring workers a voice on the job)

- Labor Practices and “Decent Work”: ensuring fair labor practices and adherence to OSHA requirements, alongside promoting workforce education for career development
- Economic: hiring from the zip code where the facility is located, which supports local sourcing of corporate needs.
- Society: creating a forum for fence line or economically depressed communities to share concerns about projects and offer corporate investment into improved local standards of living
- Product responsibility: ensure that all permit limits are met, and industry standards are evaluated regularly for consistent implementation of state-of-the-art technology

Additionally, EJ related data could be overlaid with environmental, social impact, and governance scoring to promote transparency of tracking and reporting for all members of the community and to demonstrate the benefits gained.

This innovative concept of working within the existing ESG framework to ensure that EJ principles are integrated will lead to a natural synergy and measurable momentum of partnership among government and the private sector. If clearly delineated EJ principles are incorporated within the ESG ecosystem, it would allow the realization by all stakeholders of the added value that EJ principles bring for long term returns. Industry leaders that adopt ESG standards that promote environmental justice would educate others about the considerable national benefits gained by collaboration.

Kathy Beckett has over thirty years of experience practicing environmental, regulatory, and natural resources law, and is a member of Steptoe & Johnson PLLC. Samantha Phillips Beers has practiced and managed environmental enforcement and environmental justice programs at the USEPA Region 3 for over 30 years.

Public Comments to WHEJAC
April 28, 2021

June L. Lorenzo, Laguna-Acoma Coalition for a Safe Environment

Good afternoon. I am Laguna Pueblo and Dine and a resident of the Pueblo of Laguna in New Mexico. I live in a uranium impacted community, once the home of the largest open pit uranium mine in the world. Although the mine closed nearly 40 years ago, affected communities continue to address issues regarding the health of the people and the environment.

My focus today is the application and inclusion of international human rights standards to your work, especially as regards Indigenous peoples in the United States. As the WHEJAC may be aware, international treaty-monitoring bodies have made recommendations to the USA regarding its obligations, that address environmental justice issues.

The USA is not party to many human rights treaties, but it is a party to two important human rights treaties: The International Convention on the Elimination of All Forms of Discrimination (1994 ratification) and the International Covenant on Civil and Political Rights (1992 ratification). As part of the treaty compliance and monitoring process, member countries must provide periodic reports on their compliance, and are often directed to respond to specific questions. In the last few reporting rounds, the US has been asked to address issues of environmental justice/racism by both monitoring bodies. After reviewing reports by the US and civil society the monitoring bodies issue periodic reports referred to as Concluding Observations and Recommendations.

Let me note also that both monitoring bodies have urged the United States to implement the treaties at all levels of government—not just federal. The obligations are binding on the state party as a whole—“all branches of government and other public or governmental authorities at every level are in a position to engage the responsibilities of the state party.” (HRC- 2014 Concluding Observations and Recommendations).

Both treaty bodies have also urged the US to use standards contained in the UN Declaration on the Rights of Indigenous Peoples.

For the ICCPR, the last report was issued in 2014. The UN Human Rights Committee made the following observation and recommendation to the USA:

25. The Committee is concerned about the insufficient measures taken to protect the sacred areas of indigenous peoples against desecration,

contamination and destruction as a result of urbanization, extractive industries, industrial development, tourism and toxic contamination. It is also concerned about the restriction of access of indigenous peoples to sacred areas that are essential for the preservation of their religious, cultural and spiritual practices, and the insufficiency of consultation with indigenous peoples on matters of interest to their communities (art. 27).

The State party should **adopt measures to effectively protect sacred areas of indigenous peoples against desecration, contamination and destruction** and ensure that consultations are held with the indigenous communities that might be adversely affected by the State party's development projects and exploitation of natural resources with a view to obtaining their **free, prior and informed consent** for proposed project activities.

Because the US did not respond to this concern, the HRC raised the same question in 2019, for the next round of reporting by the USA. Its report was due in 2020, but has not been submitted yet.

Regarding the **CERD**, the International Committee on the Elimination of All Forms Of Racial Discrimination, the last set of concluding observations and recommendations were issued in 2014. Specifically it noted the following:

(a) Lack of concrete progress to guarantee, in law and in practice, the free, prior and informed consent of indigenous peoples in policy-making and decisions that affect them;

.....

(c) Insufficient measures taken to protect the sacred sites of indigenous peoples that are essential for the preservation of their religious, cultural and spiritual practices against polluting and disruptive activities, resulting from, inter alia, resource extraction, industrial development, construction of border fences and walls, tourism and urbanization;

The ICERD recommended the following:

(a) Guarantee, in law and in practice, the right of indigenous peoples to effective participation in public life and in decisions that affect them, based on their free, prior and informed consent;

.....

(c) Adopt concrete measures to effectively protect the sacred sites of indigenous peoples in the context of the State party's development or national security projects and exploitation of natural resources, and ensure that those responsible for any damages caused are held accountable;

The next report was due in 2017; it has not been submitted by the United States.

With these considerations in mind, I request that the WHEJAC take into consideration the international human rights obligations of the United States, as elaborated in the UN Declaration on the Rights of Indigenous Peoples, using these standards as guidance for implementing human rights treaties to which the US is a party.



Preserving and protecting our precious freshwater

April 28, 2020

TO: Whitehouse EJ Advisory Council

FROM: Lea Harper, Managing Director

SUBJ: Testimony

Please accept this written testimony in lieu of verbal remarks today. Please also note in the spreadsheet that FreshWater is testifying for Ohio, and specifically the Ohio Valley, not AR.

I am alarmed about the future for the Ohio River Valley because of the legacy of fossil fuel extraction that has polluted the air and water, and now the impact of the fracking industry. The Ohio river is one of the most polluted rivers in the US, and cancer clusters are found all along it because of heavy industrialization and pollution for years.

When the fracking industry first came to Southeast Ohio where I lived, it took over our local government. The industry touted jobs with gross exaggerations, and people were so desperate to feed their families and the schools needed the revenue, so from the beginning, people looked the other way. We were threatened when we questioned the industry. I will never forget one of our first meetings to present on the downsides of the industry. The director of the public library was called at home and told we shouldn't be allowed to speak. Our flyers would be taken down, and some were not allowed to be put out. We had no funding, and economic development money went to the industry. We drove around and documented damages, but we were followed on the roads and threatened and discredited in our meetings. There was so much money behind fracking, and everyone was told they would get rich and we would be energy independent and the industry would bring America's clean energy future. That was just a huge propaganda campaign to cover up the downsides that no one wanted to study. Fake research was commissioned to justify the industry. Our local conservancy district leased our reservoirs and sold our water – public resources given to it by the federal government for recreation, conservation and flood control – not to be destroyed. But that is what happened. Despite appeals in court and two False Claims Act appeals to the US Supreme Court that were not heard but should have been, the Muskingum Watershed Conservancy District has been allowed to keep the hundreds of millions of dollars it made to lease land and sell water to support fracking, but it is still allowed to tax residents for the revenue it needs to build a separate, unaccountable rogue government over 20% of Ohio's land mass.

We knew right away fracking was not going to turn out well. If it was, why would they have to lie and squash the truth and exaggerate the jobs? The fracking industry is the ONLY industry in the United States allowed to operate with special exemptions from important environmental regulations, to the extent that it can legally make people sick from its polluted air and water. Fracking destroys massive amounts of precious freshwater for its one-time singular use, so it takes our drinking water and turns it into a toxic soup of brine, proprietary chemicals and radium to be

cheaply processed and disposed of as non-hazardous, mostly in injection wells that can leak into our aquifers and surface water, contaminating the remaining freshwater. Limited liability corporations invaded the region to drill and process hazardous waste, with some of the injection wells more economically repurposed conventional wells that were never meant to flow downward. What we are seeing already about the toxic nature of this industry is of great alarm, and if it continues as is, we will be left with a terrible mess and more sickness in a region that will become much poorer in the long run because of yet another boom/bust industry taking advantage of the Ohio Valley's valuable resources and workforce desperate enough to take the toxic jobs without long-term employment, benefits or retirement. Fracking will make the region poorer rather than richer in the future, and that is already the case as people like me leave the area because of the industrialized countryside and the smell of benzene and other chemicals in the air. We knew we could not drink the water, even the public water, which was already polluted and getting worse. We were afraid of the release of radioactive particulate matter from all the flaring and the odorless, tasteless water soluble Radium 226 and 228 that could be found in the water. The Pandora's Box of fracking has been opened, and we are already paying the price with our health while economic indicators show promised prosperity is not happening.

Instead, the industry grows with tangible and intangible subsidies, opening up offices in our public courthouses and buying off dissent with a few thousand dollars donated to a ballpark or senior center. We just found out about an approved "statistical region" being proposed along the Ohio River, which could be used to attract funding for diversified and growing jobs for the region's workers so desperate for employment, but we question the intention. The fracking industry moves very quickly behind the scenes, obtaining local support and public funding while trying to keep its plans secret from the rest of us. The fracking-related industry of ethane storage and cracking for petrochemicals continues to try to qualify for federal loan guarantees. The proposed PTT Global petrochemical plant was given \$70 million by JobsOhio for site development without even a final investment decision and no public knowledge or input. That money could have gone a long way to developing a more diversified growth economy, but instead, was given to entice the Thailandbased chemical company. The industry has full-time experts on staff for the legal and paperwork requirements to get as much investment to support the faltering fracking industry and to develop downstream users and foreign markets for the excess product. We do not need more oil, natural gas and wet gas, or plastics. Downstream markets are being artificially incentivized by even more investments which double down on the industry gamble. The industry continually lobbies for ways the government can subsidize it. Financial guarantees are inadequate. The industry does not even have to post bonds high enough to cover clean up and abandonment costs. The LLC's are poised to go bankrupt if necessary. There is little liability for the environmental and public health harms the industry causes because of legislative compromise and captured regulatory agencies. No one will take responsibility. The buck stops nowhere as the OEPA points to the ODH that points to the ODNR. The federal government could intervene to mitigate harms but looks the other way as profits are taken while environmental degradation makes people sicker and sicker in a region that is already poor becoming poorer as the boom becomes a bust.

Fracking will end eventually, and it is obvious it will leave a real mess. We have enough research to assign the harms and prove the long-term costs are not worth the short-term benefits. If the fracking industry had to adhere to the same environmental regulations as everyone else, the

industry would not be able to get off the ground and, perhaps, the region would be able to compete for a better economy based on cleaner growth industries. There are much needed infrastructure improvements, clean energy programs and regenerative agriculture programs needed, all of which are very viable and growing industries. The valley would have a chance to survive and thrive if given a chance rather than be condemned to the mono economy of fracking, frack waste and petrochemicals. People are losing hope for a better future, and the opioid epidemic grows. People know they are living in a sacrifice zone. This is the way it has long been in Appalachia, and if you want a healthier life with better job opportunities, you have to go elsewhere, which our people who can are doing by the droves.

If anyone thinks that no one knows what is going on, they are wrong. There is a growing awareness, and even though the legislators and regulators think they will be able to get away by ignoring it, that will not be the case. We continue to document pollution and health harms as volunteers without much funding because people need our help. There is already enough evidence gathered and presented by now to justify stopping this industry before it can create more harms. This document compiled by Physicians for Social Responsibility provides all the evidence needed for our government to stop fracking now: <https://www.psr.org/blog/resource/fracking-compendium/> . Instead, the harms are growing as the industry tries to find cheap ways to keep going. Just recently, the fracking industry has been given special accommodations to allow this radioactive soup of unknown chemicals to be barged on the Ohio River, a drinking water source for 5 million people. So, the long-term prospects for the Ohio River Valley to recover and thrive are dwindling as the industry ravages the region, and plans proceed to turn the valley into another petrochemical cancer alley like the Gulf region.

Investors are seeing that there is not a good return on fracking. Increasingly, it is being realized the costs are not worth the benefits. The externalized long-term costs are yet to be quantified but will likely be much greater. There are warning bells, and they are turning into sirens. It is time to listen before it is too late. History will point the finger at all those who could have done something to avoid the harms of fracking but who looked the other way. We must stop the exploitation creating the environmental injustices that entrench the long-term poverty of a region long trampled by those who want to leave the costs and pollution with those living in the sacrifice zone to export the profits out of the region. As with the abandoned and orphaned oil and gas wells in the region, those who took the profits are not paying for the cleanup of their mess, and that is the industry playbook. We continue to advocate for investments in better growth industries before it is too late and ask that the Oil and Gas industry stop being subsidized and enabled to externalize its real costs upon us.

I know too many people who have become sick because of living next to fracking and its infrastructure. I know people who have had their land taken by eminent domain for fracked gas pipelines. I have seen things happen legally that I cannot believe could take place in the United States. Fracking not only destroys water and creates massive amounts of toxic pollution and radioactive waste, it violates human rights. People who are harmed cannot find or afford to pay for lawyers to help them, and even if so, still have to prove the industry caused the injuries. Even if that is done, they still often have to wade through years of court and maybe eventually settle with a gag order just to get compensated, but money will not replace the loss of health and home. The injustices of the fracking industry are numerous, and many have been harmed. It is so hard to

believe that can happen here and the industry can operate legally as it does for so long. This is not the United States I thought it was to let this happen to its citizenry without recourse, yet our evidence and appeals continue to be ignored, and the corruption continues.

What will it take to stop fracking and hold the industry accountable for its harms? Climate change is here, and perhaps, that is what will help shift the region away from fracking and the associated petrochemical industry. The warning signs are obvious. The federal government's intervention is needed so a shift can be made in time to stop fracking, clean up the mess, and build back better! We are putting a great deal of faith in President Biden and Vice-President Harris and this Advisory Council to lead the charge to stop fracking and be the leader the world needs to tackle climate change and grow an economy not tied to fossil fuel development. Those policy initiatives and investments will also give the hard-working, honest people in Appalachia a real opportunity for a better future, and we pray the necessary initiatives, investments and public protections will take place in time!

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 615-921-9470

1033 DEMONBREUN STREET, SUITE 205
NASHVILLE, TN 37203

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April 25, 2021

Dear Members of the White House Environmental Justice Advisory Council:

We write on behalf of Memphis Community Against Pollution (“MCAP”) to request that you recommend that southwest Memphis receive federal investments as envisioned in the Justice40 Initiative. Executive Order 14008 establishes “a goal that 40 percent of the overall benefits [of Federal investments] flow to disadvantaged communities” and charges the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor, in consultation with the White House Environmental Justice Advisory Council, with developing recommendations to implement that objective which “focus on investments in the areas of clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure.” Southwest Memphis should be a recipient of the federal aid investments referenced in Executive Order 14008 because it is a predominantly African-American, modest income community that is disproportionately burdened by several existing polluting facilities and the proposed Byhalia crude oil pipeline.

As a first step in implementing the Justice40 initiative, the administration must take a hard look at current proposals to site dirty fossil fuel infrastructure in communities that stand to benefit from the initiative. “Remediating and reducing legacy pollution” as called for in Executive Order 14008, for example, will have muted effect if new pollution sources are simultaneously constructed in the same communities. Accordingly, before your May 27, 2020 reporting deadline to the President regarding the Justice40 initiative, we ask that the administration first reconsider where it permits new fossil fuel infrastructure, and in particular, the Byhalia pipeline, a current threat to southwest Memphis.

The proposed Byhalia pipeline would run 49 miles from an existing Valero crude oil facility in southwest Memphis, through the historic African-American community of Boxtown, and over a drinking water well field that supplies Black communities in southwest Memphis. The chosen route has been identified by a representative of the pipeline company as the “point of least resistance,” and the pipeline company is currently seeking to take land from unwilling sellers through eminent

domain.¹ This administration, through the Army Corps of Engineers, granted the Memphis Community Against Pollution

Letter re: Byhalia Pipeline and Justice40

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project a Clean Water Act Section 404 permit during its first few weeks in office. A Section 404 permit is necessary to allow the pipeline to be constructed through various streams and wetlands. The Army Corps permitted the project using its fast-track Nationwide Permit 12. That fast-track permit allows the pipeline to be constructed without any project-specific environmental review under the National Environmental Policy Act, including consideration of alternatives, and without public comment—a hallmark environmental injustice issue. MCAP requests action to reconsider this project—particularly use of Nationwide Permit 12 to construct the project—concurrently with action to elevate new projects that will support a healthy, sustainable environment for the already overburdened southwest Memphis community.

The Byhalia pipeline has strong opposition already. Just last week, twenty-eight members of Congress, including local Representative Steve Cohen, asked this administration to reevaluate the use of Nationwide Permit 12 for this pipeline.² Former Vice President Al Gore, Reverend William Barber II, and other thought leaders have also spoken out against the pipeline. A crude oil pipeline running through an environmental justice community and threatening the wells that provide the community's drinking water has environmental concerns that should be rigorously evaluated during a public process that solicits and creates space for robust participation by those who will be most harmed by land loss, construction, and environmental degradation in the event of a spill. At minimum, this requires evaluating the project through the individual Section 404 permitting process—with the benefit of project-specific environmental review and public participation—rather than Nationwide Permit 12. More to the point, this project is completely counter to the type of investment that can be realized through the Justice40 initiative. It is neither clean nor sustainable, does not contribute to the remediation or reduction of legacy pollution, nor does it contribute to the development of critical clean water infrastructure. Southwest Memphis can benefit from the Justice40 investment in each of the areas contemplated by the initiative. As a community group focused on pollution prevention, this letter focuses on how southwest Memphis can benefit from investment in clean energy and transit, remediation and reduction of legacy pollution, and the development of critical clean water infrastructure.

Clean Energy

¹ <https://www.commercialappeal.com/story/news/2020/02/15/memphians-question-plains-allamerican-byhalia-connection-pipeline/4761549002/> (Attachment A)

² <https://www.commercialappeal.com/story/news/2021/04/16/aoc-cohen-pressley-congresscalling-biden-stop-byhalia-pipeline/7253594002/> (Attachment B)

First, despite its rich cultural history, southwest Memphis is burdened by significant environmental hazards. The community, which is at least 97% African-American, is located directly adjacent to (and downwind from) the heavily industrialized President's Island. The median income in southwest Memphis is \$17,202 and 22 of the top 30 major emission sources in Shelby County, where southwest Memphis is located, are in or near southwest Memphis.³ For decades, the Tennessee Valley Authority's Allen Coal Plant spewed pollutants into the air in Southwest Memphis. Although that coal plant retired in 2018, it remains a pollution problem due to high levels of arsenic and other coal ash contaminants leaching into groundwater. The Tennessee Valley Authority now operates a natural gas plant next door to the coal plant. The gas plant contributes to the area's air pollution and also consumes an enormous amount of Memphis's clean drinking water to operate. In addition to coal- and gas-fired power plants, Southwest Memphis is also the location of the Valero oil refinery. That refinery has topped the national emissions inventory in the category of stationary sources, and it is right in the very same zip code that is currently fighting against eminent domain claims of the Byhalia pipeline.⁴

Due to its status as an air pollution hot spot, local residents experience a significantly higher burden of air toxics exposure and a cumulative cancer risk that is four times higher than the national average.⁵ In fact, just this week the local newspaper reported that Shelby County where Memphis is located is the only county in Tennessee that received an "F" for air quality in the American Lung Association's latest State of the Air report.⁶ The same article reported that the vast majority of stationary-source criteria air pollutants are emitted from sources in Southwest Memphis.

Without a doubt, southwest Memphis can benefit from clean energy to counter the existing negative air quality impact surrounding industrial facilities and to save struggling families money on electric bills. In a 2016 report, the American Council for an Energy Efficient Economy found that Memphis is the city with the highest median energy burden and the highest low-income household energy burden in the country.⁷

The local electric utility, Memphis Light, Gas, & Water, is currently evaluating whether to terminate its contract with the Tennessee Valley Authority in order to obtain cheaper, cleaner electricity from renewable energy sources and reduce electric bills. Regardless of who provides MLGW's electricity, southwest Memphis would benefit from federal

³ Jia, Chunrong et al. "Air toxics concentrations, source identification, and health risks: An air pollution hot spot in southwest Memphis, TN." *Atmospheric Environment*, 81 (2013) 112-116.

⁴ <https://www.commercialappeal.com/in-depth/news/2021/03/17/black-families-square-off-bigoil-byhalia-pipeline-struggle/6817169002/>.

⁵ Jia.

⁶ <https://www.commercialappeal.com/story/news/2021/04/22/air-quality-tns-only-majorityblack-county-gets-f-disparities-studied/7326279002/> (Attachment D)

⁷ Ariel Dreihobl and Lauren Ross, ACEEE, *Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities* at 5, 17 (April 2016).

investments in clean, renewable solar energy and energy efficiency to reduce the extremely high energy burden borne by struggling families.

Clean Transit

Clean transit options could also counter the air pollution impacts borne by the community from being bordered on the east by Interstate 69, and by being transected by Interstate 55.⁸ Other significant sources of transportation related air pollution for this area include barge traffic on the Mississippi River, to the west, several local rail yards, and air traffic at Memphis International Airport.⁹

Remediation and Reduction of Legacy Pollution

Southwest Memphis has a specific need for remediation of existing pollution sites, and reduction of legacy pollution. To name just two examples, groundwater at the Valero refinery is contaminated and has been under a state remediation order for decades.¹⁰ TVA's Allen Coal Plant, with its unlined, leaking coal ash lagoon, is the subject of remediation orders by the state and under the federal Coal Ash Rule. Coal ash, stored wet and in unlined pits adjacent to surface water, leaches toxic contaminants into groundwater and threatens surface water and communities nearby. At the Allen plant, arsenic and other coal ash contaminants have been found in extremely high levels groundwater wells around the plant and remediation of the site could take years.¹²

Development of Critical Clean Water Infrastructure

Wastewater was not treated in the southern half of Memphis until the Maxson WWTP was completed in 1975.¹³ The Maxson facility treats an average of 70 million gallons per day, operating under NPDES Permit #TN0020729.¹³ The EPA targeted the facility for inspection on October 19, 2020 due to more than 40 incidences of NPDES effluent exceedances in the last 12 quarters.¹⁴ Current investments are targeted toward fixing these problems, but they are not the only threats to southwest Memphis water infrastructure.

⁸ Jia.

⁹ Id.

¹⁰ <https://static1.squarespace.com/static/5b7b3e99d274cb770c84b404/t/5ed184032c0f245a2e211f>

¹¹ /1590789165192/Valero_OCTOBER+2018+%E2%80%93MARCH+2019_small.pdf

¹² <https://www.commercialappeal.com/story/news/politics/2021/04/13/steve-cohen-tennesseevalley-authority-coal-ash/7145151002/> (Attachment E)

¹³ <https://www.memphistn.gov/government/public-works/environmentalengineering/wastewater-treatment/> ¹³

<https://maxsonupgrades.com/>

¹⁴ http://tdec.tn.gov:8080/pls/enf_reports/f?p=9034:34051:::NO:34051:P34051_PERMIT_NUMBER:TN0020729

In 2020 Memphis Light, Gas, and Water (“MLGW”) began a five-year, \$142.4 million process to update the city’s drinking water infrastructure¹⁵ following a 2019 outside audit that rated the system as on the verge of collapse.¹⁶ Hesitations by the city council to raise water rates and COVID-19 have both delayed the updates. Then, in the midst of the ongoing upgrades, a polar vortex in February 2021 wreaked havoc on Memphis’ aging infrastructure.¹⁷ Nearby Germantown, Collierville, and Bartlett all experienced the same weather conditions, but none had the same water system problems that Memphis experienced.¹⁸

During the crisis, Memphis’ water system struggled to draw enough water in order to maintain water pressure due to dozens of simultaneous water main breaks.¹⁸ Four of the city’s eight water pumping stations were given a red status to indicate the severity of their problems, and three of the four were MLGW’s oldest pumping stations.¹⁹ The Wilson Mallory Pumping Station was built in 1924, and the 2019 audit noted that its “electrical service and gear is beyond service life and specific elements exhibit corrosion and hazard.”²⁰ The James Sheahan Pumping Station was built in 1932, and the Allen Pumping Station was built in the early 1950s.²² The fourth “red” pumping station, as well as the four that did not reach red status during the ice storm, were built in the 1950s through 1990s.²¹

Of the aging equipment used by MLGW, some dating to the 1930s, MLGW President and CEO J.T. Young has said, “We discussed how we knew we had a lot of aging equipment.

Without wells you can’t get the water. We have a lot of wells that are really, really past their prime.”²²

As part of the city’s \$142.4 upgrade plan, \$49.4 million is earmarked for water wells, including construction of new wells, closure of old wells, and rehabilitation of some existing

¹⁵ <https://dailymemphian.com/subscriber/article/20125/larger-questions-about-delayed-mlgwwater-fixes>

¹⁶ <https://www.commercialappeal.com/story/news/local/2021/02/23/memphis-water-plaint-duepolitics-delaying-infrastructure/4545767001/> (Attachment F)

¹⁷ Id. ¹⁸

Id.

¹⁸ <https://dailymemphian.com/subscriber/article/20125/larger-questions-about-delayed-mlgwwater-fixes>

¹⁹ <https://www.commercialappeal.com/story/news/2021/02/25/memphis-jackson-shreveportwater-infrastructure-showed-age-during-storm/4575841001/> (Attachment G)

²⁰ 21

Id.

²² Id.

²¹ Id.

²² <https://dailymemphian.com/subscriber/article/20125/larger-questions-about-delayed-mlgwwater-fixes>

wells. Also, \$32.7 million is planned for use on the eight pumping stations, \$29.2 million for various electrical equipment upgrades, \$6.2 million for wash water recovery basins (for wastewater to be recycled for non-drinking uses), \$4.3 million for digitizing the control systems, and \$400,000 for land purchases.²³ Three of the city's 140 water wells were scheduled to be replaced last year, but the third replacement was only 85% complete at the end of 2020.²⁴ Eight more wells are scheduled to be replaced in 2021, and refurbishment of two water pumping stations is expected to be completed this spring.²⁷

Another drinking water concern was raised in November 2019 when 35 of the 165 Shelby County Schools were found to have one or more water sources with lead levels above the EPA's recommended threshold.²⁵ MLGW stopped using lead pipes for drinking water lines in the 1950s, but as of 2019, they estimate that the city has 16,500 lead services lines that need to be replaced.²⁶ With a goal to replace 1,000 lines per year, MLGW hopes to have all of the lead pipes replaced by 2035.²⁷

The bottom line is that disadvantaged communities in southwest Memphis could significantly benefit from federal investments in the development of critical clean water infrastructure.

Conclusion

We hope that you will prioritize consideration of southwest Memphis for benefits from the Justice40 initiative, and that the administration will abandon the use of Nationwide Permit 12 for the Byhalia Pipeline. Finally, the consultation envisioned by EO 14008, with directly impacted communities, can be achieved by speaking directly with representatives of Memphis Community Against Pollution. The organization is a local non-profit organized to combat environmental injustice and to protect public health and the environment in southwest Memphis, and continue to work tirelessly to achieve a healthy environment for the people who live, work, play, retreat, and retire there.

Sincerely,

/s/ Chandra T. Taylor

Chandra T. Taylor

²³ Id.

²⁴ Id. ²⁷

Id.

²⁵ <https://www.commercialappeal.com/story/news/education/2019/11/12/shelby-county-schoolslist-lead-drinking-water/2574597001/> (Attachment H)

²⁶ <https://www.commercialappeal.com/story/news/local/2019/12/20/lead-levels-memphis-schoolstudents-tested-faq/2675899001/> (Attachment I)

²⁷ Id.

Senior Attorney and Leader of SELC's
Environmental Justice Initiative



May 8, 2021

White House Environmental Justice Advisory Council

[Public comment form](#) and whejac@epa.gov

Subject: WHEJAC April 2021 Meeting Public Comments

On behalf of the oceans program of the Center for Biological Diversity, we write to share some key environmental justice topics for your consideration. We work in partnership with frontline communities and environmental justice organizations to address pollution, environmental damage, and biodiversity loss that disproportionately burdens communities of color. Thank you to the Council for the opportunity to give public comment and for your important leadership on environmental justice issues.

1. The plastics lifecycle perpetuates environmental racism a. Plastic production pollutes communities of color

The Council should urge the Biden administration to address plastic pollution and production. Plastic pollution isn't just a threat to wildlife like birds and sea turtles. It is a major environmental justice problem. In April 2021, the UN Environmental Program and Azul released a report on the environmental justice impacts of plastic pollution and concluded that there are environmental justice impacts of plastics throughout the entire life cycle.²⁸

The Presidential Plastics Action Plan, supported by over 600 organizations, lays out how the Biden administration should address plastic pollution and its impact on communities.²⁹ This includes key actions that would address environmental injustices in

²⁸ Calil, Gutiérrez-Graudiņš, Munguía, Chin, Neglected – Environmental Justice Impacts of Marine Litter and Plastic Pollution., United Nations Environment Programme (2021).

²⁹ Center for Biological Diversity, et al., Presidential Plastics Action Plan (Dec. 2020), available at www.plasticfreepresident.org.

petrochemical corridors. More than 100,000 people have signed a petition demanding President Biden and his administration take bold action on plastics.

The environmental justice problems of plastics are throughout the entire lifecycle. First, 99% of plastics are made from chemicals sourced from fossil fuels. The petrochemical facilities which will convert the extracted fossil fuels into plastics are often located near existing fossil fuel infrastructure, which means they are targeting communities that already shoulder a heavy burden of fossil fuel extraction pollution. These facilities are often located in and have a disproportionate impact on low income and minority communities. The petrochemical facilities

are regulated by decades old pollution standards and spew toxins into the air and water in nearby communities.

Then, once the plastics are disposed of most plastics is either landfilled or incinerated, releasing toxic emissions. Nearly 80% of US incinerators are in low income and/or communities of color³⁰

When the plastic is not landfilled or incinerated in the United States, it is shipped to other countries where it is often mismanaged. In 2018, the United States exported 0.83 million metric tonnes of plastics to countries with waste ‘mismanagement rates’ greater than 5%³¹. This mismanaged waste causes toxic pollution and burning the plastics releases toxic fumes into nearby communities³². The waste pickers in these countries also face exposure to toxins and unsanitary work conditions³³.

The Council should advise the Biden administration to follow the steps outlined in the Presidential Plastics Action Plan, including a ban on new permitting of petrochemical facilities.

b. Formosa Plastics should not be permitted to destroy wetlands and pollute a Black community in Louisiana

³⁰ Baptista, Perovich., U.S. Municipal Solid Waste Incinerators: An Industry in Decline, Tischman Environment and Design Center (2019)

³¹ Dell, 157,000 Shipping Containers of U.S. Plastic Waste Exported to Countries with Poor Waste Management in 2018 (2019)

³² Winn, America’s Grungy ‘Recycled’ Plastic is Creating Wastelands in Asia, The Center for Public Integrity (2019)

³³ Calil 2021

The Council should ensure that Formosa Plastics not be allowed to destroy wetlands and further environmental racism. Formosa Plastics, a company with a long record of violating environmental law, seeks to build a plastics production plant in a predominantly Black district of St. James Parish, Louisiana, one that is profoundly overburdened by petrochemical industry development. The plant would take fracked gas and turn it into single use plastics, while polluting the air and water of St. James and Louisiana.

Leaders of the faith-based grassroots organization RISE St. James³⁴ are calling on President Biden and members of his administration to prioritize environmental justice, not more toxic pollution. The Council should meet directly with residents of St. James and leaders of RISE St. James and hear their stories to see how best the Council can support this community fighting for clean air, clean water, and environmental justice.

If this plant is built, it will pollute a predominantly Black community, disturb unmarked burial sites of formerly enslaved people³⁵, degrade wetlands, and deepen the plastic pollution crisis. It must be a top priority of the Biden administration to stop this project and the petrochemical buildout underway in the Gulf and Appalachian regions.

The Council can advise the President and members of his cabinet including Chair Mallory to direct the U.S. Army Corps of Engineers (“the Corps”) to revoke Formosa Plastics federal permits.

There is widespread demand for the President to stop this project. Earlier this year over 40,000 people submitted comments to the Corps³⁶, urging the agency to revoke Formosa’s permits. In March, Representatives Grijalva and McEachin wrote a letter to President Biden and the Corps asking for permanent revocation of the permits.³⁷ The

³⁴ <https://www.facebook.com/risestjames>

³⁵ Coastal Environments, Inc., Cartographic Regression Analysis of Certain Tracts of Land Located in Southeastern Land District West of the Mississippi, St. James Parish, Louisiana, February 19, 2020, [https://ccrjustice.org/sites/default/files/attach/2020/03/St.%20James%20Cemeteries%20\(Reduced\)%20\(1\).pdf](https://ccrjustice.org/sites/default/files/attach/2020/03/St.%20James%20Cemeteries%20(Reduced)%20(1).pdf)

³⁶ Louisiana Bucket Brigade livestream on March 9, 2021. Available at: <https://www.facebook.com/labucketbrigade/videos/3850933241653482>.

³⁷ Natural Resources Committee, Grijalva McEachin letter to Biden on Army Corps Permit for Formosa Plant, March 17, 2021, <https://naturalresources.house.gov/grijalva-mceachin-letter-to-biden-on-army-corps-permit-forformosa-plant-march-17-2021>

United Nations Office of the High Commissioner on Human Rights has recently condemned the project, citing it as a human rights violation.³⁸

Residents of Cancer Alley, including working class communities of color near petrochemical industrial sites have unacceptably high rates of cancer and other preventable diseases.¹² Building another polluting mega-plant in a Black community which already bears the burden of health impacts and systemic racism from over industrialization of the Gulf is not prioritizing environmental justice, as President Biden has committed to doing.

The Council should advise President Biden and Chair Mallory to direct the U.S. Army Corps of Engineers to revoke Formosa Plastics federal permits. Additionally, the Council should send a letter to the President and the White House Environmental Justice Interagency Council to address the environmental injustices of the proposed Formosa Plastics petrochemical plant and call for the revocation of the permits.

2. Offshore and coastal oil and gas pollutes throughout its lifecycle and deepens the climate crisis, with the greatest toll on communities of color
 - a. Offshore oil and gas leasing program should be permanently ended

The Council should support the Department of Interior ending all federal fossil fuel leasing. There is not only need to end new oil and gas leasing, but it is also essential that the U.S. manage a decline of fossil fuel production on existing leases. Producing the oil and gas from all existing leases is inconsistent with U.S. climate goals, and a phase out of existing oil and gas developments would put the U.S. on a better course for climate and environmental justice. These comments are focused on the ocean and coastal environmental justice issues, and therefore focus

³⁸ United Nations Human Rights Office of the High Commissioner, USA: Environmental racism in ‘Cancer Alley’ must end – experts, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26824&LangID=E> ¹² ProPublica, What Could Happen if a \$9.4 Billion Chemical Plant Comes to ‘Cancer Alley’, November 18, 2019, <https://www.propublica.org/article/what-could-happen-if-a-9.4-billion-chemical-plant-comes-to-cancer-alley>

on calling for a new leasing program under the Outer Continental Shelf Lands Act that offers no new offshore oil and gas lease sales.

The federal government has a responsibility to safeguard communities on the front lines of climate change, families who depend on the fossil fuel industry, and communities harmed by fossil fuel pollution. It should address the historical problems in which communities of color were disenfranchised from decisionmaking. Indeed, it is the policy of this administration to spur well-paying jobs, deliver environmental justice, and hold polluters accountable for their actions.³⁹

The federal fossil fuel leasing program must end to address the climate emergency that disproportionately affects communities of color. Climate change poses serious threats to public health and well-being,⁴⁰ harming low-income and communities of color most severely. The Fourth National Climate Assessment concluded that “[t]he health and well-being of Americans are already affected by climate change, with the adverse health consequences projected to worsen with additional climate change.”⁴¹ The health impacts from climate change include increased exposure to heat waves, floods, droughts, and other extreme weather events; increases in vector-, food- and waterborne infectious diseases; decreases in the quality and safety of air, food, and water including rising food insecurity and increases in air pollution; displacement; and stresses to mental health and well-being.⁴² Although everyone is vulnerable to health harms from climate change, populations experiencing greater health risks include children, older

³⁹ See, e.g., Biden Executive Order, Secs. 201, 217.

⁴⁰ U.S. Global Change Research Program, Impacts, Risks, and Adaptation in the United States, Fourth National Climate Assessment, Volume II (2018), <https://nca2018.globalchange.gov/> at 540; U.S. Global Change Research Program, The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment (2016);

Melillo, Jerry M et al., Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014), <https://www.globalchange.gov/browse/reports/climate-changeimpacts-united-states-third-national-climate-assessment-0> at 220.

⁴¹ U.S. Global Change Research Program, Impacts, Risks, and Adaptation in the United States, Fourth National Climate Assessment, Volume II (2018), <https://nca2018.globalchange.gov/> at 540.

⁴² *Id.*; U.S. Global Change Research Program, The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment (2016); Melillo, Jerry M et al. (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014), <https://www.globalchange.gov/browse/reports/climate-change-impacts-united-states-third-national-climateassessment-0> at 221; Sheffield, Perry and Philip J. Landrigan, Global climate change and children’s health: Threats and strategies for prevention, 119 Environmental Health Perspectives 291 (2011).

adults, low-income communities, some communities of color, immigrant groups, and persons with disabilities and pre-existing medical conditions.⁴³

Offshore drilling also takes a heavy toll on communities of color. The industry's negative impacts include oil spills, pollution, and wetlands loss, and contribute to climate change. For example, Port Arthur, Texas and an area called Cancer Alley, Louisiana, are Black communities that host several refineries and rank among in the highest categories of risk to exposure for

cancer causing pollution.¹⁸ The oil industry's own studies have acknowledged its significant contribution to coastal destruction, making the region more vulnerable to storms and hurricanes. From 1932 to 2010, coastal Louisiana lost about 1.2 million acres, equating to coastal wetlands disappearing at a rate of about one football field per hour.⁴⁴ The oil and gas industry admits that it is responsible for at least 36 percent of the total loss of this area, though the Department of the Interior has stated that the industry could be responsible for as much as 59 percent of the loss.⁴⁵ The loss of such shoreline protection leaves communities more vulnerable to severe storms. And hurricane disasters have highlighted the vulnerabilities of communities of color to the oil industry. Severe storms — exacerbated by climate change and land loss from offshore oil activities — have destroyed homes, displaced families, and triggered toxic spills.⁴⁶

The Council must engage with affected communities on the impacts from and how to restore environmental justice communities that have been most harmed by oil and gas

⁴³ U.S. Global Change Research Program, *Impacts, Risks, and Adaptation in the United States*, Fourth National Climate Assessment, Volume II (2018), <https://nca2018.globalchange.gov/> at 548; U.S. Global Change Research Program, *The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment* (2016).

⁴⁴ Bureau of Ocean Energy Management, *Gulf of Mexico OCS Oil and Gas Lease Sales: 2017-2022 Gulf of Mexico Lease Sales 249,250,251,252,253,254,256,257,259, and 261 Draft Environmental Impact Statement* at 3-188 (2016); Rich, Nathaniel, *The Most Ambitious Environmental Lawsuit Ever*, *NY Times* (Oct. 02, 2014), http://www.nytimes.com/interactive/2014/10/02/magazine/mag-oil-lawsuit.html?_r=0.

⁴⁵ Marshall, Bob, et al. *Losing Ground: Southeast Louisiana is Disappearing, Quickly*, *Scientific America* (Aug. 28, 2014); <http://www.scientificamerican.com/article/losing-ground-southeast-louisiana-is-disappearing-quickly/>.

⁴⁶ Flores, Aaron, et al., *Petrochemical releases disproportionately affected socially vulnerable populations along the Texas Gulf Coast after Hurricane Harvey*, *Population and Environment* (2020); Day, J. W., et al., *Restoration of the Mississippi Delta: Lessons from Hurricanes Katrina and Rita*, *Science* 1679–1684 (2007).

extraction. Biden’s Executive Order Advancing Racial Equity mandates engagement with environmental justice communities:⁴⁷

[A]gencies shall consult with members of communities that have been historically underrepresented in the Federal Government and underserved by, or subject to discrimination in, Federal policies and programs. The head of each agency shall evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations and civil rights organizations.

Additionally, Executive Order 12898 requires “[t]o the greatest extent practicable and permitted by law,” that the Department of the Interior “make achieving environmental justice part of its mission by identifying and addressing . . . disproportionately high and adverse human health or environmental effects of [its] activities on minority populations and low-income populations.”⁴⁸

¹⁸ O’Rourke, et al., *Just Oil? The Distribution Of Environmental And Social Impacts Of Oil Production And Consumption*, *Annu. Rev. . Resour.* 2003. 28:587–617 (2003); Environmental Integrity Project, *Breakdowns in Air Quality* (Apr. 27, 2016); Earthjustice, *Community Impact Report: The Toll of Refineries on Fenceline Communities* (Oct. 2014); Southwest Workers Union, *The Oil Industry in the Gulf of Mexico: A history of Environmental injustices*, Aug. 2003; Environmental Integrity Project, *ACCIDENT PRONE: Malfunctions and “Abnormal” Emission Events at Refineries, Chemical Plants, and Natural Gas Facilities in Texas, 2009-2011* (July 18, 2012); James, W. et al. *Uneven Magnitude of Disparities in Cancer Risks from Air Toxics*, 9 *Int. J. Environ. Res. Public Health* 4365–4385 (2012).

There are four key actions for the federal government to take now: (1) ending new offshore oil and gas leasing; (2) a managed phase out of existing drilling activities; (3) providing good jobs and health care for families harmed by oil and gas extraction and dependent on the industry; and (4) using BP oil spill restoration funding to build capacity of communities of color on the Gulf Coast in ways that benefit both the environment and communities.

The Council should ensure meaningful consultation with affected communities, and prioritize actions that benefit communities that historically have been harmed first and most by the extractive economy, including communities of color, Indigenous communities, and low-wealth communities. The BP oil spill and its environmental

⁴⁷ *Id.*

⁴⁸ 59 *Fed. Reg.* 7629, at § 1-101 (Feb 11, 1994).

impacts caused trauma and harmed environmental justice communities. The entire process of drilling and refining fossil fuels is dangerous and dirty.⁴⁹ Indigenous, Black, and other communities of color have been disproportionately burdened by offshore oil development. Refineries and petrochemical plants are more likely to be in low-income and communities of color.⁵⁰ African Americans are 75 percent more likely to live near toxic pollution than the rest of Americans and are exposed to 38 percent more air pollution than white people.⁵¹ There is an urgent need to dismantle the systemic racism that has harmed these communities and ensure restitution.

The Council must also ensure a robust government-to-government consultation with tribes on how to restore and repair damage from offshore oil and gas activities. This should extend to all of the Indigenous nations affected, which is not limited to federally and state recognized tribes. It should take special care to ensure that the rights of Indigenous Peoples are upheld, which includes Free Prior Informed Consent. The coastal areas affected by the BP oil spill and other areas affected by fossil fuel extraction include important cultural resources for Indigenous nations. Additionally, the Biloxi-Chitimacha-Choctaw tribe has lost 98 percent of its Isle de Jean Charles land to coastal erosion and flooding caused in large part by channels cut for pipelines. Consultation should be meaningful and work toward consent and consensus, not merely information sharing.

b. Phase out offshore drilling in the Santa Barbara Channel that has been shut down for six years

There are seven offshore oil and gas platforms that have been shut down off the Pacific Coast for six years that should remain closed to protect our climate and Chumash cultural resources. ExxonMobil (Exxon) has plans to restart three of these offshore oil platforms in the Santa Barbara Channel. In 2015, the Plains Pipeline ruptured at Refugio State Beach spewing oil into nearby beaches and injuring and killing marine wildlife. Since then, the three ExxonMobil platforms that were connected to Plains Pipeline have been shut down. Exxon wants to restart operations on their three offshore drilling platforms and truck oil on Highway 101 and eventually on Route 166 in the Cuyama Valley. Plains Pipeline is also seeking authorization to build a new

pipeline through Bureau of Land Management and other public lands to service the offshore platforms.

⁴⁹ Donaghy, Tim, et al., *Fossil Fuel Racism* (April 12, 2021).

⁵⁰ Johnston, J., & Cushing, L, *Chemical Exposures, Health, and Environmental Justice in Communities Living on the Fenceline of Industry*, 7 *Current Environmental Health Reports* 48 (2020).

⁵¹ Fleischman, L. et al. *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil and Gas Facilities on African American Communities* (2017).

There are onshore and underwater cultural resources along the possible pipeline and trucking route that would be impacted. Among other cultural resources impacts, the Project may threaten sacred lands and wildlife that sustain Chumash culture, religious practices, and lifeways. The Bureau of Land Management should also engage in early and meaningful consultation with tribes traditionally and culturally affiliated with the area (if such consultation is requested by the tribes).⁵²

There are significant public health impacts to this project. The trucking route goes through Santa Maria, which is already overburdened by the impacts of fossil fuel production. Oil tanker trucks pollute the air and spill with alarming frequency and if they spill on Route 166, the oil could contaminate the drinking supply for Santa Maria. In fact, in March 2020, a tanker truck spilled on Route 166 and leaked 4,533 gallons of crude oil into the Cuyama River, which feeds into to the drinking water reservoir for Santa Maria.⁵³

The Council should recommend that EPA require the Exxon facilities to remain shut down, and it must take actions along with the Santa Barbara County Air Pollution Control District to deny the renewal of the federal Part 70 permits for the Santa Ynez Unit facility. The proposed permit discounts the environmental impacts of the action by ignoring that the facilities have been shut down for six years. The Council should also recommend against the Bureau of Land Management granting a right-of-way through federal lands for Plains Pipeline and require the agency to conduct meaningful consultation and seek consensus with the Coastal Band of the Native Chumash Nation that has sought consultation on the Plains Pipeline project.

3. Additional issues for the Council's consideration a. Limetree Refinery in St. Croix must be permanently shut down

The Council should provide oversight of Limetree Refinery's dirty restart in St. Croix, Virgin Islands, which poses serious environmental justice concerns. Almost ten years ago, a monstrous oil refinery on the island was forced to close permanently, in part due to earning millions of dollars in penalties for Clean Air Act violations.²⁹ Residents of St. Croix were given a reprieve from the filthy air that had been assaulting their homes, but it did not last forever. In 2018, a new owner, Limetree Bay Refinery, LLC, and

⁵² Cal. Pub. Res. Code §§ 21080.3.1, 21080.3.2.

⁵³ Yamamura, Tanker Spills over 4,000 Gallons of Crude Oil into Cuyama River, The Independent (2020) ²⁹ EPA, HOVENSA LLC, Clean Air Act Settlement (2011). Available at: <https://www.epa.gov/enforcement/hovensa-llc-clean-air-act-settlement>.

Limetree Bay Terminals, LLC had taken interest in the shuttered site and struck a deal to reopen.

The massive Limetree Refinery complex sits on the border of an environmental justice community—nearly 75 percent of people living in the community just north of the refinery are Black, almost 30% identify as Hispanic or Latino, and over a quarter fall below the national poverty line.⁵⁴ Limetree Refinery, which started its ramp-up procedures in December (without fully complying with its permits), wasted no time darkening St. Croix’s skies and poisoning her people. After hearing the heart-wrenching stories of the islanders, the egregiousness of Limetree Refinery’s behavior truly comes into relief: folks tell of horrific odors awaking them in the night that continue to plague them throughout the day, accompanied by severe headaches and nausea. Several flaring incidents⁵⁵ have occurred since the refinery’s illegal startup in February, covering homes and rain cisterns in spattered drops of oil—Limetree Refinery refused to go door-to-door at first to inform residents of their incident or offer to mitigate it. Odors and flaring have caused local schools and a COVID testing and vaccination clinic to close several times over the last few months⁵⁶—even as recently as this past Friday.⁵⁷

To its credit, EPA has started to step in and assess the situation in St. Croix, recently issuing Limetree Refinery a Notice of Violation for its failure to operate sulfur dioxide monitors, among other failures.⁵⁸ EPA’s Office of Environmental Justice is

⁵⁴ Kristoffer Tighe, Donald Trump’s Parting Gift to the People of St. Croix: The Reopening of One of America’s Largest Oil Refineries, Inside Climate News (Mar. 21, 2021). Available at:

<https://insideclimatenews.org/news/21032021/trump-st-croix-virgin-island-oil-refinery/>.

⁵⁵ Kristoffer Tighe, EPA to Send Investigators to Probe ‘Distressing’ Incidents at the Limetree Refinery in the U.S.

Virgin Islands, Inside Climate News (Apr. 28, 2021). Available at:

<https://insideclimatenews.org/news/28042021/epa-to-send-investigators-to-probe-distressing-incidents-at-the-limetree-refinery-in-the-u-s-virgin-islands/>.

⁵⁶ Laura Sanicola, UPDATE 2-Odor from U.S. Caribbean refinery prompts school closures, investigation, Reuters (Apr. 23, 2021). Available at: <https://www.reuters.com/article/limetree-bay-refinery-odor-idAFL1N2MG1RS>.

⁵⁷ Reuters Staff, Odor from Limetree Bay refinery shuts U.S. Caribbean schools twice in a month, Reuters (May 6, 2021). Available at: <https://www.reuters.com/article/st-croix-odor-limetree-bay/odor-from-limetree-bay-refineryshuts-us-caribbean-schools-twice-in-a-month-idUSL1N2MT21O>.

⁵⁸ John Senn, EPA Notifies Limetree Bay of Clean Air Act Violations, EPA (May 3, 2021). Available at: <https://www.epa.gov/newsreleases/epa-notifies-limetree-bay-clean-air-act-violations>.

coordinating with Region 2 and members of the St. Croix community to hear their concerns and oversee EPA's efforts. Yet this is just the beginning of what is needed for a St. Croix community that has been and is continuing to be hammered by appalling amounts of air and water pollution in recent months, after having enjoyed almost a decade of clean air. It is therefore imperative that the Council coordinate directly with EPA Region 2 and the DOJ to ensure Limetree Refinery's cooperation with any potential enforcement actions.

The Council should recommend that Limetree Refinery be permanently closed again. It is one of the nation's dirtiest refineries with a terrible pollution track record in an environmental justice community. To the extent that Limetree Refinery is allowed to continue; the Council must ensure mitigation, restitution, and restoration to benefit the local community and public health. It must require strict compliance with its Title V permit and related consent decree,⁵⁹ and [PAL](#)

[permit](#) if it is reissued.⁶⁰ It must also require sophisticated monitoring equipment such as UV hounds to the people of St. Croix. However, we do not believe that the Limetree Refinery should be allowed to pollute, and instead the Council should take steps to provide good jobs in St. Croix that do not deepen our climate crisis and pollute a community of color.

b. Seattle Port expansion must impose vessel speed limits and other air pollution reductions

The Army Corps is planning a massive, multi-year project to expand the east and west waterways of Seattle Harbor to facilitate huge new container ships.³⁷ The Corps will remove 1,112,000 cubic yards of material from the waterways—enough to fill 300 Olympic-size swimming pools—nearly a quarter of which has toxic or hazardous contaminants. The Corps concluded that the project would have no significant environmental impact.⁶¹ Marine vessels are the second largest source of freight-related NO_x and PM. Adjacent neighborhoods, including a majority community of color downwind, will be exposed to increased air pollution from the expansion. Yet the Army

⁵⁹ Laura Sanicola, U.S. Justice Department seeks to modify oversight for Caribbean refinery, Reuters (Apr. 8, 2021). Available at: <https://www.reuters.com/article/us-usa-refinery-st-croix/u-s-justice-department-seeks-to-modifyoversight-for-caribbean-refinery-idUSKBN2BV38X>.

⁶⁰ Ernice Gilbert, EPA Withdraws Plantwide Permit Given to Limetree Bay Under Trump Administration; Agency to Review Clean Air Act Requirements for Facility, The Virgin Islands Consortium (Mar. 26, 2021). Available at: <https://viconsortium.com/vi-business/virgin-islands-epa-withdraws-plantwide-permit-given-to-limetree-bay-undertrump-administration-agency-to-review-clean-air-act-requirements-for-facility#.YF0My2LFHAA.twitter>.³⁷ U.S. Army Corps of Engineers, Seattle Harbor Navigation Improvement Project; Final Feasibility Report, Environmental Assessment (<http://bit.ly/SeattleHarborGI>).

⁶¹ *Id.*

Corps neither conducted an analysis of air emissions dispersal nor assessed the environmental, health, or environmental justice effects associated with the project.

The EPA and its National Environmental Justice Advisory Council have long recognized the public health dangers associated with air emissions generated by moving cargo through ports.⁶² Despite this, the Army Corps has planned massive deepening projects to enable port expansions without adequately analyzing the impacts to surrounding communities.⁶³

The Council can play the critical role of ensuring inter-agency coordination, so that the EPA's research and recommendations on this topic are updated and incorporated nation-wide in the Army Corps' analyses of harbor expansion projects. The Council should also require the Army Corps to analyze in the National Environmental Policy Act process the disparate impacts of its deepening projects on surrounding communities.

c. Ensure language access

The White House Environmental Justice Advisory Council must ensure that limited English proficiency individuals are able to meaningfully participate in decisionmaking processes.⁶⁴ For example, federal agencies are required to “translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.”⁴² The U.S. Department of Justice and EPA established compliance standards for the Limited English Proficiency Executive Order.⁶⁵

⁶² See National Environmental Justice Advisory Council, *Reducing Air emissions Associated With Goods Movement: Working Towards Environmental Justice* (2009), <https://www.epa.gov/sites/production/files/201502/documents/2009-goods-movement.pdf>.

⁶³ This is occurring not only in Seattle, but also in California. See Boyd-Barrett, C. *As California's Ports Expand, Neighboring Communities Fight Back Against Pollution*, California Health Report. Mar. 18, 2019. <https://www.calhealthreport.org/2019/03/18/as-californias-ports-expand-neighboring-communities-fight-backagainst-pollution/>

⁶⁴ See Exec. Order No. 13,166; 65 Fed. Reg. 50,121 (Aug. 11, 2000) ⁴² 59 Fed. Reg at 7632.

⁶⁵ 67 Fed. Reg. 41,455 (June 18, 2002); U.S. EPA Order No. 1000.32, Compliance with

Conclusion

While these are just a few of the many important environmental justice issues for which the Council should provide oversight, we appreciate the Council's attention to these important concerns.

Sincerely,

Oceans Program
Center for Biological Diversity
oceans@biologicaldiversity.org



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1-877-637-3929
1-606-633-3925 (fax)

www.aclc.org

May 7, 2021

Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, (issued July 28, 2011, updated Feb. 10, 2017).

SUBJECT: WHEJAC April/May 2021 Meeting Public Comments

Dear Council Members,

Since 2002, Appalachian Citizens' Law Center (ACLC) has represented claimants for federal black lung benefits and in cases related to environmental justice issues in the coalfields. ACLC is a public interest law firm and political advocacy organization focused on addressing the ongoing and legacy costs of coal mining in Central Appalachia. Thank you for the opportunity to provide these comments concerning environmental justice issues in our community as you make recommendations to CEQ and the White House Council on Environmental Justice.

For many families in Appalachia, the coal mining industry has provided good-paying jobs. However, that wealth was never evenly distributed in our communities. Many lived only with the burdens of coal extraction, as the industry again and again externalized its costs onto our land, our waterways, and the health of those in our region. What's more, in Appalachia, the boom of the coal industry happened years or decades ago, while the environmental and legacy health impacts of the industry remain.

Primarily, our concerns are related to the hazards associated with abandoned and unreclaimed mine lands, contaminated waters and unsafe drinking water, health impacts associated with mountaintop removal (MTR) mining, and the ongoing black lung epidemic.

Abandoned and Unreclaimed Mine Lands and Waters

In 1977, Congress established the Abandoned Mine Land (AML) fund under the Surface Mining Control and Reclamation Act (SMCRA). This act established a per-ton coal fee to finance the reclamation and remediation of lands mined prior to 1977. No federal reclamation obligations were required prior to SMCRA. Thus far, the AML program has eliminated over 46,000 open mine portals, reclaimed over 1,000 miles of dangerous highwalls, restored water supplies to many residents of coalfield communities, and protected millions of people from hazards such as landslides and subsidence. However, the outstanding costs to clean up these AML sites is still over \$11 billion dollars. Since the funds available for clean-up are dependent on a severance tax on the industry, fewer and fewer funds have been available in recent years. These AML sites contaminate water and are dangerous to those that live nearby. In just the last 16 months, at least 26 dangerous landslides have occurred in Kentucky due to AML issues.

And, it's not just pre-SMCRA mines that are in need of clean up. As coal sales plummet, fewer and fewer companies are reclaiming permitted/active mines sites adequately and in a timely fashion. Often regulators are allowing companies to skirt environmental standards and delay environmental clean up in the hopes that the market will improve. As market conditions worsen, companies are increasingly walking away from these mines, leaving unstable land and water pollution clean up to regulators who lack the money to do what is needed to protect communities from these hazards. The Blackjewel bankruptcy is just one example. The bankruptcy court allowed Blackjewel to immediately walk away from 33 permits in Kentucky. If the bankrupt company cannot get new

permittees in place by September, it will be allowed to walk away from another 170 permits in Appalachia. Because of the system-wide bonding insufficiencies and years of lax enforcement,

1

clean-up of these mine sites will far exceed the money currently available for reclamation. If money is not provided to the regulatory authorities for clean-up, reclamation will be insufficient and our communities will be burdened with hazardous, polluting mine sites for years.

In addition, often these mines have caused water pollution that is not easily remediated or have destroyed drinking and agricultural water supplies. Perpetual water treatment and replacement of water supplies often requires funding beyond the amounts provided by already inadequate reclamation bonds. Companies should be required to provide additional funding assurances for these externalities and if a coal company is permitted to walk away from its water treatment responsibilities or leaves households without a source of clean drinking water, it must be made clear that OSMRE and the state regulators are responsible for both water treatment for as long as treatment is necessary and replacing drinking water supplies.

Health and Environmental Impacts of MTR

The health of our communities is still at risk from exposures related to large-scale surface mining. While the full health impacts to communities near mountaintop removal sites are still unknown, numerous studies have correlated adverse health outcomes, like increased birth defects, cancers, and premature deaths, to proximity to large scale surface mining operations in Appalachia. Congress should immediately require increased environmental and health impact monitoring and require further research, such as is articulated in the Appalachian Community Health Emergency Act, to ensure that community health is protected. A systematic review of peer-reviewed research on the health impacts of MTR already recommended further study of the topic as well as articulated that one of the challenges of correlating health impacts with these sites is the lack of monitoring stations for environmental conditions, such as air quality, in rural areas.¹

Black Lung Disease Epidemic

Black lung disease is a public health emergency. Researchers from NIOSH have stated, “We can think of no other industry or workplace in the United States in which this would be considered acceptable.”² The prevalence of black lung disease, an entirely preventable disease caused by exposure to coal dust and silica on the job, has increased since 2000.³ Though prevalence has increased nationwide, miners in Central Appalachia have been most affected. In Central Appalachia, 1 in 5 tenured miners has black lung disease and 1 in 20

have the most severe and totally disabling form of the disease - Progressive Massive Fibrosis (PMF).⁴ Miners with as few as 8 years of experience or who are as young as 38 are also being diagnosed with PMF.⁵ While this is traditionally thought of as an occupational health rather than an environmental justice issue, such distinctions no longer make sense. Like polluted streams and scarred and unstable lands, the epidemic of black lung disease in Appalachia is an injustice stemming from the region’s dependence on the coal industry. Black lung is totally disabling, and the benefits miners may receive, while crucial, are wholly insufficient to keep the miner’s family out

of poverty. For that reason we think it is important to elevate the issue within environmental justice conversations.

All of the above environmental issues intersect with increasing economic hardship in the region. As the coal industry rapidly declines, the few jobs that remain will be eliminated and county revenues will be further depleted, thus leaving communities with even fewer resources to cope with these challenges. The Appalachian

1 Boyle et al. 2017. Systematic review of community health impacts of mountaintop removal mining. *Environment International*, 107: 163-172. Available online at:

https://ntp.niehs.nih.gov/ntp/ohat/mtrmining/sysreview_mtr_20170721.pdf

2 Blackley et al. 2018. Continued Increase in the Presence of Coal Workers' Pneumoconiosis in the United States, 1970 - 2017. *American Journal of Public Health*. DOI: 10.2105/AJPH.2018.304517 3 Ibid. 4 Ibid.

5 Blackley, D.J. et al. 2018. Progressive Massive Fibrosis in Coal Miners From 3 Clinics in Virginia. *JAMA*. 319(5):500– 501

Page 2 of 3

Regional Commission's county economic status index is derived from three economic indicators: three year average unemployment, per capita income, and poverty rate. The status of a county (i.e. distressed, at risk, transitional, competitive, attainment) is determined based on comparisons to national averages. Distressed counties, for example, rank in the worst 10 percent of the nation's counties and attainment counties rank in the top 10 percent. The majority of counties in Central Appalachia are ranked as distressed.

We appreciate the opportunity to share our experience of, and perspective on, some of the environmental justice issues that face coal communities in Central Appalachia. We look forward to future communications with this council and hope that we can work together to make our communities safer and healthier places to live and work.

Sincerely,



Mary Cromer
Deputy Director



Rebecca Shelton
Director of Policy & Organizing

Attachment A

Memphians question Plains All American about route for proposed Byhalia connection pipeline

[Micaela A Watts](#) [Laura Testino](#)

The Commercial Appeal



Concerned Boxtown residents want more specific details about how a proposed Byhalia Connection Pipeline would affect the safety of the historic neighborhood for future generations.

About 35 people gathered for an hour-and-a-half long meeting Saturday, organized by the neighborhood association and held in White's Chapel A.M.E. Church at 1712 Fields Road.

Representatives for the pipeline, including Wyatt Price, a supervising land agent, and Diedra Malone, public affairs advisor, answered the majority of resident's questions. Malone is well-known in Memphis, as a former Shelby County Commissioner and former president of the NAACP Memphis branch.

Both assured that safety is the top priority for the new pipeline, but did not provide immediate responses for residents' specific inquiries about how leaks would be completely prevented, other than to say that Plains monitors the lines at all hours of each day and would be prompt to address any leaks.

A Plains-owned pipeline (named, without relation to Memphis, Line 901) [ruptured in California in May 2015](#), releasing almost 3,000 barrels of crude oil.

"We've learned a lot of lessons from that incident and we went into that community to clean up a leakage and are trying to make the community whole again," Malone said.

A United States district court judge certified a class action lawsuit filed by property owners who have easement contracts with Plains, [KEYT, an ABC affiliate in Santa Barbara, reported in January](#). Plains did not immediately respond to an inquiry about the lawsuit in time for publication of this story.

Where will the pipeline go?

The proposed pipeline will start at the Valero refinery in South Memphis on West Mallory Avenue and snake its way through North Mississippi, connecting the Diamond Pipeline that supplies the Valero refinery with crude oil and the Capline Pipeline that runs between Illinois and the Gulf Coast.

Malone confirmed at the meeting that the pipeline will go to refineries in Mississippi and Louisiana along the Gulf Coast so that "clients that need the crude oil can have it to create the products that we need in this country."

"We are using (the oil) domestically," she said, "but if there is the opportunity for another country that may need crude oil, it will be at the Gulf Coast where it can be exported" to that country or to other regions of the United States.

The nearly 45-mile pipeline will end in Marshall County, with a section running through the Memphis Sand aquifer, a feature that has drawn criticism from environmental groups.

Malone said Plains is working with the Army Corps of Engineers in Tennessee and Mississippi to identify potential environmental and cultural issues, addressing changes to the route accordingly.

The goal is to have permits in place for the pipeline by the end of 2020, Malone said, which would put the pipeline on schedule to be in use by the latter half of 2021.

Why this route?

The pipeline's major route hasn't changed in a couple months, said Wyatt Price, a supervising land agent for the pipeline. But the exact route is "as fluid as us walking down the street," and changing daily, he said Saturday.

Boxtown residents questioned why that route cuts through the community — across back and front yards and around 350 yards from Double Tree Elementary School — when it could follow existing corridors.

Price said that in some places, the proposed pipeline route does follow existing corridors, "just not right here."

"Running the pipeline through a community, someone already has in mind to industrialize that area," Boxtown resident Lonnie Britton said later in the meeting.

Price said that residents had "ideas utilizing their property," and that the route is taking "a point of least resistance."

"We encountered communities that were newly being built," Price said. "We rerouted around them. Most everything that we encountered, we backed up and went around."

The response probed questions about the demographic makeup of communities affected by the current proposal for the pipeline route. Boxtown is a historically black community that is still one of the city's poorest and most isolated, [as reported in-depth by Storyboard Memphis](#). In the 1920s, residents used scraps from a nearby boxcar manufacturing plant to build shanties along the railyard, giving the neighborhood its name.

Mozell Smith, a proud fifth-generation Boxtown resident, questioned how community demographics were factored into the proposed route.

"Let me try to respond to that by saying that in deciding where this pipeline is going to go, demographics had nothing to do it," Malone said, noting the start of the route has to be the Valero Memphis plant.

"The majority of the route is not going to be in an African American community in DeSoto and Marshall Counties," she said, describing a "very diverse demographic" affected by the proposed route.

Though neither Mississippi county is majority black, [according to Census data](#), The Commercial Appeal could not immediately verify the demographics of the communities closest to the proposed route.

The pipeline still has to receive permits before construction can begin, and the route has not been completely finalized yet.

The first neighborhood-style meeting

Up until Saturday morning, discussions around the proposed Byhalia pipeline have mostly occurred on Plains All American's terms. More representatives were available to answer questions at five recent open house meetings held at larger, more central locations, Malone said Saturday.

Boxtown's neighborhood association proposed the discussion-style meeting. The benefit, many said, was that the room could hear all questions being asked. Some said that they didn't know enough yet about how the community would be affected by the proposed pipeline to know the kinds of questions to ask individually in the previous meetings.

The three Plains representatives present, however, were unable to answer some specific questions — about possible effects to the aquifer and water supply, how safety measures specifically work, for example — and said that those questions could have been answered by the experts present at Plains' open houses. The representatives told community members at the church that they would follow up on the questions they couldn't answer Saturday morning.

"If this pipeline was running a mile from your home," one resident asked, making reference to the proposed route's distance from the church, "would you be this enthusiastic about it?"

"I got two of them about 20 feet from my house," Price said.

Malone said that she was comfortable with the pipeline: "Yes sir, I would."

Attachment B

Pressley, Omar, Ocasio-Cortez among 28 in Congress calling on Biden to stop Byhalia Pipeline

[Micaela A Watts](#)

Memphis Commercial
Appeal SKIP

Twenty-eight members of Congress signed a letter urging President Joe Biden to intervene before the construction of the Byhalia Connection pipeline moves forward.

Specifically, members of the U.S. House of Representatives including Steve Cohen, Alexandria Ocasio-Cortez, and Ayanna Pressley are asking the president to re-evaluate the use of a Nationwide Permit 12 issued by the U.S. Army Corps of Engineers.

The permit allows companies to fast-track construction of a project through geographical features like rivers and streams on the basis of the project having a minimal environmental impact.

[MORE: To halt 'fast-track' Byhalia pipeline permit, Memphis groups file lawsuit in federal court](#)

A Nationwide Permit 12 was approved in February for the Byhalia Connection, a joint project between Plains All American Pipelines and Valero Energy. A portion of the roughly 49-mile long crude oil pipeline that would connect the Valero refinery in South Memphis to a storage terminal, also owned by Valero, in Marshall County, Mississippi, runs through a low-income, predominately Black neighborhood in South Memphis.



The letter, penned by Cohen, calls into question whether the Corps of Engineers should be granting Nationwide Permit 12 to oil companies who are seeking the permit for pipeline construction. With that particular permit, Cohen wrote, there is an implied assumption of limited environmental impact.

But Cohen, environmental advocacy groups, and community members argue the environmental impact of the Byhalia Connection is anything but insignificant.

"The nationwide permitting process allows applicants to obtain fast-track permission to cross rivers and streams, avoiding public input as well as project-specific scrutiny of environmental harm," Cohen wrote.

The use of a Permit 12 by the fossil fuel industry, Cohen wrote, is no longer appropriate, given the growing impact of climate change.

MORE: [How a Memphis City Council ordinance aims to halt a part of the Byhalia crude oil pipeline build](#)

The Boxtown community in South Memphis, where the pipeline would be placed four feet underground, is already home to dozens of industrial companies with operations that emit pollutants into the atmosphere. This portion of the pipeline would also run directly over a Memphis Light, Gas & water wellfield. Should the pipeline burst, Memphis' drinking water supply would likely be affected, environmental groups say.

Grassroots efforts by the Memphis Community Against the Pipeline have attracted support from national figures like former Vice President Al Gore, who is a Tennessee native, and celebrities like Danny Glover and Jane Fonda. Those figures have, in turn, helped thrust the Memphis-based pushback against the pipeline into a national conversation.

Cohen's letter is the second iteration of its kind. The congressman previously wrote a letter to Biden urging his interference in the permit process in late February.

The following members of Congress added their signatures to Cohen's letter: Ocasio-Cortez,

Pressley, Alan Lowenthal, Ann McLane Kuster, Pressley, Barbara Lee, Bonnie Watson Coleman, Carolyn B. Maloney, Cori Bush, Eleanor Holmes Norton, Emmanuel Cleaver II, Grace

Meng, Henry "Hank" Johnson Jr., Ilhan Omar, Jamaal Bowman, Jerrold Nadler, Jesús "Chuy"

Garcia, Jim Cooper, Marie Newman, Mondaire Jones, Nanette Diaz Barragán, Nydia Velázquez, Pramila Jayapal, Rashida Tlaib, Raúl Grijalva, Robert "Bobby" Scott, Ted W. Lieu, and Earl Blumenauer.

Attachment C

Toxic air. Insufficient monitors. Why Memphis families fighting Byhalia pipeline have had enough

On one side of the Byhalia pipeline battle: Fossil fuel companies' clout. Squaring off against Big Oil: Black families fighting to protect their health, homes, loved ones and land.

Sarah Macaraeg, Memphis Commercial Appeal

Published 10:00 PM EDT Mar. 16, 2021 Updated 9:49 AM EDT Apr. 1, 2021

For Kimberly Pearson and other families from southwest Memphis, the movement gaining momentum against the [Byhalia Connection](#) is about much more than a pipeline — or any one of the major sources of air pollution encircling the area her family has long called home.



Central High School educator Kimberly Owens-Pearson in Memphis, Tenn., on Saturday, March 6, 2021. Ariel Cobbert/The Commercial Appeal

"It always seems like it's assumed we don't care and that is deplorable," she said. "What we feel about our homes, about our people, about our generations...it's invaluable," said Pearson, a teacher at Central High School who, along with her husband, was born and raised in Westwood.

The pair started their family in the neighborhood and later moved while pursuing undergraduate and advanced degrees. But to Westwood they always return, to homes where their siblings live, passed on by the hard work of their parents and the elders that came before them.

Over the years they've seen industry rise and community investment decline in the area. "It makes me so upset because it keeps happening," Pearson said.

Transportation accounts for a major share of all air pollution. Stationary sources, such as the oil refinery, airport, steel mill and power plants encircling the nearly all-Black neighborhoods of southwest Memphis are among the rest.

Of all emissions Shelby County facilities reported in 2017: Sites in southwest Memphis accounted for 94% of 6.6 million total tons of [six "criteria" air pollutants](#) in the most recent National Emissions Inventory, compiled by the Environmental Protection Agency every three years.

The Clean Air Act sets limits on carbon monoxide, lead, ground-level ozone, particulate matter, nitrogen dioxide, and sulfur dioxide for a reason: Exposure is harmful to humans and can trigger asthma and other respiratory issues and increase the risk of other illnesses, the Centers for Disease Control states.

But when it comes to another set of air pollutants called air toxics, the consequences are such that emissions are measured not in tons but pounds. The 187 hazardous air pollutants are "suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects," according to the EPA.

The Valero Memphis refinery was the top stationary source of air toxics in the 2017 inventory, sitting atop the same 38109 southwest Memphis zip code where families downwind of the refinery's emissions are fighting the eminent domain claims of the Byhalia Connection pipeline. Valero, which describes itself as the largest and lowest cost independent oil refiner in the U.S. is a partner on the project with Plains All American Pipeline, L.P.

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A wind rose, processed by the Midwestern Regional Climate Center, shows the speed and direction of winds recorded at the Memphis International Airport from Jan. 2017 to Jan. 2021.

More than 10,000 families make up the estimated population of nearly 45,000 people living in 38109, of whom 97% are Black and more than a one-fifth are children, according to the U.S. Census Bureau's 2019 American Community Survey.

Those working earned a median salary of around \$26,000 — not enough to surpass the poverty threshold for more than a fifth of families. Thousands of seniors and people living with disabilities are among the population that's not employed.

More than half of families live in homes they own.

The Byhalia Connection's overtures includes [\\$1 million](#) in grant awards to community organizations ahead of local votes pivotal to the project — donation dollars that may be available due to taxpayers, according to [BailoutWatch](#), a non-profit that tracks fossil fuel company benefits reaped through coronavirus economic stimulus measures.

Valero received a \$238 million tax refund, and along with Plains, also benefited from bond and debt purchases by the Federal Reserve Bank, according to the watchdog group.

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Refinery proximity increases cancer diagnosis risk

No matter how deep their pockets, corporations can't account for the reverence families have for their neighborhoods, said Kimberly Pearson.

"The home that my mother had passed down to her five children — she worked three to eleven on her feet," Kimberly Pearson said. "It's not just a house. My brother became ill and he's there now, he has somewhere he doesn't have to worry about, because that's our home," she said.

■

Show caption

Kizzy Jones, a co-founder of Memphis Community Against the Pipeline (MCAP), holds signs outside the National Civil Rights Museum with her family during a rally...

Brandon Dahlberg / For CommercialAppeal.com

"For people to just act as if you're disposable, it hurts because we have history, we have memories, we have life," Kimberly Pearson said.

Among those memories are the all-nighters her mother pulled while studying to become a nurse as a single mom. She died of cancer at 68. Her husband, Pastor Jason Pearson's mother died of cancer at 63. Among new memories is their reunion during the COVID-19 pandemic with four sons in their twenties, all part of the movement to stop the Byhalia pipeline.

The EPA tracks the release of hazardous pollutants annually in the Toxic Release Inventory. The refinery's release of carcinogens, substances associated with cancer, rose 23% from 2017 to 2018 and then remained at nearly the same level in 2019, the data show.

[A Flourish chart](#)

The EPA cautions against drawing conclusions regarding facilities in its data, given the complexity of pollution sources in an environment.

But when it comes to oil refineries, a team of University of Texas public health researchers recently published a straightforward connection. "Proximity to an oil

refinery was associated with an increased risk of multiple cancer types," their study of 6.3 million adults concluded after researchers compared diagnoses among people who lived within ten miles of a refinery with those 20-30 miles away.

Whether the planned pipeline might lead to a local ramp up in refinery operations, the San Antonio, Texas-based company didn't say in its succinct response Monday to multiple questions from The Commercial Appeal.

"It is Valero's policy to not comment on operations," a spokesperson emailed.

Whether the company has sufficient insurance to cover a large-scale environmental clean-up or communicates or makes transparent to downwind communities any of its monitoring data or significant releases are among other questions on which Valero declined to comment.

|

Black Lives Matter: 'Keep that same energy' on clean air and water

The project is moving forward, if you ask Plains Vice President Roy Lamoreaux. In a letter addressed to Memphis residents released Saturday, he asserted the companies have the necessary federal, state and local permits in hand.

But the Byhalia pipeline isn't a done deal, with local votes and state legislation impending.

On one side of the fight is Valero's local clout; Plains' promise of jobs, grants and economic benefit; and assumptions regarding the safety and necessity of oil transport.

Squaring off against Big Oil are Black families fighting to protect their health, homes, loved ones and land, alongside Memphians long protective of the city's aquifer.

In raising the disproportionate pollution burden area residents already face, the movement families are leading against the pipeline is also an invitation and challenge, to any company, official or individual who has professed "Black Lives Matter".

As one of the Pearsons' sons, Keshawn, puts it, "Can you keep that same energy with protecting the aquifer...protecting the air that's being polluted and fighting against that?"

His brother, Justin J. Pearson, is a co-founder of [Memphis Community Against the Pipeline](#), a months-old grassroots group that's sparked growing support, including from former Vice President Al Gore and activist/actors Danny Glover and Jane Fonda.

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[LinkedIn](#)

[Email](#)

Justin J. Pearson, co-founder of Memphis Community Against the Pipeline
But we don't talk about the racism that's rooted here. If we continue to run from those conversations, we'll never do the reflective work that's necessary to say, 'How did we let a steel mill and all this industry go into the same communities?'

"We killed King here," Justin J. Pearson said of Dr. Martin Luther King Jr.'s assassination in Memphis. "But we don't talk about the racism that's rooted here. If we continue to run from those conversations, we'll never do the reflective work that's necessary to say, 'How did we let a steel mill and all this industry go into the same communities?'"

He hopes elected officials with the power to intervene, from President Joe Biden to local officials, will ask themselves similar questions on what can be restored rather than extracted. "How did we let this happen, not how should we keep it going," Justin J. Pearson said.

"It is not imminent that we need to be extracting more oil, transporting more oil. Those things are not mandatory for our survival. What is mandatory for our survival is air, is water, is housing," he said.

|

Political power, public funds and pollution: A snapshot of Valero's time in Memphis

In Shelby County, Valero's refinery operations have historically enjoyed a range of supports since the company purchased the site in 2005, including a 15-year, \$25.8 million tax break package expiring in 2027; local backing on state legislation and a city ordinance the company sought to kill; and multi-million-dollar improvements to the highway interchange and Mississippi River harbor on which the company relies.

Chemical releases also mark Valero's time in Memphis: 1,500-gallons of diesel released into the harbor by a barge operator, 440 pounds of bleach into the ground, 528 pounds of hydrogen

cyanide in the air and 500 pounds sulfur dioxide, released in an explosion, appear in state and federal regulatory agency records. The explosion was among a rash of incidents involving two separate worker deaths, between 2010-2012, Commercial Appeal archives show.

In a recent release of gases by burning known as a flare, a plume of fire over the refinery caught attention on social media in February. [MLK50 reported](#) on Valero's clean-up of Nonconnah Creek afterwards and the approximately 101 pounds of hydrogen sulfide and 501 pounds of sulfur dioxide released.

National Emissions Inventory data provides a yearlong example of "Emergency Flare" emissions, reported by the sum of each pollutant released in 2017: 7,810 pounds of volatile organic compounds, 1,825 pounds of sulfur dioxide, 3,785 pounds of Nitrogen Oxides and 17,255 pounds of carbon monoxide.

"The reality of living in this area, living in 38109, you are definitely exposed to the burning...at Valero," said Pastor Pearson. "All of that pollution gets into the air, then breathed into the lungs of the people."

He doesn't think it's a coincidence that two of his brothers who've consistently lived in the area have asthma. "They were even closer to the plant, over there by Nonconnah. Those two of my brothers have chronic, literally chronic asthma," Pastor Pearson said.

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Show caption

March 6, 2012 - A pair of ambulances pull out of the Valero oil refinery on Mallory following an explosion at the plant that... The Commercial Appeal file photo

Valero is now among employers recognized by the Occupational Health and Safety Administration for maintaining below-average injury and illness rates. On March 2, a workplace safety complaint was lodged against Valero involving the Memphis refinery, OSHA data shows. The oversight agency does not disclose details on open investigations.

Valero is also under a federal consent decree agreement as of a \$2.9 million settlement with the EPA in December, for non-compliance with gas and diesel fuel sampling at some sites, including Memphis, and non-compliance with emissions reductions standards regarding its fuel products at other sites, including a terminal across the Mississippi River in West Memphis, Arkansas.

A spokesperson for Biden's administration didn't say whether U.S. Rep. Steve Cohen's request that the President consider revoking the Byhalia pipeline's federal permit is under consideration.

The administration's policy involves approval on a case-by-case basis, the spokesperson said, based on energy needs, the creation of union jobs and Biden's goal to achieve net-zero emissions by 2050. The spokesperson did not clarify whether those determinations include pipelines with existing federal approval.

Kimberly Pearson, fighting against the Byhalia Connection

You can't drink money. You can't inhale money. You need to get your priorities straight.

On Valero's site, the company cites its industry awards; a ranking by Forbes among best multinational corporate employers; and in Memphis, monthly safety drills and \$4.3 million donated to local charities.

Ahead of local votes on the project, Kimberly Pearson reflected on those who may be loyal to big business. "You can't drink money. You can't inhale money. You need to get your priorities straight."



Doubling oil capacity with 'no assurances' on clean-up

In a February investor filing, Valero states the company's insurance "may not be sufficient to cover all potential losses arising from operating hazards", attributing the gap to unreasonable rates.

Valero also warned investors the insurance it does have may not necessarily deliver.

"We can make no assurances that we will be able to obtain the full amount of our insurance coverage for insured events," the Valero document states.

As an extension of the Diamond Pipeline, which Plains and Valero operate between Cushing, Oklahoma, and the Memphis refinery, the Byhalia Connection would increase capacity from 200,000 barrels to 420,000 barrels per day, according to a Plains document received by the Securities and Exchange commission March 1. It includes similar language as Valero's filing regarding lacking insurance.



A young boy wears a sign outside of City Hall, protesting the construction of the Byhalia Connection Pipeline, Tuesday, Feb. 23, 2021, in Memphis, Tenn. Brandon Dahlberg / For CommercialAppeal.com

"Assets we have acquired or will acquire in the future may have environmental remediation liabilities for which we are not indemnified... insurance does not cover every potential risk that might occur, associated with operating pipelines, terminals and other facilities and equipment," the document states.

For a [spill of more than 2,900 barrels of crude oil](#) in 2015 on the California coast, remediation costs are at around \$460 million, the Plains filing also states.

Plains did not provide comment on assurances potential remediation costs could be fully covered. The company has previously been proactive in addressing residents' contamination concerns, citing 10,000 hours spent in studying the Byhalia route's conditions, approximately four feet below ground.

[The Memphis Sand aquifer](#) is hundreds of feet beneath the surface, under a barrier of clay which protects the purified drinking water source, akin to a great lake. But, as scientists found before the proposed Byhalia pipeline entered the picture, the aquifer isn't impervious to contamination with [at least 16 breaches](#) in the clay.

"As part of our Diamond joint venture, we have safely owned and operated pipelines in and around Memphis without incident," the statement says in reference to the existing pipeline Plains has operated in Memphis since 2017.

"While incidents can happen, we strive to prevent them with careful design, continuous monitoring and ongoing maintenance. We also regularly train our people to be ready to respond just in case," Plains statement said, citing a monitoring and shut-off system, first responder training and the hiring of a "Memphis oil spill response organization" to be on call around the clock.



Air pollution is never equitable and poor communities can't escape it

Running atop the city's pristine drinking water supply, the course of the 49-mile Byhalia pipeline would pump crude oil from the Valero refinery to a terminal just over the Tennessee border in Mississippi. [Valero leaked 800 gallons](#) of crude oil near the site in January 2020.

Spills aren't the only environmental concern when it comes to the transport of oil that ultimately results in emissions, said Juan Declet-Barreto, a senior social scientist for climate vulnerability with the Union of Concerned Scientists.

He previously worked in the Air Quality Division of the Arizona Dept. of Environmental Quality where his work included compiling emissions inventories.



**If your family is concerned about cancer,
asthma and pollution too, please help create a
better picture of environmental health risks**

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He said there's a reason water rights tend to draw more attention than demands for clean air. "We use it for one thing, to breathe. It's necessary, just like water is necessary. We cannot function, we cannot exist, we cannot live healthy lives or lives, period, without either of those," DecletBarreto said.

"But water can also be used for many other things," he continued, "To generate power, to water crops, to grow food. The use of water is tied to large enterprise."

And where people across a jurisdiction draw drinking water from a common source through similar pipes, they experience similar water quality.

"With air, it doesn't work that way necessarily," Declet-Barreto said. "Proximity to sources, wind direction with relationship to the sources, are going to impact where the air pollutants go," he said. "The distribution of that throughout a city is not equal."

Even if pollution were equitably distributed, its impact never is, he said. Some people can use air conditioning at home and in their cars and have ample indoor space for everyone at home, thereby limiting their exposure.

"Low-income communities of color don't have those luxuries," he said. And not everybody's lungs or bodies have the same capacity to fight the effects, he said.



Growing up with asthma

When Tim Pearson thinks about growing up in Westwood, his favorite childhood memory is similar to his father's: Playing football in a street filled with family and friends.

But how he had to go about it was a lot different than his dad or his brothers, with an asthma diagnosis that first surfaced when he was hospitalized as a baby.

"I would have to sit out, every 15 or 20 minutes in order that I could breathe," Tim Pearson said. "All my brothers, they could play and, you know, run outside all day. But I had to come in and drink water, to sit down, to count to 10," he recalled. "It was strenuous just in order for me to play."



The Memphis Valero Refinery sits at the edges of Dr. Martin Luther King Riverside Park and the Mississippi River Sarah Macaraeg/Commercial Appeal

As he became older he used an oxygen tank and the difficulty breathing wasn't always easy for him to absorb as a kid. Then, he said, "I realized it wasn't my fault."

Tim kept playing football, including at Mitchell High school, a site just south of the refinery, near the pipeline's route. He made All State in his Memphis career.

But it's the years before that, when the family relocated to Fairfax, Virginia, that stick with him.

"When we moved to Virginia, I wasn't having any of the regular problems that I was having, even with playing high intensity sports. When I moved back, I actually had to go back to the doctor in order to get an Albuterol, asthma pump. And I know it's due to the air," he said.

A comparison of Air Quality Index scores on days rated less than "Good" in 2015, the year the Pearson family moved back to Memphis, shows Shelby County and Fairfax County both had four days in the year that were officially "Unhealthy for sensitive groups", which includes children, seniors and people with pre-existing conditions.

But Shelby County had 19 more days than Fairfax at the "Moderate" level — considered acceptable for the general population but of potential risk to sensitive people.

That may not be the full story of a potential difference, though, given weaknesses in the EPA's air monitoring network, according to experts.



EPA measures risk

The Air Quality Index paints a daily picture based on readings of two common pollutants, particulate matter and ground-level ozone in an EPA network of monitors. Called AQI for short, the daily readings are available in phone apps and are meant to help people make choices about their exposure.

But a [Reuters investigation](#) found monitors in the network are prone to missing criteria air pollutants emitted by major sources and incidents — including refinery explosions.

To understand risk related to particularly hazardous air pollutants, the EPA maintains a different scoring system, the Risk-Screening Environmental Indicator model, to account for myriad variables, from air dispersal and specific chemical processes to transport or treatment of pollutants before their release.

The scores it churns out tally risk without limit for the purpose of comparison. The higher the number the greater the risk.

[A Flourish chart](#)

RSEI score based on 2019 data, [REDACTED] 58,000, more than [REDACTED] seven times the median in the petroleum refining industry.

The refinery score is more than 1,600 times the median score of 36 in Shelby County, which has a majority-Black population compared to a population that's 17% Black in the state.

The median county risk is 1.7 times greater than a score of 21 at the state level, which is in turn higher than the median score across the U.S., of 14.

|

Breathing polluted air, 'bullied' by eminent domain claim

For Scottie Fitzgerald, the data dovetails with suspicions she's had since nursing school.

"About a whole neighborhood of people ended up with breast cancer, including my mother," she said, ticking through names of women she says lived in walking distance of one another.

She grew up near the site, the only child of blue collar workers together 50 years, who managed to purchase properties and buy a refrigerator for a neighbor in need. Over the years that the refinery's ownership has changed hands, its impact on the senses have remained in her mind.

The smell of rotten eggs is what Fitzgerald remembers about it from her childhood.

■

Smoke exits a stack at the Valero Memphis Refinery at 543 West Mallory Ave. Yalonda M. James/The Commercial Appeal File

At the park where she and her husband used to go on dates, it's the sight of the refinery's smokestacks and the sound of its incessant production that fills the greenspaces of Dr. Martin Luther King Jr. Riverside Park.

At the fence line now are multiple devices, monitoring fugitive releases of the carcinogen benzene.

Fitzgerald left her longtime job at the Veterans Administration while her mother was sick. They had always been best friends, Fitzgerald said, and she cared for her mother for four years in hospice at her home.

"My mother was a very spiritual woman and she was a fighter," said Fitzgerald.

■

Show caption

Elmeter Washington left her daughter, Scottie Fitzgerald, two parcels of land in Boxtown where the Byhalia Connection followed Fitzgerald's rejection of their offer for easements... Sarah Macaraeg/Commercial Appeal

"She was still paying property taxes out of her little social security check, staying with me," Fitzgerald recalled.

The payments were on two parcels of land she left to Fitzgerald, in the Boxtown neighborhood further south where [reporting by MLK50 brought residents' resistance to light](#).

Seeking a permanent easement to build the pipeline, Byhalia filed an eminent domain claim against Fitzgerald. Along with multiple other families, she's fighting back in court with the help of a pro-bono lawyer, the Southern Environmental Law Center and Memphis Community Against the Pipeline.

"If I decide you got something in your backyard I want and just get with a conglomerate of people and say, 'We're gonna go over here and we don't care what you say,'" Fitzgerald said, "That's called bullying."

Plains said it's worked with other landowners to secure agreements for 95% of the route in which residents retain ownership of their land while the pipeline is constructed and occasional maintenance is performed. The company also noted 62 of the 67 of the parcels sought are vacant.

Just because she hasn't had a chance to build on the land, it doesn't mean the land doesn't hold future plans and a legacy to be passed on another generation, to her own daughter, Fitzgerald said.

"You don't just walk in and decide you gonna take something 'cause you got all the money....If they're allowed to do this to one person, that's what they can do to anybody," she said.

Since some of the properties are owned by Shelby County, a vote by county commissioners will play a role as the battle continues.

"We will be paying property taxes for seven miles of line, which will equate to millions in taxes over the decades the line will be in service," Plains said in a statement that also signaled its plans will move forward either way.

"We have also begun to evaluate other routes if we cannot purchase these properties. These alternative routes will cross other properties owned by Shelby County residents or businesses," Plains said.

For the parcels of land on which Valero operates the Memphis refinery, the company pays \$100 per parcel per year, Shelby County trustee reports show. For its personal property on the site, Valero pays a quarter of taxes assessed under a payment-in-lieu-of-taxes agreement the Economic Development Growth Engine board granted to help Valero fund \$289 million the

company said it would spend on upgrades needed to expand and upgrade the facility and to conform with environmental regulations.



'We're already exposed'

Despite a concentration of source point polluters in southwest Memphis, ambient air quality monitors are located in East Memphis, Downtown, on the north side of the city, in Frayser and in the northern suburban municipality of Millington. The dominant wind pattern points south, climate data shows.

Corbett Grainger, a University of Wisconsin-Madison professor of environmental economics, said he wasn't surprised to see a hole in the monitoring network in Memphis.

Grainger led a study on the placement of monitors, using data from satellites with instruments able to estimate certain pollutants from space, a method called remote sensing.

The study compared pollution in locations with and without monitors. "We found monitors in some cities tend to miss highly-polluted areas," Grainger wrote in an email.

Two of Shelby County's monitor sites, in Frayser and Millington, date to 1990. The East Memphis monitor was sited in 2011 and a Downtown monitor was placed in 2016, according to EPA data. Tennessee Department of Environment and Conservation spokesperson Kim Schofinksi said state and local monitoring plans are approved by the EPA annually, preceded by a public review period.

Dr. Chunrong Jia researches environmental health at the University of Memphis. He identified an air pollution "hot spot" in southwest Memphis in a [study](#) published in 2013 and said the lack of data makes it difficult "to fully address" the environmental justice issues in the area.

A mother of three kids, ages six to 13, Kimberly Dobbins lives in Whitehaven. She met their father while studying education at the University of Memphis. As the couple began navigating their kids' options, they decided to homeschool them, with Dobbins working at home as their teacher while her husband works in construction. "It was the private school we could afford," she said.

Dobbins took the trio to a recent rally against the pipeline as a "learning journey." For her, it was also a means to push on the disparities that have long troubled her.

"You just want your children operating and being healthy, mind, body and spirit. But then you have to fight these kinds of battles," she said. "Because it's always like, 'What's the future gonna be like for my kids?'"

■
Whitehaven resident Kimberly Dobbins with her daughter Zaiyah Veasley
Courtesy Kimberly Dobbins / For CommercialAppeal.com

Dobbins said she didn't have to think about participating in the movement to stop the pipeline. "We're already exposed," she said. "When it comes to our neighborhoods, no one really cares about the fact that these corporations are in our neighborhoods with the amount of pollution that they're causing," said Dobbins.

"Those who own the corporations, who collaborate with the corporations, who have any affiliation with the corporations — they're not living in our neighborhoods. They don't want their children exposed," she said.

MCAP founder says the Byhalia Pipeline connection would bring many risks to
Memphians(2:46)

Co-Founder of the Memphis Community Against the Pipeline Justin J. Pearson says the Byhalia Pipeline would bring many risks to those in Memphis. Ray Padilla, Memphis Commercial Appeal

Justin J. Pearson, the co-founder of the grassroots group opposing the pipeline, is intent on disrupting the desensitization surrounding pollution.

"We have unfortunately allowed pollution to just become a word and to not realize its impact on very real people," he said.

"We can't keep operating like this as a city. And we're at a moment in time where we can really forge a new moment and a new movement in Memphis that creates something different than what we have been accustomed to over the last centuries," he said.

Shelby County Mayor Lee Harris wrote in an emailed statement that the placement of the county's ambient air monitors will be analyzed with experts.

"We likely need the monitors in more communities, particularly neighborhoods that have historically borne the brunt of environmental degradation," said Harris, who has voiced his opposition to the Byhalia Connection pipeline and the drilling plan of TVA that would have endangered the aquifer.

In Sept., the EPA awarded the Shelby County Health Dept. Air Pollution Control division a nearly \$354,000 grant for community-scale monitoring. Dept. spokesperson Joan Carr described it as a pass-through grant to the University of Memphis "to get a broad database of samples from all parts of Shelby County and analyze them for the presence of unregulated pollutants." Currently, Carr said the Dept. is working to get the funding through the county budget process.

Jia, who previously identified a hot spot in southwest Memphis, will lead the effort. He's researching a specific set of pollutants, polycyclic aromatic hydrocarbons, which occur naturally

in coal, crude oil and gasoline. Jia said it'll take another four to six months to determine if southwest Memphis residents are experiencing higher exposure to the pollutants, called PAHs.

In the meanwhile, during the budget season, Harris said he plans "to continue to fight tooth and nail to expand the county's investment in public transit, which can have an ameliorative effect on air pollution."

Harris said the county is "working hard to ensure that the costs of climate change, environmental degradation, and overreliance on fossil fuels don't fall disproportionately on our historic communities."

In working with communities through the Union of Concerned Scientists, Declet-Barreto said addressing the "cumulative effects" of pollution on low-income communities of color would entail the commitment of multiple agencies.

Not only are different air pollutants regulated in different ways, he said. The means to address the circumstances that lead to communities being entrapped and encircled with pollution are disjointed, said Declet-Barreto.

"Access to affordable housing is some other agency's problem. Transportation is some other agency's problem. But communities experience all these things simultaneously without regard to geography, without regard to regulatory frameworks. They're constantly targeted," he said. |

No more 'sacrifice' zones

Tim Pearson, who grew up with asthma, has a lot of ideas on how environmental health initiatives could operate, based on his own experiences with asthma.

"Take on the responsibility of finding out how chronic asthma plays a part in the people that's around here lives'. Take a poll. How many kids, how many adults actually have asthma? [Is it] due to the environment, the chemicals that's being put in the air," Tim Pearson said.

"They have to be able to do something in order to stop it," he said. "Because it's an actual problem and people die."

Leaving shouldn't be a requirement for survival and 'sacrifice zones' aren't a concept anyone should accept, said two of the Pearson's sons. The term coined by founding member of the EPA's Office of Environmental Justice Mustafa Santiago Ali emblemizes sites across the country where, he told [Mother Jones](#), "We place everything that nobody else wants."

Keshaun Pearson wants people to put themselves in their family's shoes.

"Wherever your family is from, you don't want them have to leave there to survive," he said. "They should be able to raise their kids, to come back to the community and continue to build up the community."

"If you have to escape to higher ground, then it becomes about resources... about who can afford to survive. You're buying back years of your life. And that's not a fight anybody should have to fight," he said, pausing as his brother jumped in.

"When you have people in government who is supposed to protect you, who had the resources to stop it, to not let it happen," said Jaylen Pearson.

The family's patriarch, Pastor Jason Pearson, said now is the time for leaders to be decisive.

"This is the watershed moment. Are you going to stand with poor and low-wealth people and help them to have clean air, help them to keep oil out of their soil? Or are you going to stand with someone who's going to give the city [money]," he said.

"Are we that desperate for financial prosperity that we're willing to risk the health of our people?"

Sarah Macaraeg's reporting on air pollution was undertaken as a USC Annenberg [Center for Health Journalism](#) Data Fellow.

Macaraeg is an award-winning journalist who writes in-depth stories on accountability, solutions and communities for The Commercial Appeal. She can be reached at sarah.macaraeg@commercialappeal.com or on Twitter [@seramak](#).

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Attachment D

'Same sky', different air quality: Shelby County pollution gets an 'F' in State of the Air

[Sarah Macaraeg](#)

Memphis Commercial Appeal

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AD

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SKIP

Tennessee air quality alerts are posted by the State of Tennessee on [Facebook](#). This story has been updated with comments from the state Health Dept. and the correct context of Shelby County as the only majority Black county studied in the state. Haywood County does not collect air quality data.

For a fourth consecutive year in the annual [State of the Air](#) report, which analyzes air monitoring data collected in 15 Tennessee counties, the air quality in Shelby County, the only majority-Black county of those studied, received [the sole "F"](#) grade in the state.

The Shelby County disparity reflects a broader trend in air pollution exposure by race, detailed in the American Lung Association's report.

"The burden of living with unhealthy air is not shared equally. People of color are over three times more likely to be breathing the most polluted air than white people," the respiratory research and clean air advocacy group's [key findings](#) note.

Overall, three out of every eight people in the nearly 900 counties studied lived in counties graded "F" given ozone pollution levels from 2017 to 2019 that "repeatedly resulted in unhealthy air".



In Shelby County, the air quality grade may have remained the same. But the eruption of a movement to stop the Byhalia crude oil pipeline has transformed the quiet surrounding pollution-related health effects into a growing chorus of concerns.

More: Toxic air. Insufficient monitors. Why Memphis families fighting Byhalia pipeline have had enough

Between the Valero Memphis oil refinery and an area in northern Mississippi where the local drinking water aquifer is susceptible to contamination, the planned 49-mile pipeline route cuts through the nearly all Black neighborhoods comprising the 38109 zip code in southwest Memphis.

In a review of the Environmental Protection Agency's most recent inventory of facility-level emissions, a Commercial Appeal investigation found the top four contributors encircle southwest Memphis, accounting for 94% of 6.6 million total tons of six "criteria" air pollutants in 2017.

Under the terms of an EPA settlement for Clean Air Act violations, a Tennessee Valley Authority coal station was replaced with a natural gas plant since. The remaining top three facility sources of emissions in Shelby County in 2017, the Valero Memphis refinery, a steel plant and the busiest cargo airport in the U.S. — continue to account for the vast majority of county emissions, surrounding southwest Memphis.

"The overall air quality in Shelby County is worse given the environmental degradation of southwest Memphis in particular," said Justin J. Pearson, a cofounder of Memphis Community Against Pollution, whose family is from the Westwood neighborhood.



"If we resolve the injustice in south Memphis...if we lift from that point, it'll actually lift other people out of the tremendous terror of pollution and environmental injustice that we are all suffering from, as well," Pearson said, citing a phrase from the racial and economic justice policy expert Heather McGhee.

"We all do share the same sky."

The oil and gas industry shifted air quality trends in the U.S., the 2021 State of the Air report notes. An increase in extraction in the southwest and the cleanup of power plants in the east changed which cities ranked as recording the greatest number of unhealthy ozone days.

Ozone action days and health effects

Ozone is a major constituent of smog, widely recognized as harmful to human health — the result of certain chemicals interacting with one another and sunlight.

Described as similar to a sunburn on the lungs, levels of the pollutant in Shelby County in 2017 to 2019, the three most recent years of "qualityassured" data analyzed by the American Lung Association, prompted the "F" grade.



The Environmental Protection Agency states ozone at "even relatively low levels can cause health effects" that impact healthy children and adults, and those with lung diseases, such as asthma, both. The agency states ozone can:

- reduce lung function and harm lung tissue
- induce chest pain, coughing, throat irritation, and airway inflammation
- worsen bronchitis, emphysema, and asthma, leading to increased medical care
- longterm exposure is "likely to be one of many causes of asthma development"
- studies show associations of ozone with deaths from respiratory causes

On 14 separate days, Memphis-area residents breathed air with levels of ground-level ozone "unhealthy for sensitive groups", according to the 2021 State of the Air report.

Children, people who work or exercise outdoors, elders and people with lung diseases comprise sensitive groups.

On one "Code Red" day in Shelby County in those same years, every person should have avoided their exposure to outdoor air given the "unhealthy" level of ozone.



In the ALA analysis of demographic and health data, at risk groups range in the tens of thousands each, of a total Shelby County population of around 937,000 people, with an estimated breakdown by race as 54% Black, 35% nonHispanic white, 7% Latino and 3% Asian American in the 2019 American Community Survey.

- Pediatric asthma; 22,668
- Adult asthma; 62,664
- Chronic obstructive pulmonary disorder; 65,570
- Lung Cancer; 673
- Cardiovascular Disease; 71,880

- Smoker and former smokers; 315,401
- Children Under 18; 232,754
- Adults 65 & Over; 131,371

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Two measurements of another pollutant, particulate matter, are graded in the State of the Air report. All Tennessee counties received an "A" on one measure and a pass on the other.

Solutions

In the vast majority of Tennessee counties, no ambient monitoring data is collected, according to the ALA. Haywood County, which also has a majority Black population, is among the regional blind spots.

There are multiple monitors in Shelby County. But none are located in southwest Memphis, which is downwind of the Valero refinery. The facility's emissions have sparked the concern of families involved in the movement to stop the Byhalia pipeline who've lost multiple loved ones to cancer.

In a recent [study](#) of 6.3 million adults, a team of University of Texas public health researchers found, "Proximity to an oil refinery was associated with an increased risk of multiple cancer types."

Shelby County Mayor Lee Harris said in March his administration would review the placement of air monitors.

"We likely need the monitors in more communities, particularly neighborhoods that have historically borne the brunt of environmental degradation," Harris wrote.



The emailed statement also said the mayor planned to fight tooth and nail for an investment in mass transit, "which can have an ameliorative effect on air pollution."

A Wednesday evening request for comment on the status of Harris' efforts to have the monitors' placements assessed and that of community-level monitoring, funded through an EPA grant, did not receive an immediate response.

The recently proposed Shelby County budget includes a \$1,125,000 Capital Improvement investment "in public transportation capital projects that implement clean energy and hybrid energy projects and purchases that reduce the overall negative environmental impact of transportation modes that rely on fossil fuels."



Bill Christian, spokesperson for the State of Tennessee Health Department said Thursday, "TDH has made equity a cross cutting priority in all divisions and in strategic planning."

The Dept. participates in the Centers for Disease Control program the Agency for Toxic Substances and Disease Registry, Christian said. "When specific issues are identified, we collaborate with various agencies to conduct assessments and make recommendations."

The assessments involving air quality in Tennessee listed on the ATSDR site appear to be devoted to indoor air quality.



Justin J. Pearson's brother Tim Pearson grew up with asthma and has a lot of ideas on how environmental health initiatives could operate, based on his own experiences.

"Take on the responsibility of finding out how chronic asthma plays a part in the people that's around here lives'. Take a poll. How many kids, how many adults actually have asthma? [Is it] due to the environment, the chemicals that's being put in the air," Tim Pearson said.

Attachment E

Cohen pushes for tighter rules on coal ash clean-up, including in Memphis

Samuel Hardiman Memphis
Commercial Appeal

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AD

0:01

Correction: This story has been updated to clarify the separate timelines for the Tennessee Valley Authority to dispose of coal ash at the Allen Fossil Plant and remediation of the plant itself.

U.S. Rep. Steve Cohen took aim at the lingering coal ash in his district this week, targeting the pollution that is the byproduct of coal-fired power plants in Memphis and across the country.

Cohen introduced the Ensuring the Safe Disposal of Coal Ash Act this week, a move that could help strengthen provisions of the Clean Future Act, a bill introduced this year that is aimed at reducing carbon dioxide emissions and includes measures intended to speed up coal ash clean-up and set further standards for it.

Cohen's bill also could have ramifications for the Tennessee Valley Authority, which supplies Memphis and all of Tennessee with its electricity. TVA, like utilities across the U.S., is now faced with dealing with the residue of the millions of tons it burned throughout the past five decades.

That residue, and the pollution from it, exists in Memphis from the Allen Fossil Plant on President's Island, the industrialized peninsula in a slack water harbor on the Mississippi River. Arsenic has been found in groundwater wells around Allen. According to the federally owned power company's website, the remediation of the site could take up to nine years.

Opinion: Essential coal industry requires aid during COVID-19 outbreak

Report: Water near Memphis coal ash dump ranked among worst in the country for arsenic contamination

“I have been acutely aware of the dangers of coal ash contamination because of the disastrous 2008 coal ash spill in Kingston, Tennessee, and the unacceptably slow clean up of the contaminated groundwater beneath coal ash pits at TVA’s Allen Fossil Plant in my own district,” Cohen said. “This plant is now identified as one of the most contaminated sites in the country. The measure I am introducing strengthens protections outlined in the 2015 Coal Ash Rule and protects communities by mandating safer and faster disposal of this dangerous waste product of electricity production.”

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In response to Cohen, TVA said, “We are disappointed in Rep. Cohen’s characterization of TVA’s coal ash management as we are an industry leader in the safe, secure monitoring and management of coal ash. TVA has pioneered new technology and uses the best science, data, and research to ensure our coal ash sites are safe and secure, which has enabled us to implement best practices years before they were required by the 2015 federal coal ash rule.”

The Allen Fossil Plant and the coal ash disposal site are next to each other along Plant Road on the President's Island peninsula.

TVA CEO Jeff Lyash, who has sought to keep Memphis buying electricity from his company, has said the company could remediate the Allen Fossil Plant faster than anticipated if Memphis commits to staying with TVA.

The clean-up of the coal-ash and groundwater mitigation are separate issues Lyash has said. He said TVA has begun cleaning up the coal ash on schedule and that the coal remediation is a separate engineering project from any Allen plant remediation that could occur.

Lyash said the company is committed to cleaning up the coal-ash occur regardless of TVA being Memphis' power supplier. The city-owned utility,

Memphis, Light, Gas and Water, will soon ask the private sector for bids on its electricity supply.

The Allen Fossil Plant being remediated could have economic benefits to Memphis. The Economic Development Growth Engine for Memphis and Shelby County would like to redevelop the site into a harbor port and TVA has offered to accelerate the timeline for remediation as an economic development incentive.

The bill focused on coal ash and Cohen's pointed remarks about own TVA's coal problems reflect the congressman's attitude about TVA. Cohen has long wanted Memphis to leave TVA and buy electricity elsewhere, citing potential savings. When Franklin Haney, a friend of Cohen's, wanted to pitch Memphis on buying nuclear power from a plant in Alabama, Cohen helped facilitate meetings with Memphis leaders.

Samuel Hardiman covers Memphis city government and politics for The Commercial Appeal. He can be reached by email at samuel.hardiman@commercialappeal.com or followed on Twitter at [@samhardiman](https://twitter.com/samhardiman).

Attachment F

Analysis | Why was Memphis' water infrastructure in such bad shape? Politics didn't help.

Samuel Hardiman

Memphis Commercial Appeal

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The deep freeze that wreaked havoc on Memphis' water system showed MLGW CEO J.T. Young has the benefit of foresight.

On Dec. 17, 2019, after years of urging Memphis City Council to approve rate hikes, the city-owned utility had just received a water rate hike and a gas rate hike, but failed to get an electric one, Young expressed worry about the delay.

"What I'm concerned about now is the more delays that we have now... puts more of our customers at risk in terms of their service and our equipment," Young said. "That's why we want to be able to move as quickly as we can to get that resolved."

And, in 2021, unprecedented, prolonged cold attacked MLGW's aged wells and pumping stations, infrastructure that a 2019 outside audit had rated as on the verge of collapse. The freezing temperatures led to low water pressure, hundreds of broken pipes and mains, and a precautionary boil advisory that is now four days old.

Last year, delayed more still by the COVID-19 pandemic, MLGW started fixing its infrastructure, beginning a years-long, hundreds of million-dollar process to bring the antiquated utility up to snuff. The investment did little to alleviate the water system's issues before the freeze, showing the politicians' delays last decade, as Young had worried, might be costing their constituents now.

The emergency could soon pass, and the water infrastructure could soon get fixed. But the political construction of Memphis' governance that led to the delay in infrastructure spending will persist.

On Monday, some members of the City Council, the ones who vote on MLGW rate hikes, described the council, a group of elected representatives, as the best body to decide on rate hikes and big MLGW spending decisions, but also acknowledged that the system is not immune to political pressure and lobbying from outside interests.

“A strength of that [governance] is that you have people who are directly accountable to the ratepayers, and the voters of Memphis,” Councilman Martavius Jones said. “The weakness is that the Memphis City Council votes.”

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Councilman Chase Carlisle said the council's political nature opens the door to the elected officials being influenced.

“Sometimes outside influence and heavy influences, whether it's lobbying or pressure, can sometimes, I think, cloud the judgment or cloud the decisionmaking matrix of the body, or individuals on the body,” Carlisle said.

Lobbying impacted rate hike votes

The fall and winter of 2019-2020 is one pandemic and presidential election ago, but, at that time, in the aftermath of the Memphis municipal elections, the hottest political issue in Memphis was electricity and spending money on infrastructure.

In his second year on the job, Young, for the second time as MLGW CEO, was trying to get the City Council to pass rate hikes for all three of MLGW's divisions. The council had said no the year before.

Part of the reason behind that defeat was, as with any tax or rate hike, the council's reluctance to add any more financial burden to Memphians' bills. In a city that struggles with poverty, raising rates is an anathema to many elected officials.

There was considerable outside interest in Memphis' rate hikes as well. Proponents for Memphis leaving the Tennessee Valley Authority, the federal power provider, opposed the rate hikes, fearing that it would erase the need for Memphis to examine its electricity alternatives.

Lobbyists for various groups who could benefit from Memphis leaving TVA worked the council ahead of the votes, meeting with members privately and then watching the vote from the audience in the council chamber.

MLGW leadership, knowing the electric rate hike was a political football, worked to split up the different rate hikes, and got approval for the gas and water hikes, legislative permission that could have come a full year earlier, in late 2018. The electricity rate hike would pass in January 2020, after a new version of the city council had been sworn in.

Then Councilman-elect Carlisle watched the 2019 rate hike and political drama with unease. He noted that the rate hikes were delayed “over and over again” to apply pressure on MLGW leadership to leave TVA.

“It’s a travesty that politics gets in the way of good policy decisions,” Carlisle said. He added he hopes his colleagues on the council vet the information they receive about leaving TVA, an issue that is still unresolved and stalled.

Outside interest in MLGW persists

In October, in the midst of heavy lobbying, the council voted down a contract for a company that would’ve bid out Memphis electricity supply. Some on the council said the contract should go to another firm, one that had pitched members of the City Council directly on wanting to do the bidding.

To Jones, that vote, and the larger influence campaign pushing Memphis to leave TVA, were political events he did not see coming.

“I never foresaw that things would get to get to where they are,” Jones said. “I think some of those alliances and influences are taking place.”

Jones, like Carlisle, expressed some concern over attempts to influence Memphis' decision-making process.

"I am not married to TVA. If we go through a process, and the process says it's in our best interest to [leave], I'm all for it. Where the politics of it comes in, is doing anything besides what would be a fair and independent process for us to assess what our current and future energy needs are," Jones said.

Carlisle said, "I am agnostic to whether we leave TVA and seek alternate power, or stay with TVA, so long as when the decision is made, it is made with ... all the information necessary to make a fully informed decision that will ensure the best economics and reliability for our ratepayers.

...And, if that means leaving TVA, we better make sure that we fully understand any risk and or cost involved with seeking the savings associated with leaving our current provider."

Water issue highlighted a lack of investment

The cold snap and snow were winter weather Memphis had not seen in decades. Without the successive storms and enduring cold, the city's aged water system might have held up, MLGW leadership said during multiple news conferences this weekend.

Young, and Nick Newman, the utility's head of engineering, acknowledged this weekend that other local water systems, Germantown, Collierville and Bartlett, endured the same cold but didn't have the same problems and that the age and condition of the water system played a significant role in the boil water advisory.

When asked about the city council's decision to delay rate hikes in the past, Young did not take the bait Sunday, telling Fox 13's Greg Coy that the utility was "blessed" to receive the rate hikes.

Young, as he often does, tiptoed around political controversy. He knows that he'll be back before the city council again. It does not make much sense for him to anger the people who vote on his organization's budget.

Samuel Hardiman is a watchdog reporter who covers Memphis city government, politics and the pandemic response for The Commercial Appeal. He can be reached by email at samuel.hardiman@commercialappeal.com or followed on Twitter at [@samhardiman](https://twitter.com/samhardiman).

Attachment G

Winter storm exposed frailty of water infrastructure in cities of the South

Samuel HardimanGreg HilburnMarlon A. Walker

Memphis Commercial Appeal

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Cities throughout the South found out what happens when infrastructure past its shelf-life meets several days of temperatures below freezing.

Mains break. Pipes burst. As water leaks out of the system, water pressure falls below mandated levels. A boil advisory for those who have water ensues. That's what happened in Memphis, Shreveport, Louisiana, and Jackson, Mississippi.

Memphis utility leaders said Wednesday the city's water system had reached green status after the city had been under a precautionary boil advisory for six days. Once mandatory water pressure levels are reached, Memphis, Light, Gas and Water, with the Tennessee Department of Environment and Conservation's approval, will lift the advisory.

In Louisiana, nearly 1 million customers remained without drinkable tap water Wednesday, including about 200,000 in Shreveport, the state's third largest city.

In Jackson, water is slowly being restored for tens of thousands on the city's water system, with expectations for all to be running by Friday, city officials said. Winter storms that hit Mississippi Feb. 14 and Feb. 17 brought snow, rain and below-freezing temperatures that froze pipes and made roads impassable as the city even ran out of chemicals needed to treat the water.

The problems faced in Jackson, Shreveport and Memphis show what happens when a lack of investment from cities coupled with infrastructure past retirement age meets unprecedented cold, experts and public officials said.



In Memphis, old infrastructure shows its years

Throughout the Memphis water crisis, MLGW has released a daily water status update. On it, the utility gave the status of each of its nine pumping stations as red, yellow and green.

On Wednesday, four Memphis pumping stations had red status. Three of those four were MLGW's oldest, according to a 2019 infrastructure audit.

Wilson Mallory Pumping Station on Dunlap Street was built in 1924 when Calvin Coolidge was president. James Sheahan Pumping Station, on Southern Avenue east of the University of Memphis, was built in 1932. And Allen Pumping station was built in the early 1950s.

In 2019, when engineering firm HDR, examined Mallory pumping station, it noted that its "electrical service and gear is beyond service life and specific elements exhibit corrosion and hazard."

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The pumping stations that didn't reach "red" status this week were largely newer, built in the 50s through the 90s, and the HDR audit said.

The cold snap and snow were winter weather Memphis had not seen in decades. Without the successive storms and enduring cold, the city's aged water system might have held up, MLGW leadership said during multiple news conferences this week.

MLGW CEO J.T. Young, and Nick Newman, the utility's head of engineering, acknowledged this weekend that other local water systems, Germantown, Collierville and Bartlett, endured the same cold but didn't have the same problems.

Young and Newman said that the age and condition of Memphis' water system played a significant role in the boil water advisory.



Jackson issues up for debate

The issues with Jackson's water woes vary depending on who's speaking. City officials blame a hundred-year-old system that Mayor Chokwe Antar Lumumba has said would cost about \$2 billion to fix. In recent years, issues with lead in Jackson water samples brought up conversations about how the city was treating its water, whether the chemicals used were eroding residential pipes.

A lack of regular maintenance, combined with funding shortages and the area's soil profile, produce a dire situation for the Jackson water system, said Sadik Khan, an assistant professor of civil engineering at Jackson State University.

“The overall thing is we need to have regular maintenance, and I believe the issue here is a lack of funding,” he said. “By not having that funding, we are letting our good structures go from good to fair ... to bad.”

Khan said while he has not studied Jackson’s system, erosion over time without adequate maintenance could lead to parts of the system needing repair, and others needing to be replaced.

The system also is built in Yazoo clay, a thick, expansive material that can absorb water in large quantities, similar to a dry sponge. It also forces shifting of materials built within as water accumulates, as the clay expands and shifts, and changes composition in the drying process. Khan said larger cities such as Dallas and Houston in Texas have similar soil profiles but have far fewer issues with their water systems.

“But look at the economy in Dallas and Houston,” he said. “The economy is much larger. If we can stop the rain or stop the sun, it will solve the problem – which is not possible. In the meantime, we need to be innovative. It will need some funding. If we completely need to redo the work, it will take years.

“Right now, some kind of Band-Aid would work but (the city) will need cashflow, for sure.”



Shreveport's infrastructure shows its age, too

Shreveport Mayor Adrian Perkins said the city was finally able to resume sending water through virtually all of its pipes by noon Wednesday, but those on the system will likely remain under a boil order until Saturday.

Perkins said the combination of the weeklong freeze and two accompanying ice events created the worst water disaster in 91 years, bursting mains and valves all over the city.

The temperature remained below freezing for six days and reached a record low 1 degree in Shreveport on Feb. 16.

"Some of our pipes are 100 years old," Perkins told USA Today Wednesday. "They can't expand and contract under those kinds of extreme conditions without bursting."

He said 20 crews worked non-stop to repair and restore service as some residents were unable to access any water to drink, bathe or cook.

"We had medical emergencies that were having to be addressed in hospitals where water had to be trucked in," Perkins said. "We had residents who had to collect snow to put in toilets and bathtubs, but many people weren't able to physically do that."

He said now that the pipes are thawed and the water is flowing "it presents new problems because individuals are finding out that their pipes have burst. And now our industries have to determine what damage was done to their systems as the water comes back on line."

"We're not out of the woods," Perkins said. "It's important that people know we still have people here who are suffering and need help."

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Attachment H

'The water is fine,' Shelby County Schools chief insists after lead testing

Micaela A Watts

Memphis Commercial Appeal

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Comments](#)

AD

0:11

SKIP

The water is fine.

That's the emphatic message Shelby County Schools Superintendent Joris Ray had for parents during a media tour of Idlewild Elementary on Tuesday.

To demonstrate his confidence in Idlewild's water, Ray sipped from a hallway water fountain for news cameras and explained: "I don't want the headlines to reflect something different than reality."

The school system for Memphis and Shelby County voluntarily tested around 3,500 drinking water sources during fall break in October, and last week released the names of some schools identified as buildings containing one or more water sources of drinking water that tested for lead levels above the recommended threshold.



The final number of schools with questionable sources of drinking water now numbers 35 out of 165.

The drinking water sources that tested positive for unsafe levels of lead were taken out of service following the results.

► Previous reporting: [High lead levels found in the water at 10 Memphis schools](#)

How dangerous is this?

The Environmental Protection Agency says that there is no known "safe" level of lead.

Lead exposure, the EPA says, is significantly more harmful for developing children than adults, and it has been linked to central and peripheral nervous system damage, learning disabilities, and impaired formation and function of blood cells, among other effects.

The state of Tennessee passed a law earlier this year that mandates lead testing once every two years at a minimum, with the acceptable level of lead defined as less than 20 parts per billion.

Shelby County Schools voluntarily tested drinking water sources in their buildings in 2017, an effort that Ray characterized as "proactive" on Tuesday.

The 2017 results also showed some drinking water sources with elevated lead levels. Those sources were taken out of service and remained out of service, according to SCS.

According to the Centers for Disease Control and Prevention, "no safe blood lead level in children has been identified. Even low levels of lead in blood have been shown to affect IQ, ability to pay attention, and academic achievement. And effects of lead exposure cannot be corrected. The most important step parents, doctors, and others can take is to prevent lead exposure before it occurs."

How SCS plans to address the problem

As in 2017, the water sources containing elevated levels of lead have been taken out of commission and will remain so indefinitely, Ray explained Tuesday.

"I want parents to know that I would never knowingly put their children in harm's way," Ray said.

In response to this year's lead testing results, SCS is pairing with the Shelby County Health Department to offer free lead testing for children.

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Beginning Tuesday, lead screening and testing will be available at all Shelby County Health Department clinics during regular business hours from 8 a.m. to 4:30 p.m.

Additionally, SCS said a risk management team will oversee retesting of each water source in the next 90 days after any corrective actions.

If those water sources are still showing elevated levels of lead, they will remain out of use until they can meet state standards.

Parents can take their students to the following locations for lead testing:

- Cawthon Public Health Clinic, 1000 Haynes
- Collierville Public Health Clinic (Tuesday and Thursday only), 167 Washington St.
- Hickory Hill Public Health Clinic, 6590 Kirby Center Cove
- Immunization Clinic, 814 Jefferson, Room 216, 38105
- Millington Public Health Clinic, 8225 Highway 51 N.
- Shelby Crossing Public Health Clinic, 6170 Macon Road
- Southland Mall Public Health Clinic, 1287 Southland Mall

SCS schools with contaminated drinking sources

- Airways Achievement Academy: 1 kitchen sink, 2 bubblers
- Brownsville Elementary: 3 bubblers
- Booker T. Washington High: 1 cooler
- Berclair Elementary: 1 cooler

- Central High: 1 kitchen sink
- Charjean Elementary: 1 kitchen sink
- Chickasaw Middle: 4 bubblers
- Double Tree Elementary: 1 bubbler, 1 cooler

- Douglass Pre-k: 1 kitchen sink
- Douglass Elementary/Middle: 1 pot filler, 1 kitchen sink
- East High School: 2 kitchen sinks
- Egypt Elementary: 1 pot filler
- Gardenview Elementary: 4 bubblers
- Havenview Middle: 1 kitchen sink
- Ida B Wells Academy: 2 bubblers
- Idlewild Elementary: 1 kitchen sink, 2 coolers
- Jackson Elementary: 2 coolers, 2 bubblers
- Keystone Elementary: 1 pot filler
- Kingsbury Elementary: 1 bubbler
- Kingsbury Vocational: 1 kitchen sink, 1 cooler
- Macon-Hall Elementary: 1 cooler
- Raleigh Egypt High: 1 bubbler
- Ridgeway Middle: 1 ice machine
- SCS Prep School Northeast (Macon): 2 bubblers
- SCS Prep School Northwest (Pyramid): kitchen sink
- Sheffield High: 1 bubbler
- Sherwood Middle: 1 cooler
- South Park Elementary: 1 cooler
- Southwind High: 1 kitchen sink
- Treadwell Middle: 4 bubblers
- Trezevant Career and Technical: fixture unlisted
- Trezevant High: 3 bubblers
- Westside Elementary: 1 pot filler
- Whitehaven Elementary STEM School: 2 bubblers
- Whitehaven High: 1 cooler
- Wooddale High: 1 bubbler

Commercial Appeal reporter Laura Testino contributed to this report.

Attachment I

Testing Memphis children for lead isn't new. Here's what the city already knows about lead risks

Laura Testino

Memphis Commercial Appeal

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AD

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SKIP

This story has been updated with new information from Memphis Light, Gas and Water.

The blood test for lead poisoning is a simple finger prick.

In-school blood lead testing began in early December for students at Memphis schools that had water sources with lead levels above the state's threshold.

Earlier this fall, more than 30 schools tested at least one water source with lead above the threshold.

The results raised alarm in parents across the city, prompting the blood testing and assurances by public officials.

The blood test also includes an equally important questionnaire, which helps determine potential sources of exposure.

As parents await the results of these tests, The Commercial Appeal seeks to answer questions raised by the testing.



How long will it take for the results?

Alisa Haushalter, director of the Shelby County Health Department, said that parents will learn the results of their child's test in about one week.

The health department is developing a plan to provide follow up for individuals with elevated blood lead levels, spokesperson Joan Carr confirmed in an email.

“Children ages 0-16 years old will fall under the Health Department’s Childhood Lead Poisoning and Prevention Program for case management,” Carr said. “That may include follow-up testing by a Health Department nurse, a nurse home visit, and outreach and education for the family. If the child has very high levels of lead and requires treatment, he or she would be referred to

LeBonheur. Adults who test with elevated blood lead levels will be referred to their primary care provider.”

How do kids get lead poisoning?

Most commonly, children are exposed to lead at home. The CDC identifies preventing exposure as the most important step for parents, doctors and others.

Ideally, any child’s lead level is zero, said Stuart Batterman, whose research examines the presence of and risks associated with toxic compounds like lead. Batterman is a professor of environmental health sciences at the University of Michigan’s School of Public Health.

The school source could be a contributor, but most likely there are contributors at home, he said.

“The parent should understand that what’s happening at home is what’s going to be really important,” Batterman said, "and that should be checked out.”



Why are children being tested?

According to the Centers for Disease Control and Prevention, even low levels of lead in blood have been shown to affect IQ, ability to pay attention and academic achievement.

The department tests Memphis children for lead with some regularity: testing is required by federal law for children at 12 and 24 months who are on Medicaid, and thousands of children are tested each year through departmental programs, according to a grant application for federal funding.

At this time, only district schools are included in the blood lead testing, Carr said via email. "But the Health Department is open to providing testing at other schools as indicated," she said.

Charter schools and most schools in the state-run Achievement School District still need to return testing results to the state.

Recent results for three ASD schools show lead in some water sources at Frayser-Corning Achievement Elementary School, Georgian Hills Achievement Elementary School and Whitney Achievement Elementary School.

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Nov. 2019: ['The water is fine,' Shelby County Schools chief insists after lead testing](#)

More: [After SCS, Germantown, Millington schools tested for unsafe levels of lead, here's how to get a free test](#)

What's the rate of lead poisoning found in Memphis kids?

Memphis has a lead poisoning rate of about 2%, according to Betsy Shockley, who supervises the Shelby County Health Department's Childhood Lead Poisoning Prevention Program. The national average is below 1%, Shockley said.

The rate is correlated to the number of older homes; more than half of all housing units in the City of Memphis were built before 1978, Shockley said, which means they are "highly likely to contain lead-based paint."



What are major sources of lead?

Lead can be found in paint, water, soil and some consumer products.

Lead found in drinking water can be attributed to plumbing: main service lines, which are the responsibility of the city, and additional lines that travel from the curb to the home and fall to the homeowner to replace.

Lead was used for some pipes until it was outlawed in 1986. Memphis Light Gas and Water stopped using lead lines in the 1950s, [according to information on its website](#).

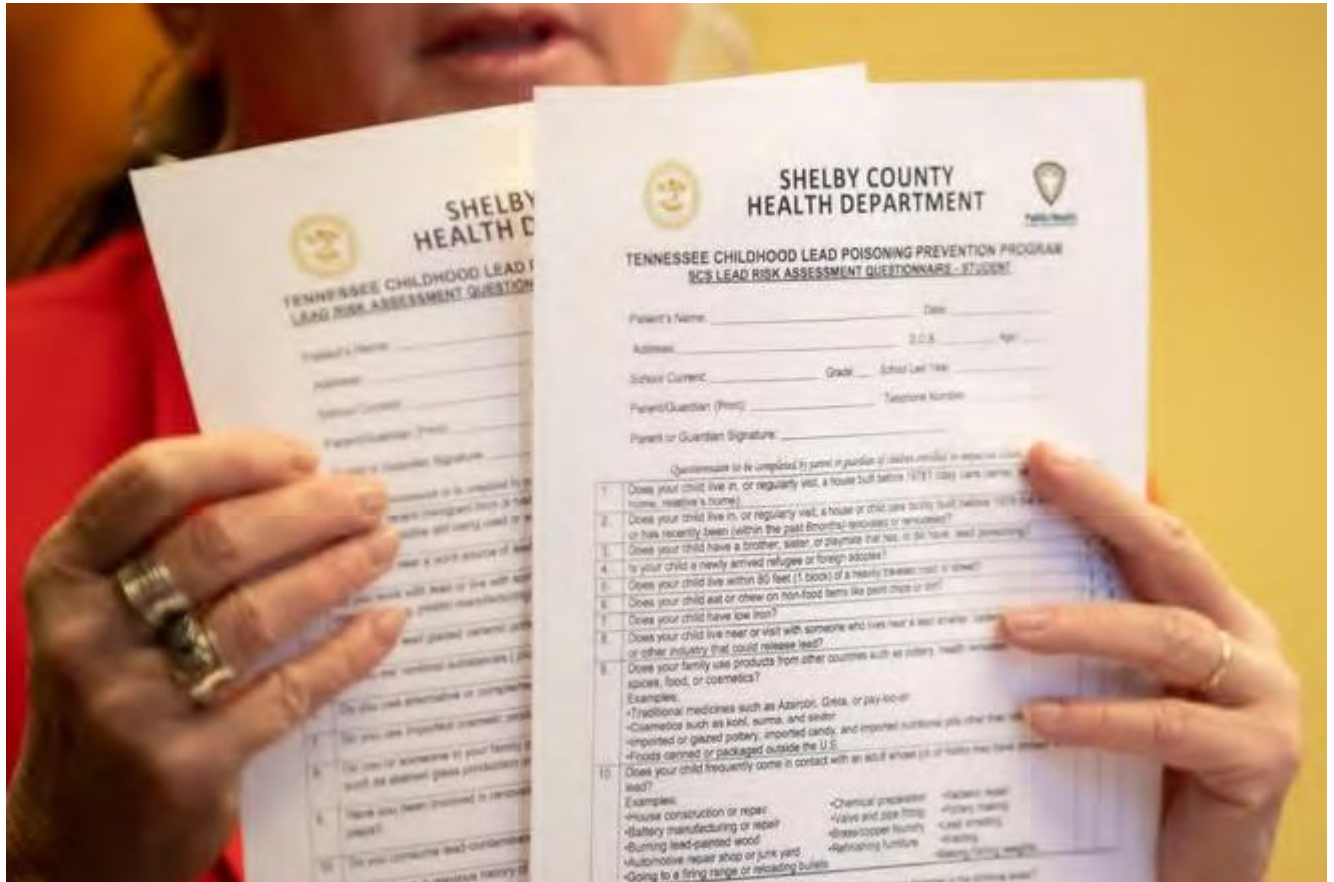
MLGW estimates the city has 16,500 lead service lines that need to be replaced. National estimates place the total number of lead lines in the United States between 6 and 10 million.

The goal is to replace 1,000 lead service lines per year, MLGW said in an email to The Commercial Appeal, adding that the projected year for completion of all lead service line replacements would be 2035.

Since 2012, MLGW has replaced 3,546 lead service lines.

Having a lead pipe does not guarantee that lead will be present in the water from the pipe. To mitigate the risk of lead appearing in drinking water, the city adds sodium hexametaphosphate to reduce corrosion of water mains.

In 2020, a projected \$2.5 million in funding will come from a new line item specific to lead service replacements.



What can I do to manage lead exposure?

Paint dust accumulates, so it's important to vacuum and mop regularly so that the dust doesn't end up in food or the mouths of children who are crawling on the floor.

MLGW has an interactive map of lead service lines available [on its website](#).

The data there has not been verified by MLGW, though, according to the map's disclaimer. Nicholas Newman, MLGW's vice president of engineering and operations, said MLGW is currently inspecting lines to determine if the line is made of lead.

The city provides free water testing kits to residents, Newman said.

Proposed updates to the federal Lead and Copper Rule would require that cities create databases of all lead service lines. Public comment is open on the rule into the new year.

The Environmental Protection Agency has a guide on its website for water filters that reduce lead exposure.

In addition to filters, residents can "flush" the tap, letting it run for 30 seconds to 2 minutes, before using the water for drinking or cooking. Typically, lead levels are higher when the water has been sitting not in use.

Memphis tests for the presence of lead in water at 50 homes once every three years, and publishes those results in annual water quality reports.



What are sources of lead at schools?

When the results of lead testing were released, SCS said that the fixtures themselves were the source of the lead found in the water fountains and other drinking sources. SCS complied with the state law by immediately removing them from use.

Presently, it is unclear how many Shelby County Schools are serviced by lead pipes.

MLGW began inspecting service lines at all Shelby County Schools in the fall to establish an accurate database of which schools may have lead service lines, according to Newman, who works at MLGW.

He said he's 99% sure that no schools have lead lines, but that is why the inspection is being done.

MLGW later said that "the plan is to inspect all Shelby County schools in

2020."

In the wake of the water testing results, MLGW first said it inspected lines at each of the schools with lead levels above the threshold and did not find any of those schools to have lead lines.

Documents later obtained from a public records request show that MLGW has only inspected 10 of the schools that tested for elevated levels of lead. Nine of those schools do not have lead service lines. The plumbing material for the tenth school is unknown, according to the document.

MLGW said those inspections occurred on Nov. 7, 2019.

MLGW said it notifies everyone that is found to have a lead service line, including schools, and SCS said it has not been notified by MLGW of any lead service lines.

Like in homes, though, additional plumbing sits beyond the meter, and in this case, falls to the responsibility of the district.

"Our responsibility begins at the meter," the district said in an email. "Shelby County Schools is currently working on a long-term plan to address the 2019 results, which may require additional evaluation."

The district said it did not have any more information beyond its previously shared fact sheet about the results from the lead testing, and did not answer questions about how the source of lead was determined and whether or not identifying lead service lines was part of the district's water testing process.



What is Memphis doing to manage lead exposure?

Since 1995, the City of Memphis Division of Housing and Community Development has secured more than \$25 million in grant money from the U.S. Department of Housing and Urban Development for its Lead Hazard Reduction Grant Program. Earlier this fall, the city was awarded \$5.6 million, disbursed over 42 months, for the continuance of the program.

“Even with the long tenure of the City of Memphis Lead Hazard Reduction Grant Program, the need in Memphis and Shelby County for lead remediation is still high,” the city wrote in its grant application.

In the last 25 years of the program, the city said it has successfully reduced lead exposure risks in 1,925 housing units.

This year's grant will contribute to the remediation of at least 300 homes, according to the application.

Low-income families and renters typically face the most barriers to remediation of lead exposure at home, Alisa Haushalter, director of the Shelby County Health Department, said at a recent press event.

What does the law say about lead?

The new law mandating that lead testing be done in schools' water sources places Tennessee on par with at least eight other states that have the requirement, according to a report released in January by Harvard University's School of Public Health.

The report found that for states that had testing data available, 44% of schools identified one or more water sources with elevated lead levels. More would do so if the threshold was lowered, the report suggests.

Tennessee's threshold of 20 parts per billion places it on the higher side; results showing 15-20 parts per billion have to be retested annually, but don't have to be removed from use. Policies and laws in other states have an action level at 5 parts per billion.

Based on findings, the report recommends specific and standardized practices for collection and testing for lead in schools across the country.

The proposed updates to the Lead and Copper Rule also suggest mandated testing for schools. Other states would, like Tennessee, have to develop testing plans for schools, as well as child care facilities.

Tennessee's policy lost points in another report, called 'Get The Lead Out,' for using the 20 parts per billion threshold and for not requiring more frequent testing.



Laura Testino covers education and children's issues for the Commercial Appeal. Reach her at laura.testino@commercialappeal.com or 901-5123763. Find her on Twitter: @LDTestino

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY DEPARTMENT, LAW DIVISION

STEPHEN CRIFASE,)
)
 Plaintiffs,)
)
 v.)
)

FILED
 11/1/2018 7:03 PM
 DOROTHY BROWN
 CIRCUIT CLERK

COOK COUNTY, IL
 2018L011925

2018L011925

VANTAGE SPECIALTIES, INC., a/k/a) No.
 VANTAGE SPECIALTY CHEMICALS d/b/a)
 H.I.G. CHEMICALS HOLDINGS, CORP.,) PETROFERM,
 INC., PETROFERM FUELS,) PETROFERM
 CLEANING PRODUCTS,) LAMBERT TECHNOLOGIES;
 and)
 VANTAGE OLEO CHEMICALS, INC. a/k/a)
 VANTAGE SPECIALTY CHEMICALS,)
)
)
 Defendants.)

COMPLAINT AT LAW

Plaintiffs, STEPHEN CRIFASE, by and through his attorney KUPETS & DeCARO, P.C., complaining of the Defendants, VANTAGE SPECIALTIES, INC., a/k/a VANTAGE SPECIALTY CHEMICALS d/b/a H.I.G. CHEMICALS HOLDINGS, CORP., PETROFERM, INC., PETROFERM FUELS, PETROFERM CLEANING PRODUCTS, LAMBERT TECHNOLOGIES; and VANTAGE OLEO CHEMICALS, INC. a/k/a VANTAGE SPECIALTY CHEMICALS, states the following:

GENERAL ALLEGATIONS

THE PARTIES:

1. At all relevant times herein, Plaintiff, Stephen Crifase currently resides in State of Illinois.
2. At all relevant times herein, Defendant Vantage Specialties, Inc., was a foreign corporation licensed to do business in the State of Illinois with its Global Headquarters located at
 4650 South Racine Avenue, Chicago, IL 60609

FILED DATE: 11/1/2018 7:03 PM 2018L011925

3. At all relevant times herein, Defendant Vantage Specialties, Inc., was also known as Vantage Specialty Chemicals and was doing business as H.I.G. Chemical Holdings, Corp., Petroferm, Inc., Petroferm Cleaning Products, Lambert Technologies and Petroferm Fuels (collectively referred to hereafter as “Vantage Specialties”).

4. At all relevant times herein, Defendant, Vantage Oleochemical, Inc., was a foreign corporation licensed to do business in Illinois and with its principal business headquarters located in Chicago, Illinois.

5. At all relevant times herein, Defendant, Vantage Oleochemical, Inc., was a/k/a Vantage Specialty Chemicals (hereafter collectively referred to as “Vantage Oleo”).

6. At all relevant times herein, Defendants, Vantage Specialties and Vantage Oleo were and are engaged in the business of manufacturing, blending, formulating and mixing for worldwide distribution of Oleochemical, Specialty Chemicals and mixed natural and manufactured gas.

7. At all relevant times herein, Defendants, Vantage Specialties and Vantage Oleo operated a manufacturing and blending facility located at 3938 PORETT DRIVE, GURNEE, IL 60031. (Hereafter referred to as the “Gurnee Facility.”)

THE INCIDENT

9. At all relevant times herein, Plaintiff Stephen Crifase was employed by Aerotech, Inc., and Mostardi Platt, Inc., as an environmental scientist assigned with a group of coemployees to perform tests and measure the air quality and particulates omissions at the Vantage Gurnee Facility.

10. On November 14, 2016, Plaintiff and his co-workers reported to the Gurnee Facility to set up the equipment to measure the air quality and particulates emissions from the smoke stack, beginning the following morning.

11. On November 15, 2016, at approximately 7:00 a.m., the Plaintiff and his coworkers began the assigned work of measuring the air quality.

12. Initially, the equipment was calibrated before being connected to the smoke stack tubing so that the reading would be at "0." After the equipment was calibrated the tubing running from the smoke stack was connected to the equipment to begin the testing.

13. Immediately after it was connected, the reading on the equipment indicated the limit reading that was set as a solid 1.0 ppm rather than the acceptable level of .01 ppm for ethylene propanol dioxide.

14. They immediately shut down the equipment and recalibrated the equipment to insure an accurate reading but set the limit at 10 ppm. When they started testing the emissions again, the machine went to the upper limit set of 10 ppm.

15. Once again, they recalibrated the equipment again to ensure it was functioning properly and raised the upper limit to read 100 ppm and once testing began the reading went to the upper limit of 100 pm.

16. The testing crew replaced some of the equipment and recalibrated the replacement equipment and tested the emission again and the reading went to 10,000 ppm and then 30,000 ppm.

17. Throughout the testing of the air quality and the recalibration of the equipment, Plaintiff and other workers on the roof top station were experiencing progressive light headedness, nausea, and migraine headaches.

18. After the 30,000 ppm reading was made, the foreman operating the equipment in the testing truck called an emergency shut down and ordered Steve and his coemployees on the roof at the collection station to evacuate the building immediately and to leave their equipment.

19. The foreman notified the Vantage contacts for the factory regarding the toxic level of ethylene oxide/propylene oxide being emitted from the smoke stack.

20. Steve and his co-employees were immediately sent home in order to allow the contaminated air a chance to dissipate.

21. On November 17, 2016, the Mostardi workers including Plaintiff Stephen Crifase, returned to the Gurnee Facility expecting to perform their testing. When they arrived they were told that there was nothing changed and they remained at the site that day. The Mostardi Supervisor again told the Gurnee Facility Supervisor that they could not perform the tests because of the levels.

22. The following morning, on 11/17/16, Steve and his co-employees returned to the Defendants' Gurnee Facility to pick up their equipment. At that time, they were told nothing was being done regarding the toxic emissions and the plant was operating as it was the day before.

23. As a result, the Gurnee Facility Supervisors were told that the MostardiPlatt employees would not go back on the roof until it was safe to do so. The Gurnee Facility sent their own employees to collect the roof top equipment and bring it down.

24. On November 18, 2016, Plaintiff Stephen Crifase and the other workers were told by their supervisor to dispose of all clothing they were wearing that day including shoes,

trousers, and shirts and jackets as well as any backpacks that they may have had with them on the roof.

25. That day and for several days thereafter, Plaintiff continued to have a migraineheadache, continued to feel light headed, sluggish and developed sensitivity to light. On August 22, 2016, he went to the emergency room.

26. Plaintiff continues to suffer medical issues as a result of the toxic exposure to chemicals emitted from the Gurnee Facility and suffered damages which will be more specially identified hereafter.

COUNT I

(VANTAGE SPECIALTY CHEMICALS - NEGLIGENCE)

27. Plaintiff adopts and realleges paragraph 1-26 of the Complaint as his paragraph 27 as if pleaded herein in full.

28. Defendants, Vantage Specialty Chemicals had a duty to use ordinary care to insure a reasonably safe, secure, and proper workplace for its workers and other workers at the Gurnee Facility, notwithstanding said duty, the Defendant through its agents, servants and employees, did or failed to do one of the following:

- (a) Negligently, carelessly and/or improperly failed to warn Plaintiff of the toxic levels of Ethylene oxide/Propylene oxide being emitted from its facility;
- (b) Negligently, carelessly and/or improperly failed to inform or warn the Plaintiff or his supervisors of the toxic levels of ethylene oxide on its premises;
- (c) Negligently, carelessly and/or improperly failed to properly monitor the levels of toxic chemicals emitted from its facility.

- (d) Negligently, carelessly and/or improperly failed to shut down the facility after being told of the toxic and hazardous levels of chemicals being emitted from the smoke stack;
- (e) Negligently, carelessly and/or improperly failed to provide the Plaintiff and other workers with the proper training and equipment for safely working at its facility where toxic chemicals were present.
- (f) Negligently, carelessly and/or improperly failed to provide Plaintiff and other workers at the facility any information of the risks associated with exposure to toxic chemicals emitted there;
- (g) In violation of 29 CFR 1910-1200(h) (1) and (2), refused to provide information on hazardous chemicals to workers;
- (h) In violation of 29 CFR 1910.1200(e)(1) refused to develop, implement, and maintain a written hazard communication program;
- (i) In violation of 29 CFR 1910.128, refused to provide workers with adequate safety clothing;
- (j) In violation of 29 CFR 1910.132(f)(1) and 1910.132(f)(1) i to (f)(1)(v), refused to provide personal protective safety equipment to workers at the Gurnee Facility.

29. As a direct and proximate result of one or more of the aforementioned acts or omissions of the Defendants, by their agents, servants or employees, Vantage Specialties, the Plaintiff, Stephen Crifase, did suffer severe injuries of a personal and pecuniary nature including pain and suffering, wage loss, medical expenses, disability and disfigurement, some of which maybe permanent.

WHEREFORE, the Plaintiff, Stephen Crifase respectfully requests that judgment be entered in his favor and against the Defendants Vantage Specialties, Inc., a/k/a Vantage Specialty

Chemicals d/b/a H.I.G. Chemical Holdings Corp., Petroferm, Inc., Petroferm Fuels and Lambert Technologies in an amount necessary to fully and fairly compensate him for all of his losses which substantially exceeds the minimum jurisdictional amount of Cook County, Law Division.

COUNT II

(VANTAGE OLEO CHEMICALS - NEGLIGENCE)

30. Plaintiff, Stephen Crifase, adopts and realleges Paragraphs 1-26 of this Complaint as his paragraph 30 as if pleaded herein in full.

31. Defendants, Vantage Oleo, had a duty to use ordinary care to insure a reasonably safe, secure, and proper workplace for its workers and other workers at the Gurnee Facility notwithstanding said duty, the Defendant through its agents, servants and employees, did or failed to do one of the following:

- (a) Negligently, carelessly and/or improperly failed to warn Plaintiff of the toxic levels of Ethylene oxide/Propylene oxide being emitted from its facility;
- (b) Negligently, carelessly and/or improperly failed to inform the Plaintiff or his supervisors of the toxic levels of ethylene oxide on its premises;
- (c) Negligently, carelessly and/or improperly failed to properly monitor the levels of toxic chemicals emitted from its facility.
- (d) Negligently, carelessly and/or improperly failed to shut down the facility after being told of the toxic and hazardous levels of chemicals being emitted from the smoke stack;
- (e) Negligently, carelessly and/or improperly failed to provide the Plaintiff and other workers with the proper training and equipment for safely working at its facility where toxic chemicals were present.

- (f) Negligently, carelessly and/or improperly failed to provide workers at the facility information of the risks associated with exposure to toxic chemicals emitted there;
- (g) In violation of 29 CFR 1910-1200(h) (1) and (2), refused to provide information on hazardous chemicals to workers;
- (h) In violation of 29 CFR 1910.1200(e)(1) refused to develop, implement, and maintain a written hazard communication program;
- (i) In violation of 29 CFR 1910.128, refused to provide workers with adequate safety clothing;
- (j) In violation of 29 CFR 1910.132(f)(1) and 1910.132(f)(1) i to (f)(1)(v), refused to provide personal protective safety equipment to workers at the Gurnee Facility.

32. As a direct and proximate result of one or more of the aforementioned acts or omissions of the Defendant, by their agents, servants or employees Vantage Oleo, the Plaintiff, Stephen Crifase, did suffer severe injuries of a personal and pecuniary nature including, pain and suffering, wage loss, medical expenses, disability and disfigurement, some of which maybe permanent.

WHEREFORE, the Plaintiff, Stephen Crifase respectfully requests that judgment be entered in his favor and against the Defendants, Vantage Oleo Chemicals, Inc., a/k/a Vantage Specialty Chemicals, in an amount necessary to fully and fairly compensate him for all of his losses which substantially exceeds the minimum jurisdictional amount of Cook County, Law Division.

Respectfully Submitted,
Stephen Crifase,

/s/ David J. Kupets

David J. Kupets

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Is Dental Amalgam Toxic to Children of Color?

Mark Mitchell, M.D. M.P.H., Rueben Warren, D.D.S., M.P.H., Dr.P.H., M.Div., David Bellinger, PhD., MSc.,

Doris Browne, M.D., M.P.H.

Author affiliations: Mark Mitchell, George Mason University; Rueben Warren, Tuskegee University; David Bellinger, Harvard University; Doris Browne, Browne & Associates, 118th President, National Medical Association

Practices that are no longer tolerated in the majority of Americans are commonly used for low-income populations. This appears to be the case with dental amalgam. Dental amalgam (sometimes marketed as “silver fillings”) is a filling material that is approximately 50% mercury¹—a heavy metal that poses known adverse effects on the human nervous system and the environment. Although no central authority is known to track who exactly gets amalgam and who does not, there is circumstantial evidence that this mercury product is now disproportionately used in low-income communities and communities of color.

While the data are limited, according to the U.S. Geological Survey, “[d]ental amalgam constituted the largest amount of mercury in use in the United States,” accounting for between 35% and 57% of mercury consumption for use in products in 2010.² (This high percentage is because the use of mercury has declined in other industries much faster than in dentistry.)

People can be exposed to this mercury from amalgam both when it is in their teeth and when it is in their environment. When amalgam is used in a tooth, the U.S. Food and Drug Administration (“FDA”) explains that “Dental amalgam releases low levels of mercury vapor, with higher amounts released with mastication and gum chewing.... Higher levels of exposure to elemental mercury vapor are also associated with placement and removal of dental amalgams.”³ When amalgam reaches the environment via pathways such as cremation and burial, dental clinic water and air emissions, and human waste, certain microorganisms can metabolize its elemental

mercury into methylmercury that can build up in the fish and shellfish that people eat.

This exposure is a concern because mercury is one of several toxicants affecting neurodevelopment for which the data on the association between the low-level exposures and neurodevelopmental disorders in developing fetuses and children is strong enough to demand immediate action to decrease or eliminate exposures, according to an expert panel.⁴ Within these vulnerable populations, some are more at risk than others. While the publicly available data on who is getting amalgam are limited, increasingly the evidence suggests that in the United States low-income children of color are disproportionately exposed to amalgam’s mercury. This evidence includes the fact that children of color are (1) more likely to be low-income, (2) likely to have more cavities, and (3) more likely to receive dental care via Medicaid or the Indian Health Service, which may be more likely to use amalgam. This circumstantial evidence all points to low-income children of color bearing a disproportionately large mercury burden from amalgam and this is in addition to the mercury they are exposed to in their environment, which is often also disproportionately high.

The FDA acknowledges that children are the most vulnerable. FDA’s dental amalgam rule states that “The developing neurological systems in fetuses and young children may be more sensitive final to the neurotoxic effects of mercury vapor. Very limited to no clinical information is available regarding long-term health outcomes in pregnant women and their developing fetuses, and children under the age of six, including infants who are breastfed.”⁵

But neither the FDA nor any other U.S. federal government agency has taken steps to warn about, restrict, or ban use of amalgam for children, pregnant women, and breastfeeding mothers, especially among low-income people and people of color.

The U.S. is failing these vulnerable populations in three ways. First, the U.S. is relying on outdated science not only on mercury exposure, but also on the reasonably priced mercury-free alternatives to amalgam, like composite and glass ionomer. These alternatives are not known to result in a bioaccumulation of toxicants and they are placed so routinely that many higher-income Americans think amalgam is no longer even in use. Second, the U.S. does not consider how much background mercury

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<https://doi.org/10.1016/j.jnma.2018.07.007>

exposure the most vulnerable of vulnerable populations and children of color and low-income children are already

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subjected to, from mercury-emitting waste incinerators near their neighborhoods to the high-fish diets that are an integral part of many Indigenous and other subsistence fishing cultures. Third, the U.S. policy does not consider the precautionary principle. As it is explained in The Institute of Medicine publication *Toward Environment Justice*, “In instances in which the science is incomplete with respect to environmental health and justice, the committee urges policymakers to exercise caution on behalf of the affected communities, particularly those that have the least access to medical, political, and economic resources, taking reasonable precautions to safeguard against or minimize adverse health outcomes.”⁶ The U.S. could apply this relevant health policy recommendation to amalgam use in vulnerable populations, but has not. Could it be that the U.S. is not taking action (or even monitoring use) because most of the vulnerable populations getting amalgam appear to be low-income children of color?

More and more, this failure is putting the U.S. out of step with the rest of the world including fellow parties to the Minamata Convention on Mercury, the European Union, and other countries that are all doing more to protect vulnerable populations from amalgam.

To start, the U.S. has signed, but is not implementing the Minamata Convention on Mercury’s amalgam phase-down requirement. The Minamata Convention is a groundbreaking global health and environment treaty that came into force in August 2017 with the United States as a party. Among provisions addressing mercury throughout

its lifecycle from mining and export/import to waste management and storage the Convention requires all parties to “phase down the use of dental amalgam.”⁷ The Minamata Convention also takes special note of vulnerable groups in its preamble, explaining that the parties are “[a]ware of the health concerns, especially in developing countries, resulting from exposure to mercury of vulnerable populations, especially women, children, and, through them, future generations.”⁸ But the U.S. is not taking effective steps to phase down amalgam use in vulnerable populations or anyone else. In fact, the FDA seems to advocate the reverse. In its dental amalgam rule, FDA encourages an increase in amalgam use, claiming “any change away from use of dental amalgam is likely to result in negative public health outcomes (delayed dental treatments or increased costs of treatment).”⁹ Unless FDA updates its outdated dental amalgam rule to protect the

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most vulnerable and to incorporate current science and technology and the government starts monitoring U.S. amalgam use to ensure reductions,

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the U.S. will remain out of step with other parties that are effectively implementing the Minamata Convention’s required phase-down of amalgam use.

Unlike the U.S., the European Union is acting on the Minamata Convention’s amalgam phase-down requirement and its concerns about vulnerable populations. As of 1 July 2018, the European Union has banned amalgam use for deciduous teeth, children under age 15, pregnant women, and breastfeeding mothers with only narrow exemptions.¹⁰ While it is the most recent, the European Union is not the first to take this measure and some individual E.U. member states and other countries (including Sweden, Denmark, and Norway) had already either phased out amalgam use in all populations or limited its use in children. As a result, the U.S. is now far out of step with the European Union and other countries that ban amalgam for children.

In light of the Minamata Convention and other countries’ progress toward ending amalgam use in vulnerable populations, non-government organizations in the U.S. are increasingly speaking out. For example, more than 50 groups signed onto the Chicago Declaration to End Dental Industry Mercury Use (2018). In it, they “call upon the FDA to bring its policies in line with the Federal Government as a whole and with its responsibilities under

the Minamata Convention and to publicly advise a phase down of the use of mercury amalgams with the goal of phasing out entirely.” Specifically, they recommend “Immediately ceasing, based on the Precautionary Principle, the placement of dental amalgam in children, pregnant women, and breastfeeding mothers” as well as to “end all placement of new dental amalgam in the U.S. by the end of 2020 with time-limited, specified exemptions.”¹¹

It is indeed time for the U.S. to implement the Minamata Convention and to develop policies and procedures to phase down dental amalgam use, particularly for the most vulnerable populations. A useful first step toward this goal would be to convene a consensus panel to recommend ways to monitor amalgam use and to review the science to identify what is needed to bring the United States up to speed with 21st century oral health policy and practice, which means eliminating mercury exposure wherever possible for everyone, especially the most vulnerable. After all, low-income children of color in the United States should be at least as protected from this unnecessary source of mercury exposure as European and European-American children.

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**The National Congress of American Indians
Resolution #TUL-13-051**

TITLE: Calling for US Ratification of the Minamata Convention on Mercury

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the conservation of Tribal resources and promotion and preservation of Tribal members' health and welfare is a priority for all Tribes; and

WHEREAS, mercury has been identified by the World Health Organization as one of the top ten toxic chemicals or groups of chemicals of major public health concern globally with a number of serious health impacts; and

WHEREAS, abandoned mercury and gold mines in areas such as California, South Dakota, Nevada and Alaska continue to emit mercury with significant health impacts on Indigenous Peoples in those regions; and

WHEREAS, Indigenous Peoples from traditional fishing communities in the Great Lakes Area, California, Alaska and other areas disproportionately suffer adverse effects of mercury contamination impacting their health, culture and subsistence rights; and

WHEREAS, mercury in dental amalgam, a material inappropriately known as “silver fillings”, is 50% mercury, and is a major source of mercury contamination of humans and the environment in the United States; and

WHEREAS, this is a matter

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Resolution TUL-13-051

WHEREAS, a 2011 study published in the Journal of the American Dental Association found that mercury-based dental amalgam, which continues to be used by Public and Indian Health Services on many Reservations, was used for only 51% of restorations in white patients, but for 73% of restorations in patients of “other” race (defined as American Indian/Alaska Native/Asian/Pacific Islander); and

WHEREAS, 140 nations, including the United States, agreed to the text of the Minamata Convention on Mercury, a new global legally binding instrument addressing mercury as major global environmental and human health concern on January 19, 2013, and calling for its phase out and eventual elimination.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby respectfully request that the United State Senate ratify the Minamata Convention on Mercury within the next three years; and

BE IT FURTHER RESOLVED, that the NCAI does hereby respectfully request the opportunity to fully participate in decisions regarding the implementation of the Minamata Convention on Mercury; and

BE IT FURTHER RESOLVED, that the United States though the Environmental Protection Agency and the Department of Health prioritize the identification of sites and waterways in and affecting Indian and Alaska Native reserves, Treaty territories, reservations, communities as

well as traditional subsistence resources that are contaminated by mercury, and work with impacted Tribal Nation governments to effectively clean up such areas without delay; and

BE IT FURTHER RESOLVED, that the NCAI does hereby request that the Indian Health Service phase down, then phase out on a timetable, all sources of mercury contamination in the US, including the use of dental amalgam in IHS programs; favor the use of non-mercury alternatives to dental amalgam in IHS programs in the interim; and provide information to patients and parents regarding the impacts of mercury from this and other sources, based on the rights to Subsistence, Health and Free Prior and Informed Consent and Articles 20, 24, 29 and other relevant provisions of the UN Declaration on the Rights of Indigenous Peoples; and

BE IT FURTHER RESOLVED, that the NCAI respectfully requests all Tribal Nations governments and citizens educate themselves about the potential harmful effects to their Peoples, natural, and cultural resources of mercury contamination from all sources; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

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Resolution TUL-13-051

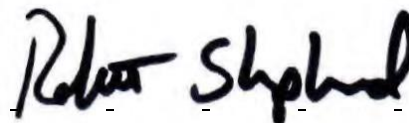
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.



President

ATTEST:



Recording Secretary

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May 7, 2021

Dear Members of the White House Environmental Justice Advisory Council,

As non-partisan organizations and members of the [National Economic Transition](#) coalition focused on building equitable and inclusive economic growth for the people most affected by the changing coal economy, we would like to express our deep appreciation for the White House Environmental Justice Advisory Council's efforts to address current and historical environmental injustices. Your work is essential to guide the Biden Administration's efforts to tackle the environmental harms that disproportionately impact Black people, Indigenous people, people of color, and low-income communities. We recognize that every environmental justice community faces distinct needs and challenges, and we are grateful for this opportunity to share our

perspective on the specific and severe injustices that impact many coal-dependent communities across the country.

The Advisory Council's work is critical to ensuring justice and fairness as the nation transitions toward a 100% clean energy economy. Many of the coal workers and communities that have for generations borne the costs of and pollution from fossil fuel extraction are now experiencing the combined injuries of environmental degradation and economic dislocation from a declining industry—on top of existing poverty and inequality in many places. **As members of a diverse coalition with deep roots in coal communities across the country, we encourage the Advisory Council to consider the unique impacts of the coal industry as it develops proposals to address environmental injustice.**

These impacts start with the range of **environmental liabilities** that threaten public health and local ecosystems in coal communities. From Appalachia to the Northern Plains to the Navajo Nation, the places where we live and work are left with thousands of abandoned mine land features such as water pollutants, air pollutants, abandoned coal structures, highwalls, and open mine portals—hazards that put populations at increased risk of landslides, rockfalls, and more. Coal dust harms miners and communities located near mining, processing, and transport facilities, often causing black lung disease and other respiratory issues. Former coal-fired power plants have become brownfields, toxic coal ash is kept in unlined ponds, and local waterways are poisoned by coal pollution and runoff—threatening wildlife and drinking water.

We also encourage you to consider the deeply unjust **economic impacts** of coal's decline. For decades, the industry created extractive mono-economies with few alternatives for local populations' employment, income, and tax revenue. As a result, coal's decline has led to job loss, tax revenue loss, workforce outmigration, primarily low wage-jobs with poor benefits, and generational poverty. Impacted communities often lack access to health care, clean water, education, and broadband. Many see higher rates of epidemics such as opioid addiction and obesity. Loss of tax revenue leads to degradation of other infrastructure, resulting in dangerous roads and other hazards. In some communities, housing was primarily built by coal companies and is energy inefficient, leaving residents with high utility costs. Many cannot afford to heat their homes or must make difficult decisions of whether to pay for medicine, food, or the electricity bill.

We hope the Council will consider these urgent and deep-rooted challenges facing coal-impacted people and places in its critical work to achieve environmental justice. Righting the past failures of the fossil fuel industry will require meaningful investment from the federal government at a level not seen since the New Deal. Billions are needed in investments to help the workers and communities who have fueled the nation for the past century transition to a new economic reality. These investments must be targeted and designed to ensure that the communities that have the greatest needs are able to access all programs and funds, and prioritized to receive resources. The good news is that—as in every community impacted by environmental injustice and economic failure—local leaders and local people are developing solutions that they know will work to build inclusive, equitable, and sustainable economies in the places they call home. Many of these solutions are reflected in our coalition's [National Economic Transition platform](#), which provides a comprehensive framework for how these investments could tackle the challenges outlined above.

Thank you for considering the urgent challenges facing coal communities in your crucial efforts to address environmental injustice.

Sincerely,

Suzanne Singer, Executive Director, Native Renewables

Chelsea Barnes, Legislative Director, Appalachian Voices

Robert LeResche, Coal Team Chair, Western Organization of Resource Councils

Rebecca Shelton, Director of Policy & Organizing, Appalachian Citizens' Law Center

Brandon Dennison, CEO, Coalfield Development

Peter Hille, President, Mountain Association

Anthony Flaccavento, Executive Director, SCALE

Natalie Roper, Executive Director, Generation West Virginia

Tony Skrelunas, Founder, Tribe Awaken

Jeremy Richardson, Senior Energy Analyst, Union of Concerned Scientists

Heidi Binko, Executive Director & Co-founder, Just Transition Fund



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**NATIONAL MEDICAL ASSOCIATION ANNUAL MEETING OF HOUSE OF DELEGATES
2020**

Number 20-003R

RESOLUTION

SUBJECT: Dental Amalgam

REPORTED BY: Committee on Public Health and Consumer Affairs

ADOPTED: August 2, 2020

WHEREAS, mercury is a potent toxicant in all its forms, metallic, organic and inorganic. It is especially toxic to the developing brain and to the renal system, and

WHEREAS, dental amalgam is approximately 50% mercury, and

WHEREAS, the mercury in dental amalgam is absorbed into the body both directly and indirectly. Mercury off-gasses into the mouth for decades after an amalgam filling is placed and the gas is absorbed through the lungs. Recent science also shows that it is converted by bacteria in the mouth and gut into methylmercury, the form of mercury that is thought to be more toxic, and is readily absorbed into human tissues, and

WHEREAS, non-mercury fillings, such as composite, are widely available and are used by the majority of Americans with little or no untoward effects, and

WHEREAS, there is strong circumstantial evidence that amalgam is primarily used in low-income people and people of color, and

WHEREAS, the US Food and Drug Administration stated more than ten years ago that “The developing neurological systems in fetuses and young children may be more sensitive to the neurotoxic effects of mercury vapor. Very limited to no clinical information is available regarding long-term

health outcomes in pregnant women and their developing fetuses, and children under the age of six, including infants who are breastfed.”ⁱ and,

WHEREAS, there has been no known research or clinical information obtained in the last ten years establishing the safety of amalgam in these high-risk populations, and

WHEREAS, a recent article in the Journal of the National Medical Association states:

“While the publicly available data on who is getting amalgam are limited, increasingly the evidence suggests that in the United States low-income children of color are disproportionately exposed to amalgam’s mercury. This evidence includes the fact that children of color are (1) more likely to be low-income, (2) likely to have more cavities, and (3) more likely to receive dental care via Medicaid or the Indian Health Service, which may be more likely to use amalgam. This circumstantial evidence all points to low-income children of color bearing a disproportionately large mercury burden from amalgam – and this is in addition to the mercury they are exposed to in their environment, which is often also disproportionately high.”ⁱⁱ⁶⁶

WHEREAS, studies consistently show that African American children have higher blood mercury levels than children of other races, and

WHEREAS, recent studies show statistically significant increases in total, inorganic and organic blood mercury levels associated with more dental fillings in the US population,

Now, therefore be it

RESOLVED, That National Medical Association support an immediate ban on use of dental amalgam and all mercury products in medicine and dentistry in children and women of childbearing age, especially for more vulnerable women and children of color, and, be it further

RESOLVED, That National Medical Association support requiring payment for and use of nonmercury dental fillings in all governmental insurance and programs, including Medicaid, Medicare and Indian Health Services, and, be it further

RESOLVED, That National Medical Association support informed consent and patient education on the mercury content of dental amalgam, as well as the availability of safe non-mercury alternatives and, be it further

RESOLVED, That National Medical Association support a complete phase-out of dental amalgam and all mercury products in medicine and dentistry in the near future

⁶⁶ Federal Register / Vol. 74, No. 148 / Tuesday, August 4, 2009, p. 38706-07, <http://www.gpo.gov/fdsys/pkg/FR-2009-08-04/pdf/E9-18447.pdf> ⁱⁱ
Mark Mitchell (MD), Rueben Warren (DDS), David Bellinger (Ph.D.), Doris Browne (MD), “Is Dental Amalgam Toxic to Children of Color?” in

Journal of the National Medical Association, Vol. 110, Issue 4 (2018), pp. 414-416,
<https://www.sciencedirect.com/science/article/pii/S002796841830258X>

An Open Letter to President Biden and Vice President Harris

Dear President Biden and Vice President Harris,

We, the undersigned, are writing to urge your administration to reconsider the United States Army Corps of Engineers' use of Nationwide Permit 12 (NWP12) to construct large fossil fuel pipelines.

In Memphis, Tennessee, this “fast-tracked” permitting process has given the green light to the Byhalia pipeline, despite the process wholly ignoring significant environmental justice issues and the threat the project potentially poses to a local aquifer which provides drinking water to one million people.

The pipeline route cuts through a resilient, low-wealth Black community, which has already been burdened by seventeen toxic release inventory facilities. The community suffers cancer rates four times higher than the national average. Subjecting this Black community to the possible health effects of more environmental degradation is wrong. Because your administration has prioritized the creation of environmental justice, we knew knowledge of this project would resonate with you.

The pipeline would also cross through a municipal well field that provides the communities drinking water. To add insult to injury, this area poses the highest seismic hazard in the Southeastern United States.

The Corps purports to have satisfied all public participation obligations for use of NWP 12 on the Byhalia pipeline in 2016 – years before the pipeline was proposed. We must provide forums where communities in the path of industrial projects across the country can be heard. Neighborhoods like Boxtown and Westwood in Memphis have a right to participate in the creation of their own destinies and should never be ignored.

We ask you to take immediate action to direct the Army Corps to revoke its Nationwide Permit 12 verification of the Byhalia pipeline project and to reevaluate the propriety of the use of Nationwide Permit 12 for new oil and gas infrastructure across the county.

Nothing should supersede the health and well-being of your constituents.

Thank you for your consideration of this matter.

Yours,

- . **Mustafa Santiago Ali** (VP of Environmental Justice, Climate and Community Revitalization for the National Wildlife Federation)
- . **Diedrich Bader** (Actor – Napoleon Dynamite, Office Space, Miss Congeniality 2)
- . **Rev. Dr. William Barber II** (President of Repairers of the Breach and Co-Chair of the Poor People’s Campaign: A National Call for Moral Revival)
- . **Richard Bausch** (Award-Winning Novelist, Former Professor at the University of Memphis, and Professor at Chapman University)
- . **Ed Begley Jr** (Actor & Environmental Activist)
- . **Rev Dr Gregory Bentley** (Pastor at Fellowship Presbyterian Church and Chairman of Minority Affairs for the Tuscaloosa County Democratic Party)
- . **Ken Berlin** (President & CEO of the Climate Reality Project)
- . **Megan Boone** (Actor – The Blacklist, Law & Order: LA, Blue Bloods)
- . **Jon Bowermaster** (Oceans Expert, Journalist, Author, Filmmaker, Adventurer and six-time Grantee of the National Geographic Expeditions Council)
- . **Dr Robert D. Bullard** (Co-Chair National Black Environmental Justice Network. Known as the “father of Environmental Justice”, and regarded as the foremost scholar on environmental racism)
- . **Daniel James Brown** (Best-selling author of The Boys in the Boat)
- . **Leon Addison Brown** (Actor – The Knick, Mo’ Better Blues, Lincoln, A Walk Among the Tombstones)
- . **J Smith Cameron** (Actor – Margaret, Man on a Ledge, You Can Count on Me)
- . **Don Cheadle** (Oscar-Nominated Actor – Crash, The Guard, Hotel Rwanda, Iron Man 2 & 3)
- . **Alan Cumming** (Award-Winning Actor – The Anniversary Party, The Good Wife, GoldenEye) .
- . **Judith Enck** (Former EPA Regional Administrator, President of Beyond Plastic)
- . **Giancarlo Esposito** (Four-Time Emmy-Nominated Actor – Breaking Bad, The Usual Suspects, Do The Right Thing)
- . **Willa Fitzgerald** (Actor – Little Women, Reacher, Billions)
- . **Grandmother Flordemayo** (Member of the International Council of Thirteen Indigenous Grandmothers, Founder of The Path)
- . **Catherine Coleman Flowers** (Founder of the Center for Rural Enterprise and Environmental Justice, Author, and 2020 MacArthur Fellow)
- . **Jane Fonda** (Actor, Political Activist, Environmentalist and Founder of Firedrill Fridays) .
- . **Jerome Foster II** (Co-Editor-In-Chief at The Climate Reporter, Executive Director at One Million of Us)
- . **Peter Gallagher** (Actor – Sex, Lies & Videotape, American Beauty, the OC)
- . **Paul Gallay** (President of Riverkeeper)
- . **Danny Glover** (Actor, Film Director and Activist)
- . **Karena Gore** (Founder and Director of the Center for Earth Ethics)

- . **Tim Guinee** (Founder of The Climate Actors. Actor – Homeland, The Good Wife, Iron Man)
- . **Chelsea Handler** (Comedian, Actor, Writer, Television Host & Activist)
- . **Evan Handler** (Actor – Ransom, Sex and the City, Californication)
- . **Peter Hedges** (Oscar-Nominated Writer/Director – About A Boy, What’s Eating Gilbert Grape)
- . **Stephen McKinley Henderson** (Tony-nominated Actor. Drama Desk and Obie winner)
- . **Jay Hernandez** (Actor – Magnum P.I., Friday Night Lights, Hostel, Suicide Squad)
- . **Laura Hillenbrand** (Best-selling author of Seabiscuit and Unbroken)
- . **Chelah Horsdal** (Actor The Man in High Castle, Hell on Wheels, You Me Her)
- . **Chase Iron Eyes** (American Indian Activist, Attorney, Politician and member of the Oglala Sioux Tribe)
- . **Kizzy Jones** (Co-Founder Memphis Community Against the Pipeline)
- . **Jeremy Kagan** (Emmy Award-winning Film & Television Director)
- . **Dr Maureen Katz MD** (Commissioner of Dorothy Holmes commission on racial equality for American Psychoanalytic Association, 1000 Grandmothers for Future Generation)
- . **Winona LaDuke** (Economist and Author working on issues of Indigenous Economics, Food and Energy Policy. Executive Director of Honor the Earth)
- . **Melissa Leo** (Academy Award-Wining Actor)
- . **Warren Leight** (Tony & Pulitzer Prize-Winning Playwright – Producer of Law & Order SVU)
- . **Great Grandmother Mary Lyons** (Ojibwe Elder, U.N. Indigenous Observer, Co-Founder of the Grandmothers of the Sacred WE)
- . **James MacDaniel** (Actor – NYPD Blue. Malcolm X, The Natalie Cole Story)
- . **Aaron Mair** (President – Arbor Hill Environmental Justice Corporation, Former Sierra Club President)
- . **Michael E. Mann** (Distinguished Professor of Atmospheric Science, Penn State University)
- . **Bill McKibben** (Author and Founder of 350.org)
- . **Jen Metzger** (former New York State Senator and Founder of Citizens for Local Power)
- . **Alyssa Milano** (actor – Commando, Charmed, Who’s The Boss)
- . **Colby Minifie** (Actor, The Boys & Fear The Walking Dead)
- . **Anson Mount** (Actor – Star Trek: Strange New Worlds, Hell On Wheels, and Tennessee native)
- . **Sarah Pekkanen** (Best-Selling Novelist of The Wife Between Us, An Anonymous Girl and many more)
- . **Piper Perabo** (Golden Globe-Winning Actor)
- . **Justin J. Pearson** (Co-Founder Memphis Community Against the Pipeline)
- . **Lou Diamond Phillips** (Award-Winning Actor – La Bamba, Stand and Deliver, Courage Under Fire, Young Guns)
- . **Aidan Quinn** (Award-Winning Actor – Practical Magic, Legends of the Fall, The Mission, Benny & Joon)
- . **Phylicia Rashad** (Emmy Award and NAACP Image Award-winning Actor and Singer)
- . **Linus Roache** (Actor, Law & Order, The Vikings, Homeland)
- . **Kathy Robinson** (Co-Founder Memphis Community Against the Pipeline)
- . **Jay Russell** (Film Director of My Dog Skip and Ladder 49)
- . **Ali Selim** (Award-Winning Film & Television Writer and Director)

- . **Cybill Shepherd** (Memphian and Golden Globe-Winning Actor - Cybill, Moonlighting, Taxi Driver, The Last Picture Show)
- . **Harriet Shugarman** (Activist and Award-Winning Author, How to Talk to Your Kids About Climate Change, Turning Angst into Action)
- . **Rev. Dr. Gregory Simpson** (Pastor of Nauraushaun Presbyterian Church, Dr. of Organic Chemistry and Co-Founder of Learning for Life Solutions)
- . **Randi Mayem Singer** (Producer and writer, best known for writing Mrs. Doubtfire)
- . **Rebecca Skloot** (Best-selling author of The Immortal Life of Henrietta Lacks, former Asst. Professor at the University of Memphis)
- . **Brooke Smith** (Actor – Big Sky, Silence of the Lambs, Bad Company)
- . **Dee Snider** (American Singer-Songwriter and lead singer for Twisted Sister)
- . **Mira Sorvino** (Oscar-Winning Actor – Mighty Aphrodite, Romy and Michele’s High School Reunion)
- . **Alexandria Villasenor** (Youth Climate Activist, Co-Founder of the US Youth Climate Strike)
- . **Rev. Lennox Yearwood** (President of the Hip Hop Caucus)
- . **Danny Zuker** (Five-Time Emmy Award Winning Writer/Producer of Modern Family)

#PLASTICFREEPRESIDENT

How the President Can Solve
the Plastic Pollution Crisis

Presidential Plastics Action Plan

December 2020

The world faces an indisputable plastic pollution crisis. More than 99% of plastic is created from chemicals sourced from fossil fuels, including an oversupply of fracked gas, which is spurring a global boom in new plastic production. That plastic is causing serious environmental problems at every step of its lifecycle.

Plastic production fuels the climate crisis with increased greenhouse gas emissions and damages local communities where plastic is made with toxic air and water pollution. Plastic is also a threat to human health: As we increasingly consume more and more of our food and drinks from single-use plastic wrappers and containers, we're exposed to chemicals linked to many of the known public health crises of our time, including obesity, ADD/ADHD, and many forms of cancer.

Once discarded, plastic clogs our rivers and oceans, harms wildlife, infiltrates our drinking water, and persists in the environment for centuries. Half of all plastics ever manufactured have been made in the last 15 years, and annual plastic pollution into rivers, lakes and oceans could surpass 50 million tons within the next 10 years unless significant policy changes are made. Banning bags and straws are important first steps taken by state and local governments, but we need bold new federal policies to address the plastic pollution crisis.

And despite false and misleading claims by the makers of plastics, we cannot recycle our way out of this problem. According to the United States Environmental Protection Agency, the U.S. plastic recycling rate is an anemic 8%. Instead, more than 90% of plastics in the United States is buried, burned or released into the environment.

The solution to plastic pollution is simple: Reduce the amount of unnecessary plastic produced.

We can transform our extractive, throwaway economy to a regenerative, inclusive one that's good for our environment and creates American jobs.

We need to stop plastic contamination at its source before it enters the marketplace, while improving our waste-management systems, developing new business models, phasing out the worst plastic offenders, and shifting to reusable non-plastic alternatives. The federal government needs to be a catalyst for innovation. There is time to make this transition, but the question remains:

How can we make this large-scale transition quickly enough?

President Biden can take the following eight key steps without any action from Congress. These actions will *immediately* set the nation on a pathway to a plastic pollution-free future while longer-term measures that require action at all levels of government and society develop.

Each of the actions described requires the president to prioritize support for communities that historically have been harmed 'first and worst' by the petrochemical industrial sector and the waste it creates: communities of color, Indigenous communities, and impoverished

communities. Moreover, these actions will provide an opportunity to drive job growth in a new green economy, providing unionized jobs with family-sustaining wages in communities that need them the most. Workers in the petrochemical sector and related industries will find their jobs fundamentally transformed, but not abandoned, in an economy and workforce that is inclusive, fair, and just for all people.

In 2021, we will urge President Biden to take these actions in the first year in office, in addition to the ten steps proposed by [#ClimatePresident](#). The actions called for in [#ClimatePresident](#), such as keeping fossil fuels in the ground by ending



fossil fuel extraction on federal lands and waters

and banning fracking, are inextricably linked to [#PlasticFreePresident](#). Acting together, these plans will lead to a safer, healthier, and more equitable world for everyone.

The 8 PRIORITY PLASTIC ACTIONS

1. Use the purchasing power of the federal government to eliminate single-use plastic items and replace them with reusable products.

The federal government is the single largest purchaser of goods and services in the United States, spending more than \$450 billion on products and services each year. That means the government is likely the country's largest consumer of disposable plastic products. By altering its product specifications to give preference to reusable products, the federal government could both significantly reduce the amount of plastics going to landfill and incinerators each year *and* spur demand for alternatives to single-use plastic products.

- ↑ Appoint a Plastic Pollution Czar to coordinate plastic reduction efforts amongst federal agencies and internationally.
- ↑ Direct the head of each federal agency to ensure that it does not purchase single-use plastic products, or allow them to be sold on federal property, with limited exemptions. Require each agency to submit a plan within the first six months of the administration

detailing what it will do to eliminate single-use plastic products.

- ↑ Issue an Executive Order immediately prohibiting all federal agencies and federal contractors from purchasing or selling single-use plastic water bottles in national parks or other federal facilities.
- ↑ Direct the EPA to update its Environmentally Preferable Purchasing Program to clarify agencies must not acquire single-use plastics.
- ↑ Work with federal agencies to develop and implement a strategy to phase out single-use plastic products across the federal government. The new strategy should have numerical goals, timelines to achieve them and sufficient funding for any new capital costs, such as installing dishwashing equipment, water fountains, and other improvements.
- ↑ In any new stimulus or other spending bills, include funding for projects that reduce the use of plastic by the federal government and other federally funded projects or entities.

2. Suspend and deny permits for new or expanded plastic production facilities, associated infrastructure projects, and exports.

In the next 10 years, the petrochemical industry plans to increase plastics production by at least 35%, with more than 300 new projects slated for the United States alone.

Using cheap fracked gas, the new and expanded facilities planned by the industry produce raw material for an endless deluge of throwaway plastic, approximately 40% of which is discarded within minutes. This dirty industry disproportionately fouls the air and water of poor communities and communities of color.

- ↑ Urge all federal agencies to use all existing legal authorities to deny permits for new plastics production and infrastructure projects, including but not limited to refineries, ethane crackers, propane dehydrogenation facilities, polymerization facilities, pipelines, gasification and pyrolysis facilities, natural gas liquid storage facilities and hubs, fraction-ation facilities, import and export terminals, and facilities that repolymerize plastic polymers into chemical feedstocks for use in new products or as fuel.
- ↑ Support a bill that bans fracking and bans new petrochemical infrastructure.
- ↑ Direct all federal agencies to use their full existing legal authority to object in writing to any new permit issued to plastics production and infrastructure projects by a State delegated authority under the Clean Air Act, the Clean Water Act, or any other relevant federal statute.
- ↑ Halt the export of gas liquids, monomers, and polymers used for plastic production to the fullest extent allowed under federal law.
- ↑ Use the president's authority under the National Emergencies Act to reinstate the crude oil export ban.

3. Make corporate polluters pay and reject false solutions.

Plastic producers must be held accountable for the plastic pollution they have created. Voluntary measures like Operation Clean Sweep, small scale financial contributions like the industry-backed ALLIANCE to End Plastic Waste, and the plastics industry's promotion of "chemical recycling" and "waste to energy" are all dangerous distractions from the massive, global plastic pollution problem we need to face. We need to place the responsibility where it belongs: on the industry that generates the waste.

- ↑ Support the Break Free From Plastic Pollution Act, which, among other things, would make plastic product manufacturers accountable for waste-ful products and phase out unnecessary single-use plastic products.
- ↑ Ensure that stimulus or other bills supported by the administration do not fund industry's false solutions that exacerbate the plastic pollution crisis, such as chemical recycling, waste-to-fuel, waste-to-energy, incineration, gasification, pyrolysis, and plasma arc, which are harmful to human health and the environment and violate the principles of environmental justice. Veto any section of spending bills that fund the false solutions listed above.
- ↑ Direct the Attorney General to investigate all violations of law by plastic producers, transporters, and molders/formers impacting the environment and prosecute them to the maximum extent of the law for the damages they have caused.
- ↑ Direct the Federal Trade Commission, in its "Green Guide" on environmental marketing claims, to prohibit companies from falsely claiming their plastic products are recyclable.
- ↑ Direct the EPA and the National Institute of Standards and Technology to set minimum recycled content standards for beverage containers and other items.
- ↑ Impose tariffs on the import of single-use plastics, with exemptions for medical and personal protective equipment and accessibility options for persons with disabilities.
- ↑ Establish a moratorium on the construction of any new garbage incinerators and direct each state to develop a schedule to close existing municipal incinerators and develop a plan to close and remediate all incinerator ash landfills.
- ↑ Direct the EPA to develop new data collection methodologies to accurately report waste reduction, recycling, and composting rates throughout the United States. Require consistent reporting from local and state governments and the private sector.
- ↑ Direct the Department of Commerce to establish a new office on Recycling Market Development and Waste Reduction Innovation.

4. Advance environmental justice in petrochemical corridors.

Petrochemical companies continue to locate new and expanded plastics facilities near existing fossil fuel infrastructure, which means they are targeting the Gulf Coast, Appalachia, the Ohio River Valley, and other communities that already shoulder a heavy burden of oil, gas, and plastic industry pollution. Across the United States, these facilities are often located in and have a disproportionate impact on low-income and minority neighborhoods.

- ↑ Direct all federal agencies to ensure that communities of color, Indigenous communities, and low-income communities have access to public information and opportunities for meaningful public participation

in all petrochemical permitting decisions.



- ↑ Direct EPA to promulgate regulations requiring continuous emissions and fence-line monitoring of pollutants for all plastics facilities, accurate and continuous recordkeeping, as well as the provision of records to the public.

- ↑ Direct EPA to conduct cumulative risk assessments to human health in all petrochemical and disposal industry permitting decisions, and as part of any National Environmental Policy Act processes.

- ↑ Develop measures that will increase clean and green long-term economic investment in communities, workers and economies.

- ↑ Direct the U.S. Department of Housing and Urban Development to establish a petrochemical displacement fund to enable families facing immediate health risk to access funds to assist with relocation.

- ↑ Direct federal agencies to strengthen their relationship with Indian tribes, and ensure tribes are actively involved

in the consultation process for all proposals affecting tribal lands and other properties that attach traditional religious and cultural significance.

- ↑ Direct the Department of Treasury, Health and Human Services, and the Attorney General to commence a study for mitigation and payment of damages to those disproportionately exposed to and harmed by industrial facilities that produce petrochemicals and plastics.

- ↑ Direct the Attorney General to investigate the linkages between petrochemical corridors and human trafficking, sexual violence, and

the incidence of murdered and missing Indigenous women.

5. Update existing federal regulations to curtail pollution from plastics facilities by using best available science and technology.

The EPA has the authority and obligation to ensure that our nation’s air, waterways, wildlife, and communities are not polluted by emissions and discharges from industrial facilities. To meet its obligations, it is tasked with developing and implementing pollution standards that reflect the best available technology and changing nature of the industries it regulates. Nevertheless, the agency continues to rely on decades-old standards when permitting plastics facilities and infrastructure, putting public health and the environment in harm’s way.

- ↑ Direct EPA to update its Clean Air

Act new source performance standards (NSPS) regulations and National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations that apply to plastics facilities and require they use only zero-emissions energy sources; direct EPA to initiate a rulemaking to designate ethane and methane as volatile organic compounds.

- ↑ Direct EPA to update its decades-old Clean Water Act regulations for plastics facilities to reflect the best available technology for

conventional, non-conventional, and toxic pollutants from new and modified sources and establish a zero plastic standard for wastewater and stormwater discharges. Direct EPA to update Effluent Limitations Guidelines and Standards for new and expanded facilities to eliminate the discharge of toxic priority pollutants from wastewater and stormwater streams.

- ↑ Direct EPA to promulgate regulations to prevent the discharge of plastic from other entities that transport, make, and package plastic materials.
- ↑ Direct EPA to initiate rulemakings under the Resource Conservation and Recovery Act to (1) consider listing plastic as hazardous waste due to its public health and environmental harms, which would result in waste reduction measures, recordkeeping in transit, and strict criteria for disposal and export; (2) ensure proper disposal of plastic hazardous waste that does not include incineration; and (3) require the inclusion of best management practices for the disposal of plastics in state and regional solid waste plans.
- ↑ Direct EPA to conduct risk evaluations of plastics and update its Toxic Substances Control Act regulations to regulate plastics that pose an unreasonable risk to public health or the environment, and for those plastics (1) prohibit production of single-use products, except as necessary to supply medical and personal protective equipment, and accessibility options for persons with disabilities; (2) require manufacturers to track and ensure proper disposal or recycling of those plastics; and (3) require zero discharge of plastic pellets and powders in the generation, storage, and transportation of those plastics.

- ↑ Direct EPA to enter into an agreement with the National Academy of Sciences, the National Institutes of Health, and the National Oceanic and Atmospheric Administration to conduct a study and report on the environmental, public health, and environmental justice impacts of the plastic industry and its planned expansion, including the production, entire supply chain, end uses, disposal fate, and lifecycle impacts of plastic products. The study and report must also assess the best available technologies and practices that reduce or eliminate the environmental justice and pollution impacts of plastics facilities and associated infrastructure. These will inform EPA's revision of environmental regulations to mitigate these impacts.
- ↑ Direct the Food and Drug Administration to fund a nationwide study on the presence of microplastics in water and food products, including fish, fruits, and vegetables.
- ↑ Direct the Centers for Disease Control and Prevention to fund a nationwide study on the presence of plastics in the human body and to determine how the presence of plastics in human blood and organs is affecting human health.

6. Stop subsidizing plastics producers.

For too long, the United States has subsidized the fossil fuel industry. It's time to stop the flow of financing to the petrochemical industry and the oil and gas industry that supplies its feedstocks.

- ↑ Direct the Department of Energy to end all loan and guarantee financing programs that

increase plastics production, from extraction, pipelines, storage to manufacturing and export.

- ↑ Direct all federal agencies to ensure that polluters who enter into settlement agreements in connection with their violations of laws and regulations are not able to deduct the payments from their taxes.
- ↑ Direct the Department of Commerce to include alternatives to plastics as a cornerstone of its next Strategic Plan, including mechanisms for shifting federal financing and other support from the petrochemical industry to financing for alternatives to plastics, including reusable products as well as sustainable waste reduction and management technologies.
- ↑ Direct the EPA to enforce financial assurance obligations under the Comprehensive Environmental Response, Compensation, and Remediation Act (Superfund) for oil refining and chemical manufacturing industries to ensure that companies are not self-bonded and are fully funding closure costs.
- ↑ Direct the Department of Commerce to advocate globally for the selection of U.S. suppliers of plastic alternatives in foreign government procurement opportunities, to provide assistance to green investors that want to do business

in and with the United States, and to produce other opportunities to promote plastics solutions that reduce impacts to public health and the environment.

7. Join international efforts to address the global plastic pollution crisis through new and strengthened multilateral agreements.

For many years, the U.S. government has hindered the work of a growing number of countries to enact new and strengthen existing global governance structures to address the plastic pollution crisis. It is time for the U.S. to become a proactive partner with key allies to address the global plastic crisis by targeting production, consumption, and disposal.

- ↑ End the objection process to block the incorporation of the updated Basel Plastic Amendment into the Organization for Economic Co-operation and Development (OECD) Decision Annexes.
- ↑ Work with Congress to ratify the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and finalize implementing legislation for the Convention and Basel Ban.
- ↑ End the export of plastic wastes (including for “recycling”) to non-OECD countries.
- ↑ Publicly acknowledge the full lifecycle impacts of plastic pollution and microplastics on human health and marine and terrestrial ecosystems, and the need for new global governance to address those harms.
- ↑ Negotiate in good faith a new legally-binding convention on plastic pollution that addresses the full lifecycle of plastics,

building on and complementing existing regional and global frameworks while addressing key gaps around global objectives, market restrictions, and a just and safe circular economy for plastics.

- ↑ Negotiate in good faith a new legally-binding treaty to eliminate fossil fuel extraction, which provides the raw material of 99% of plastics.
- ↑ Convene a Major Economies Forum on Plastics to bring together the countries most responsible for consumption of plastic that ultimately ends up as waste, as well as the United Nations, to spur cooperative action to combat the plastics crisis.

8. Reduce and mitigate the impacts of discarded and lost fishing gear.

Abandoned, lost or otherwise discarded



fishing gear, including gillnets and fishing traps/pots causes ecological and economic

harms. This fishing gear is often called “ghost gear” because long after it is lost it entangles, captures, and kills sea turtles, seabirds, marine mammals, and fish. It changes the marine environment, poses navigational hazards, introduces plastic into the marine food web, and creates a persistent marine debris and pollution problem, with high cleanup costs.

↑ Direct the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the Environmental Protection Agency, to develop regulations for reducing litter and the environmental impacts of U.S. commercial and recreational fishing gear that is lost or abandoned. These regulations must include (1) reporting, labeling, traceability, and monitoring measures and

(2) measures to eliminate or substantially reduce the impacts of lost and abandoned fishing gear on wildlife, including gear retrieval projects.

↑ Commit to working with NOAA, the states, and Congress to complete a plan and allocate new federal funding to eliminate abandoned, lost or otherwise discarded fishing gear from U.S. vessels and in the U.S. exclusive economic zone (EEZ).

↑ Revise the NOAA “Fishing for Energy” program that collects derelict fishing gear at 31 ports in 9 states, which recycles a limited amount of metal and sends the rest of the collected material to garbage incinerators. The incinerator element of this program should be eliminated.

CONCLUSION

President Biden can lead the United States towards a fundamental transformation of the plastics economy, one that reduces the amount of plastic produced and shifts responsibility for pollution onto the plastics manufacturers themselves.

Implementing the steps in this plan would protect frontline communities from the plastic industry’s toxic emissions while also preventing plastic pollution from contaminating our rivers and oceans. These actions will resonate with the American public, which overwhelmingly supports measures to reduce our over-reliance on single-use plastic.

Through innovation and design, we can rediscover how to produce and deliver goods in a way that respects our communities and our planet.

PHOTO CREDITS:

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2degrees Northampton	Adventures in Waste	Bag the Bronx
301 Organics	Advocates for Springfield	Ban SUP
350.org	Alabama Interfaith Power & Light	Battle Creek Alliance & Defiance Canyon Raptor Rescuer
350 Bay Area 350	Algalita Marine Research & Education	Bay Area-System Change not Climate Change
Brooklyn	All Our Energy	Bayou City Waterkeeper
350 Butte County	Allamakee County Protectors - Education Campaign	Beaver County (PA) Marcellus Awareness (BCMAC)
350 Colorado	Allegany County Women's Action Coalition	Beloved Earth Community of The Riverside Church
350 Eugene	Alliance for Climate Education (ACE)	Benicians for a Safe & Healthy Community
350 Everett, WA	Alliance of Nurses for Healthy Environments	Berks Gas Truth
350 Fairfax	Alpha Forma	Berkshire Environmental Action Team (BEAT)
350 Houston	Already Devalued and Devastated Homeowners of Parsippany	Berkshire Zero-Waste Initiative
350 Lake Norman	Altamaha Riverkeeper	Better Path Coalition
350 Long Beach	Amazon Watch	Beyond Toxics
350 MA-Berkshires	American Sustainable Business Council Animal Welfare Institute	Bhumi Global
350 Marin	Animals Are Sentient Beings, Inc.	Big Blackfoot Riverkeeper, Inc.
350 Mass Metro North Node	Animas Valley Institute	Big Reuse
350 New Orleans	Anthropocene Alliance	Black Warrior Riverkeeper
350 NYC	Apalachicola Riverkeeper Assateague	Boston Clean Energy Coalition
350 Rhode Island	Coastal Trust	Breathe Project
350 Sacramento	Association for the Advancement of Sustainability in Higher Education	BRINGit
350 San Diego	Atchafalaya Basinkeeper	Brooklyn Bridge CSA
350 Santa Barbara	Athens County's Future Action Network, formerly Athens County (OH) Fracking Action Network	Brooklyn Solid Waste Advisory Board
350 Santa Cruz	Audubon of Southwest Florida	Broome Tioga Green Party
350 Seattle	Ayer Recycling Committee	Buckeye Environmental Network
350 Silicon Valley		Bucks County Audubon Society
350 SoCal		Bucks Environmental Action
350 Spokane		
350 Triangle		
4Ocean		
5 Gyres Institute		

Buddhist Global Relief	Circular Triangle	Coney Island Beautification Project, Inc.
Buffalo Niagara Waterkeeper	Citizens Coalition for a Safe Community	Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
BYO Madison	Citizens Conservation Lobby	ConnPIRG Students
BYOBag Boston	Citizens' Environmental Coalition	Conservation Congress
BYOCT	Ciudadanos Del Karso	Conservation Law Foundation
Cafeteria Culture	Clean Air Council	Cook Inletkeeper
Cahaba Riverkeeper	Clean Ocean Action	Cooperative Energy Futures
California Coastal Protection Network	Clean Water Fund	Cottonwood Environmental Law Center
California Reuse	CleanAirNow	Courage California
Collective Californians	Climable Climate Action Now	Daily Acts
Against Waste Calusa	Western Mass Climate Action Now!	DC Environmental Network
Waterkeeper, Inc.	Climate Crisis Policy	Debris Free Oceans
Cape Coral Friends of Wildlife	Climate Defense Project	Designs For A Better World
Cape Fear River Watch	Climate Hawks Vote	Dietrick Institute for Applied Insect Ecology
Catawba Riverkeeper Foundation	Climate Reality DFW Chapter - Plastics Working Group	Dominican Sisters of Sinsinawa Peace and Justice Office
Catskill Mountainkeeper	Climate Reality Project	Don't Gas the Meadowlands Coalition
Cayuga Lake Watershed Network	Climate Reality Project, Susquehanna Valley PA Chapter	Don't Waste Arizona
Center for a Competitive Waste Industry	Climate Reality: Pittsburgh & Southwestern PA	Don't Waste Durham Earth
Center for Environmental Health	Climate Witness Project	Ethics, Inc.
Center for Food Safety	Coalition Against Pilgrim Pipeline	Earth Island Institute
Center for Neighborhood Technology (CNT)	Coastal Band of the Chumash Nation	Earth Uprising
Center for Zero Waste Design	Coastal Carolina Riverwatch/Crystal Coast Waterkeeper	EarthDay.org
Central California Asthma Collaborative	Colorado River Waterkeeper Network	Eco-Justice Collaborative
Central Jersey Coalition Against Endless War	Colorbrightongreen.org	Eco-Poetry.org
CEO Pipe Organs/Golden Ponds Farm	Columbia Riverkeeper	Ecological Rights Foundation
CERBAT	Columbus Community Rights Coalition	Ecology Center
ChicoBag Company / To-Go Ware	Community Action Works	Education, Economics, Environmental, Climate and Health Organization (EEECHO)
Choctawhatchee Riverkeeper	Community Law and Mediation Services	Elders Action Network
Christians Caring for Creation	Community SPOTLIGHT	Endangered Habitats League Endangered Species Coalition
Christians For The Mountains	Concerned Citizens for the Hudson Valley	Environment and Human Health, Inc. (EHHI)
Church Women United in New York State	Concerned Health Professionals of New York	
	Concerned Ohio River Residents	

Environmental Action Committee of West Marin Environmental Advocates NY	Geos Institute	Honeydew Energy Advisors
Environmental Investigation Agency	Ghent Neighborhood League	Howling For Wolves
Equitable Health Solutions, LLC	Global Catholic Climate Movement	Hyde Consulting Idle
Extinction Rebellion Kentucky	Good Neighbor Steering Committee	No More SF Bay iEat
Extinction Rebellion Santa Barbara	Grassroots Environmental Education	Green
Fairmont, Mn Peace Group	Great Egg Harbor Watershed Association	In the Shadow of the Wolf
Families Advocating for Chemical and Toxics Safety (FACTS)	Great Old Broads for Wilderness	Indian Riverkeeper
Fearless Grandmothers	Green America	Indivisible 518: Justice for All
Feminists in Action Los Angeles	Green Compass	Indivisible Bainbridge Island
For Love of Water (FLOW)	Green Education and Legal Fund	Indivisible Cranbury
Foundation Earth	Green Map System	Indivisible Ga 04
Frac Sand Sentinel: Project Outreach	Green Newton, Inc	Indivisible Pittsfield
Frack-Free Frostburg (Maryland)	Green Party of Nassau County	Indivisible San Jose Inland
FracTracker Alliance	Green State Solutions	Ocean Coalition inNative
Franciscan Action Network	Green The Church	Inspiration of Sedona
FreshWater Accountability Project	Greenaction for Health and Environmental Justice	Interfaith Earthkeepers of Eugene/Springfield, ORR
Friends Committee on Legislation of California	Greenbelt Climate Action Network	Interfaith Oceans
Friends of Arthur R. Marshall Loxahatchee National Wildlife Refuge	GreenFaith	Interfaith Power & Light
Friends of Buckingham	GreenLatinos	International Marine Mammal Project of Earth Island Institute It's Easy Being Green
Friends of Heinz Refuge	Group for the East End	Jampac (Jamesville Positive Action Committee)
Friends of the Bitterroot	Gunpowder Riverkeeper	Johnson Ohana Foundation
Friends of the Earth	Hands Across the Sand	Kettle Range Conservation Group
Friends of the Kaw	Hannah4Change	Kickapoo Peace Circle
Friends of the San Juans	Haw River Assembly	Kissimmee Waterkeeper
Friends of the Wild Swan	Hawai'i Institute for Human Rights	Kokua Hawaii Foundation
Fuerza Mundial	Heal the Bay	Lahontan Audubon Society
Future Prosperity	Health Promotion Consultants	Living Rivers & Colorado Riverkeeper
Gas Free Seneca	Healthy Gulf	Lonely Whale
Gas Free Seney	Healthy Oceans Coalition	Long Island Network Divers
GASP	HealthyPlanet	Long Island Progressive Coalition Los
Genesis Farm	Heirs To Our Oceans	Padres ForestWatch
GeoFamily Foundation	Hesperian Health Guides	Lower Susquehanna Riverkeeper Association
	Hilton Pond Center for Piedmont Natural History	ManaSota-88, Inc.
	Hispanic Access Foundation	
	Home ReSource	

Manhattan Solid Waste Advisory Board	No Sharon Gas Pipeline - Clean Energy Now	Peak Plastic Foundation
Marcellus Outreach Butler	No Waste Louisiana	Peconic Baykeeper
Marin Sanitary Service	North American Climate, Conservation and Environment (NACCE)	Pelican Media
Maryland Ornithological Society	North American Water Office	PennFuture
Mass Forest Rescue	North Carolina Council of Churches	People Concerned about Chemical Safety
Matanzas Riverkeeper	North Country 350 Alliance	People Over Petro Coalition
Mazaska Talks	North Kitsap Indivisible	People's Climate Movement -Capital Region
MendoRecycle	Northcoast Environmental Center	Physicians for Social Responsibility Arizona
Mid-Missouri Peaceworks	Northern California Recycling Association Northern Jaguar Project	Physicians for Social Responsibility Florida
Milwaukee Riverkeeper	Norwalk River Watershed Association	Plastic Free America
Mission Blue	NY Communities for Change	Plastic Free Pacifica
Missouri Confluence Waterkeeper	NY4WHALES	Plastic Free Sharon
Mothers Out Front- Asheville, NC	NYC H2O	Plastic Ocean Project, Inc.
Mountain Watershed Association	NYCD16 Indivisible NYPAN	Plastic Oceans International
MountainTrue	Enviro	Presentation Sisters Justice Commission
Movement Rights	Occidental Arts and Ecology Center	Preserve Monroe
Nassau Hiking & Outdoor Club	Ocean Conservation Research	Project Coyote
National Advocacy Center of the Sisters of the Good Shepherd	Ocean First Institute	Protect PT (Penn-Trafford)
National Network for Immigrant & Refugee Rights	Oceanic Global	PSR Pennsylvania
National Religious Coalition on Creation Care	Oceanic Preservation Society	Public Citizen
National STEM Honor Society	Office of Peace, Justice and Integrity of Creation, Sisters of Charity of New York	Public Lands Project Puget
Natural Resources Council of Maine	Ogeechee Riverkeeper	Soundkeeper Quad Cities
Natural Resources Defense Council	Ohio River Waterkeeper	Waterkeeper INC. r.Cup
Neighbors of the Northwest Branch of the Anacostia River	Orange County Coastkeeper	Rachel Carson Council
NELA Climate Collective	Oregon Physicians for Social Responsibility	Raptors Are The Solution
New Mexico Interfaith Power and Light	OSPIRG Students Our	Raritan Headwaters
New York Public Interest Research Group (NYPIRG)	Revolution Falls Church Our	RE Sources
New York Youth Climate Leaders	Santa Fe River, Inc.	Red Rock Audubon Society
Newtown Creek Alliance	Pachamama Alliance of the Cincinnati Area	Reef Relief
NJ State Industrial Union Council NMEAC	Pacific Environment	Resource Renewal Institute
	Pacific Marine Mammal Center	RESTORE: The North Woods
	Peace Boat US	ReThink Plastics, Athens, Ohio ReWild Long Island
		Rincon-Vitova Insectaries, Inc.

Rio Grande Waterkeeper (WildEarth Guardians)	ShoreRivers	Sustainability Department, Sisters of St. Joseph
RISE St. James	Sierra Club	Sustainable Arizona
River Guardian Foundation	Sisters of Charity Federation	Sustainable Bainbridge
Riverdale Jewish Earth Alliance	Sisters of St. Dominic of Blauvelt, New York	Sustainable Coastlines Hawaii
Rogue Climate	Sisters of St. Francis of Philadelphia	Sustainable Mill Valley
RootsAction.org	Sixth Street Community Center	Sustainable Ocean Alliance
Russian Riverkeeper	Slow Food North Shore	Sustainable Sharon Coalition
Sacred River Healing	Snake River Waterkeeper	Sustainable Sudbury
Safe Alternatives for our Forest Environment	Society of Alternative Resources	Sustainable Tompkins, Inc.
Safe Healthy Playing Fields Inc.	Society of Fearless Grandmothers	Sustainable Upton
Safer States	Society of Native Nations	Sustaining Way
San Antonio Bay Estuarine Waterkeeper	SocioEnergetics Foundation	Syracuse Cultural Workers
San Bernardino Valley Audubon Society	Solar Wind Works	Tampa Bay Waterkeeper
San Francisco Baykeeper	Solarize Albany	Tar Sands Action SoCal
Sane Energy Project	Sound Action	Tennessee Environmental Council
Santa Clarita Chapter of Citizens' Climate Lobby	South Asian Fund For Education, Scholarship and Training (SAFEST)	Texas Campaign for the Environment
Santa Cruz Climate Action Network	South Florida Wildlands Association	The Banner
Santa Cruz Climate Speakers Bureau	South Shore Audubon Society	The Climate Mobilization North Jersey Chapter
Save Our Sandhills	Southwestern Indiana Citizens for Quality of Life	The Climate Reality Project Bay Area Chapter
Save Our Shores	Special Service for Groups/API Forward Movement	The Harambee House
Save Our Sky Blue Waters	Spokane Falls Chapter Trout Unlimited	The Lands Council
Save the Albatross Coalition	Spokane Riverkeeper	The Last Plastic Straw
Save the Frogs!	Spottswoode Winery, Inc.	The Lilies Project
Save the Manatee Club	St. Andrew's Presbyterian Earth Care Committee	The Natural History Museum
Save The River Upper St. Lawrence Riverkeeper	Stand.earth	The Ocean Project
Save Wolves Now Network	Stop the Algonquin Pipeline Expansion	The Post-landfill Action Network
Sea Hugger	Suncoast Waterkeeper	The Rewilding Institute
Sears-Swetland Family Foundation	Sunflower Alliance	The River Project
Seaside Sustainability	Sunrise Movement Bay Area	The Safina Center
Seatuck Environmental Association	Sunrise Movement Howard County	The Shalom Center
Seeding Sovereignty	Sunrise Movement New Orleans	The Shame Free Zone
Seneca Lake Guardian	Sustain Charlotte	The Story of Stuff Project
Sexton		The Watershed Center Grand Traverse Bay
		The Whaleman Foundation

Think Zero LLC
Tikkun
Time Laboratory
Toxic Free NC
Toxics Information Project (TIP)
Transition Pasadena
Transition Sebastopol
Transition Town Port Washington
Tualatin Riverkeepers
Turtle Island Restoration Network
Unexpected Wildlife Refuge
Unitarian Universalist FaithAction NJ
Unitarian Universalist Ministry for Earth
Upper Allegheny Waterkeeper Affiliate
Upper West Side Recycling
UPSTREAM
Urban Bird Foundation
Utah Physicians for a Healthy Environment
UU Congregation of Binghamton, Green Sanctuary
Valley Improvement Projects (VIP)
Valley Watch, Inc.
Vermont Yankee Decommissioning Alliance
Vote-Climate
Wasatch Clean Air Coalition
Watauga Riverkeeper
WATCH, Inc
Waterkeeper Alliance
Wellstone Democratic Renewal Club WESPAC Foundation, Inc.
West 80s Neighborhood Association
West End Revitalization Association (WERA)
West Roxbury Saves Energy
West Virginia Environmental Council
White Oak-New Riverkeeper Alliance
Wild and Scenic Rivers
Wild Nature Institute
WILDCOAST
WildEarth Guardians
WilderUtopia
Willamette Riverkeeper
Winyah Rivers Alliance
Wisconsin Network for Peace, Justice & Sustainability
WSL PURE
WWALS Watershed Coalition, Inc. Xun Biosphere Project
Young Democrats of America Environmental Caucus
Zanker Recycling Zero Hour
Zero Waste Capital District
Zero Waste Humboldt
Zero Waste Kauai
Zero Waste Oahu
Zero Waste USA

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April 23, 2021

RE: *Comments Submitted to the White House Environmental Justice Advisory Council
Regarding Steps to Achieve Environmental Justice in the Superfund Program*

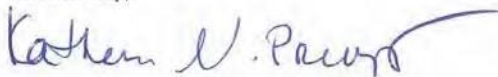
Dear WHEJAC Members:

As a long-time observer and independent evaluator of the Superfund program who has authored many reports evaluating the Superfund program,¹ I am submitting recommendations that, if implemented, would help to ensure that contaminated sites located in environmental justice (EJ) communities are identified and remediated in a timely fashion and protect the health and well-being of vulnerable communities. There are over 1,300 sites currently on the Superfund National Priorities List (NPL). The vast majority of these sites have been on the NPL for more than 20 years and there are many sites still on the NPL that were listed in the 1980s. From nine to 19% of current NPL sites present a current risk to human health.² The current risk to human health at NPL sites is an issue that has received scant attention.

The recommendations below fall into three categories: (1) the need for Congress and EPA to address a huge gap in the Superfund law, the fact that the law (and therefore the program) does not provide resources or actions to address the negative health impacts to those living and working near Superfund sites that are the result of years (and in some cases decades) of exposure to toxic chemicals; (2) specific actions EPA can take now to accelerate cleanup and reduce current risks at contaminated sites in EJ communities, and (3) supporting actions that are needed to make NPL site cleanups more efficient and improve EPA accountability.

I would note that the recommendations below are mine, and mine alone, and do not represent any particular group or perspective. If any of these suggestions are of interest, I would be happy to speak with WHEJAC members about them.

Sincerely,



Katherine N. Probst

¹ I was the lead author of the 2001 Report to Congress *Superfund's Future: What Will it Cost* and, more recently, *Superfund at 40: Unfulfilled Expectations*. For a full list of my publications see www.kateprobstconsulting.com.

² As of April 22, 2021, according to EPA data, there are 122 current NPL sites where human exposure is not under control, and another 127 current NPL sites where there is "insufficient data" to determine if human exposure is under control out of a total of 1,327 final sites on the NPL.

Recommendations for Improving Superfund to Ensure Environmental Justice

1. *Address the Gaping Hole in Superfund: Public Health Impacts from Past Exposure.*

Much of the external attention to Superfund focuses on whether the law is being implemented successfully, whether the program is adequately funded, and whether potentially responsible parties (PRPs) are being held responsible. Unfortunately, there is a gaping hole in the law, and therefore in the program, that needs to be addressed. The main focus of CERCLA is to remediate contamination and hold PRPs responsible. The program prevents *additional* risk by cutting the route of exposure and remediating a site. However, there is no provision in the law to address the health impacts of years or even decades of exposure to lead, mercury, TCE, PCBs and other toxic chemicals, exposure that occurred before EPA (or a state) became involved and took action to reduce or eliminate routes of exposure. An excellent report by the Shriver Center on Poverty Law and Earth Justice, *Poisonous Homes: The Fight for Environmental Justice in Federally Assisted Housing*, provides an assessment of this issue.³

In order to protect residents living near Superfund sites, this gap needs to be investigated and addressed. It is likely to be of particular importance to those who do not have health insurance and thus cannot get needed health care; even those with health insurance could have out of pocket costs resulting from past exposure. There is only one site where legislation was passed to that provided health screening and access to health insurance, the Libby site in Montana. In 2009, for the first and only time in Superfund's history, a public health emergency was declared.⁴ The Libby site provides an interesting model worth evaluating to determine if this approach should be more widely employed.

Some preliminary thoughts on steps EPA could take to create a strategy for investigating this issue:

- a. Conduct a case study of the use of the "public health emergency" provision to provide medical care and insurance at the Libby site, including evaluating the degree to which the original goals were achieved, the costs of the program, its strengths and weaknesses and "lessons learned."
- b. Work with ATSDR to produce a report that synthesizes information for NPL sites on what is known about the negative health impacts from "past exposure" (before EPA, State or PRP action to cut routes of exposure) to those working and living on, or near, NPL sites from exposure to toxic chemicals and the likely or possible resulting long-term health effects.
- c. Evaluate the programs conducted by ATSDR under Section 110 of CERCLA and make recommendations for how these programs could be improved.

³ Shriver Center on Poverty Law and Earth Justice, June 2020, Washington, D.C.at

https://www.povertylaw.org/wp-content/uploads/2020/06/environmental_justice_report_final-rev2.pdf.

⁴https://archive.epa.gov/epapages/newsroom_archive/newsreleases/0d16234d252c98f9852575d8005e63ac.html#:~:text=Jackson%20today%20announced%20the%20agency,towns%20of%20Libby%20and%20Troy.

- d. Gather information on affected residents' access to health care and health insurance.
- e. Explore whether the costs of health screening and health care should be included in the definition of "response costs" and thus be eligible for EPA funding and/or paid for, and recoverable from, PRPs, as suggested by the aforementioned Shriver Center and Earth Justice report.

2. ***Address Current Health Risks and Accelerate Cleanups at NPL Sites in EJ Communities****

A. *Reduce or Eliminate Current Risks at NPL Sites in EJ Communities.*

- **EPA should review all NPL/EJ sites where *human exposure is not under control* and identify what action could be taken to address the route of concern and/or to reduce possible human exposure.** Such actions should be implemented expeditiously by EPA or responsible parties.
- **EPA should review all NPL/EJ sites where *there is "insufficient data" to determine whether human exposure is under control* and identify what actions are needed to determine whether there are current routes of exposure, and, if there are, what actions could be taken to address the route of concern and/or to reduce possible human exposure.** Such actions should be implemented expeditiously by EPA or responsible parties.
- **EPA should greatly reduce the use of the "insufficient data" category and require that no site be in this category for more than six months,** so that affected residents and workers will have a clear idea of whether a site does, or does not, present a current health risk.

B. *Identify and Address Barriers to Cleanup*

- **Immediately request supplemental funding of \$200-\$600 million for the Superfund program for the current fiscal year to speed cleanups and address critical needs.** At the end of FY 2019, there were 34 NPL sites with construction projects ready to go that could not be funded by EPA. While the majority of supplemental funding should go to remedial actions that were delayed due to lack of EPA funding, some of these funds should go to increasing the removal budget to address current risks, Superfund enforcement to hold PRPs accountable, and reaching out to EJ communities to improve communication and to identify sites in need of federal attention.
- **Initiate a 45-day review of the funding and enforcement status of those NPL sites in EJ communities that have been on the NPL for 10 years or more but are still not "Construction Complete,"** (i.e., the remedies at the site have not been fully implemented). This review should identify what is holding up progress at these sites and what specific actions are needed to speed cleanup at each of these sites,

* A definition of EJ communities is, of course, needed to implement many of these recommendations.

whether that be additional EPA funds, more aggressive enforcement action, or some other action. This review should address all actions at NPL sites, that is, actions implemented by both EPA *and* PRPs.

- **Shine a light on PRP inaction and delay.** EPA should review all NPL sites to identify those sites where PRP inaction or unwillingness to enter into a settlement agreement has delayed cleanup for a year or more. EPA should set a strict new policy for bringing enforcement action when PRPs delay cleanup. Sites in EJ communities should be identified.

C. Reach out to identify Sites in EJ Communities that Need Federal Attention.

- **EPA leadership should ask representatives of EJ communities and organizations, EPA regions, and State agencies to identify any contaminated sites that they believe need a removal action or that should be considered for NPL listing.** EPA needs to aggressively reach out to EJ communities to identify, evaluate and address the risks at these sites and whether some kind of EPA action is warranted.

3. Improve Overall Program Management and Public Accountability

- **Announce a commitment to a more robust focus on Environmental Justice for Superfund and the creation of a new Superfund EJ initiative.** The first step, of course, is to reach out to EJ communities and NGOs working on EJ issues to hear directly what a new EJ initiative for Superfund should look like and how it should be structured. Key Superfund EJ issues are likely to include much more proactive communication by EPA about the risks at Superfund sites, increasing the availability of Technical Assistance Grants, reviewing the role of ATSDR in public health assessments and exposure investigations, ensuring that sites in EJ communities receive needed cleanup and enforcement resources and attention, among other issues. While the work of EPA's National Environmental Justice Advisory Council on Superfund, which is nearing completion, is likely to be a helpful starting point, it is not a substitute for this initiative and its charge did not include some of the key challenges facing the Superfund program.
- **Estimate future Superfund funding needs.** It is well-documented that the Superfund program is under-funded, which delays cleanups and hampers enforcement. EPA has not made public an estimate of future program funding needs for decades, yet adequate funding is critical to program success. EPA should produce a "ballpark" estimate of future funding needs in the next few months. After this initial estimate, EPA should develop an annual estimate of the future funding needs for all aspects of the program, including enforcement, and this estimate should be made public and provided to Congress as input to the annual budget and oversight process, as was done in the early years of the program.
- **Create metrics to track program and enforcement accomplishments and make the metrics and the results public.** For many years, there has been little public information that can be used to hold the Agency accountable for timely and

effective cleanup and enforcement. The Agency needs to develop meaningful measures of success and return to making this information public. There have been myriad external reports that make recommendations for the need for improved data, analysis, and transparency. While developing useful metrics is difficult, this is a critical element to ensure that the public and Congress can hold EPA accountable for achieving results.

QUAPAW NATION



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February 12, 2019

Mr. Steven Cook,
Deputy Assistant Administrator
Office of Land and Emergency Management
U.S. Environmental Protection Agency, Region 6
1200 Pennsylvania Ave. NW
Mail Code: 5101T
Washington DC 20460

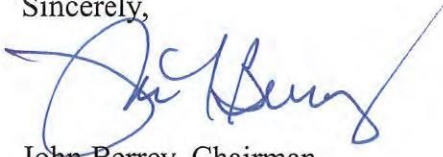
RE: Superfund Task Force Recommendations

Dear Mr. Cook,

I am taking this opportunity to thank you and EPA for creating the Superfund Task Force in 2017 to review Superfund sites across the nation, primarily for the purpose of prioritizing cleanups and identifying innovative approaches that would help expedite and streamline remediation of these sites. As the primary stakeholder affected by the Tar Creek Superfund site, the Quapaw Nation believes that reevaluating how the Superfund process is working at larger, seemingly intractable sites, is a worthwhile endeavor. That's why I have joined with our consulting scientists (Dr. Fred Kirschner and Dr. Barbara Harper) and our Environmental Director (Tim Kent, PG) in writing the enclosed White Paper (**Early Determination of Pre-Mining Background for Mine Sites Affecting Tribal Lands and Resources**) which summarizes recommendations for streamlining the Superfund process at mining Superfund sites in Indian Country. As you may be aware, utilizing the current Superfund process is time consuming and expensive and always achieves the same results at tribal Superfund sites: tribal lands require cleanup to pre-contamination conditions. By following the recommendations in the White Paper, EPA would address one of the primary findings of the referenced Superfund Task Force which is to identify innovative approaches that would help expedite and streamline remediation at legacy sites.

Please look over the enclosed White Paper and feel free to share it with your staff. If you have any questions, or if you would like to discuss the issues presented, please let me know and I will arrange a conference call or even a face-to-face meeting. Again, thank you for elevating the discussion of persistent obstacles to cleanups at these sites.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Berrey". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

John Berrey, Chairman
Quapaw Nation

cc: Dr. Fred Kirschner
Dr. Barbara Harper
Tim Kent, PG

Whitepaper: Early Determination of Pre-Mining Background for Mine Sites Affecting Tribal Lands and Resources

By

Chairman Berrey, Quapaw Nation

Tim Kent, Environmental Director, Quapaw Nation

Dr. Frederick Kirschner, Quapaw Nation

Dr. Barbara Harper, Quapaw Nation

Prior to delving into RI/FS studies, EPA needs to realize that the goal of any tribe is to restore its traditional cultural practices and lifeways, including returning to a subsistence level of hunting, gathering, and fishing. It is our experience that this reasonably anticipated future land use (RAFLU) is not contemplated by EPA, DOI, USDA, the State, and their consultants early in the Superfund Process.

By definition, a reservation is reserved by the Federal Government, the land owner, to be the permanent homeland to the Tribe, providing all the natural resources required to sustain the Tribe's health, welfare, and culture. In nearly all superfund cases, the current demography is highly influenced by contamination and subsequent advisories or other institutional controls that reflect reduced land uses that have resulted from current contaminated conditions. Therefore, current demographic conditions and land uses should not be considered as RAFLU in any of the risk assessments. Again, the lands were reserved by congress or executive order for traditional Tribal uses—not current uses that have evolved as a consequence of widespread contamination.

The requirement of the reservation to provide for a permanent homeland capable of supporting traditional uses, necessarily means that the land must be cleaned up for Unrestricted Land Use. This concept of identifying the RAFLU early within the process is not new to EPA—it is consistent with “Land Use in the CERCLA Remedy Selection Process, (OSWER Directive No. 9355.7-04). The concept of an unrestricted land use also is not new to EPA—it is consistent with “Comprehensive Five-Year Review Guidance (EPA 540-R-01-007; OSWER Directive No. 9355.7-03B-P).

Knowing EPA's propensity to attempt to compartmentalize a given problem, it is very important that EPA and the designer of the Remedial Action Alternatives realize that maximizing lands for RAFLU is an overarching goal—capping a lake bottom or capping ponds/piles or relying on long-term institutional controls, by definition, cannot result in an “Unrestricted Land Use”

status.⁶⁷ Similarly, a brownfield remediation is, by definition, a land use restriction that should not be a final remedy unless the land owner is fully cognizant of the residual contamination and is in agreement that a brownfield land use is a permanent deed restriction with associated responsibilities of monitoring and informing its members/constituents.

This RAFLU goal does not only apply to lands held in trust by the federal government. Tribes are repatriating lands with the ultimate goal of re-acquiring all nearby non-Indian owned lands. If lands currently held by non-Indians are not also cleaned-up to protect the Tribe's members for unrestricted uses (including but not limited to historical traditional cultural practices), these areas will effectively zone-out Indian interests within the reservation, implicating civil rights concerns.

It is extremely important that EPA view the remediation of sites containing widespread contamination⁶⁸ in the broader context of the environmental justice initiatives that have been developing in the recent years. In the past, the implementation of CERCLA has predominantly focused on cleaning-up organic chemical-related sites that affected large populations of U.S. citizens. Remediation of these sites has been viewed from the narrow lens of protecting the "general public", without taking into account the needs of more sensitive populations. For the citizens of the Tribe, who have the right to "live close to the land" and are forced to live on a parcel of land termed a reservation, creating a remedy that is sufficiently protective of human health poses a new challenge—the resources affected by the site must be much more clean than lands used by members of the General Public, since the General Public is much less exposed than those who rely on the land for sustenance. This is particularly true of mine sites, because, unlike organic chemicals that can be expected to eventually degrade, metals and minerals do not degrade.

As discussed, above, If RAFLU is not contemplated by the parties, the initial preliminary remedial objectives/remedial action objectives (PRGs/RAOs) employed to evaluate the Remedial Action Alternatives (and all of their supporting documents) will not be protective of a Tribe for

Unrestricted Land Use ["unlimited use and unrestricted exposure (UU/UE; OSWER Directive No. 9355.7-03B-P)"]. Again, in general, Congress or the President set aside reservations with the intent that these tracts of land be the permanent homelands for Tribes, providing all the natural resources required to sustain the Tribe's health, welfare, and culture.

It is our experience working with tribes on superfund issues throughout the U.S., that because tribes rely heavily on natural resources, in many instances, their sole source of sustenance, these

⁶⁷ This discussion applies to Brownfield designation as well.

⁶⁸ For example mining-related Superfund sites such as Tar Creek, Bunker Hill, Sulphur Bank Mercury Mine, Upper Columbia River, or Yerington.

resources have to be free of site contamination⁶⁹. In essence, the Tribal members are the largest omnivores in the valley that are constrained to the reservation (site) over their entire life-span. Our experience at more than 10 Tribal-related sites indicates that cleanups are being driven by levels that are safe for humans—not levels that are safe for ecological receptors or not levels that are determined to be an applicable relevant or appropriate requirement (ARAR)⁴. In many cases, a true non-risk based cleanup is required (i.e. pre-mining baseline/background becomes the PRG/RAO/ARAR). This is clearly the case for mine sites in which a fingerprint of naturally occurring contaminants was present prior to mining⁷⁰. In such instances, PMB is clearly the PRG/RAO, since PRPs cannot be forced to cleanup to conditions better than PMB. Finally, in practice, since excavators cannot “see the PRG/RAO contour line on the ground”, and since excavators benefit more financially when more dirt is moved, all near-mine areas that do not rely on institutional controls are generally more protective than estimated.⁷¹

This concept of cleaning-up a site based on “what the site looked like prior to contamination” also is not new to the U.S. For example for uranium mill sites, the US Nuclear Regulatory Commission (NRC) employs the concept of cleaning-up to As Low as Reasonably Achievable (ALARA, 10 CFR 20) and at a minimum 25 mrem incremental risk above background. Since the difference between 25 mrem and background for a mill tailings pond is on the order of 1 foot of cover soil, the majority of sites are cleaned up to PMB. The DOI NRDAR regulations 43 CFR 11 revised in 2008 also acknowledge the restoration goal⁷² for any site, regardless of Tribal involvement is pre-release baseline (PRB)⁸. Finally, when a reasonable U.S. citizen is asked what he or she believes to represent cleanup, the result is invariably “what the area looked like before it was contaminated”—not to a level that results in no more than risk 10^{-6} chance of

⁶⁹ Contaminants released from the site that are in excess of natural pre-mining background (PMB).

⁴ Non-Tribal ARARs are designed to protect the General Public, not Citizens of the Tribe.

⁷⁰ This is the case for most mining-related superfund sites, including the Midnite Uranium Mine, Leviathan Mine, Sulphur Bank Mercury Mine, etc.

⁷¹ Large sites Tar Creek, Bunker Hill, Sulphur Bank Mercury Mine, Upper Columbia River, etc., where residual mine contamination and concomitant residual risk will occur in distal waterways for geologic time, require the pathway from source areas to be fully broken via removal action.

⁷² From 43 CFR Part 11, Subpart A § 11.14 Definitions. (e) Baseline means the condition or conditions that would have existed at the assessment area had the discharge of oil or release of the hazardous substance under investigation not occurred. (II) Restoration or rehabilitation means actions undertaken to return an injured resource to its baseline condition, as measured in terms of the injured resource's physical, chemical, or biological properties or the services it previously provided, when such actions are in addition to response actions completed or anticipated, and when such actions exceed the level of response actions determined appropriate to the site pursuant to the NCP. ⁸

PRB and PMB are synonymous.

premature cancer from residual contamination or exceeding hazard indices (HI) as specified under Superfund (40 CFR 300).

In Summary, for mine sites affecting Tribal resources, drawing the conclusion that PMB is the PRG/RAO early in the process enables the focus of work to shift from estimating risk and backcalculating PRG/RAOs, to determining PMB and mapping the nature and extent of contamination. This early realization will result in saving large sums of time and money, makes EPA to appear more credible to the public, speeds the cleanup process while not costing the responsible parties additional sums, and more rapidly brings closure to the RI/FS and NRDA processes. Aspects of the Baseline Human Health Risk Assessment may still be necessary to assess residual risk associated with each general action evaluated in the FS and to ensure that the proposed alternative is protective of human health and the environment. However, this work can come later.



Summer 2021

URBAN RENEWABLE COLLABORATIVE

Urban Renewable is a new green-energy and racial-justice consultancy with a social-impact development arm, the Urban Renewable Collaborative, that builds Black homeowner wealth as it builds pro-planet homes.

The mission of the Urban Renewable Collaborative is bold: To redress the legacy of redlining and the resulting racial wealth divide (the term “redlining” has come to refer to the policies and practices that systemically denied Black people access to well-resourced and opportunity-rich neighborhoods while denying the neighborhoods they *did* live in access to resources and investments); minority displacement and gentrification; and the climate crisis.

We call our approach “integrated sustainability” and seek partnerships to build a Collaborative pilot project in the West Adams neighborhood of Los Angeles. Proof of concept will provide the blueprint for replicable projects in L.A. and other urban areas nationwide.

Our development paradigm is built on a solid foundation: the insight that there is a viable assisted market response to concentrated outside money pouring into “[opportunity zones](#)” in L.A. and elsewhere – raising prices in predominantly African American and Hispanic enclaves and incentivizing home sales and gentrification.

There is a public policy response as well, and the Collaborative will work in tandem with those who are conceptualizing and executing forward-thinking ideas and programs aimed at addressing the climate crisis and rectifying some of the country’s most pressing housing problems. L.A. Mayor Eric Garcetti’s ambitious “[L.A. Green New Deal](#)” is a concrete example of where City policy, incentives, and programs can be leveraged to facilitate the Collaborative’s work.

How the Collaborative Works for Minority Homeowners and Neighborhoods

For the pilot project, the Collaborative will partner with a long-established Black homeowner (“legacy homeowner”) who lacks the resources to repair and remodel their home. We will prioritize partnerships with legacy homeowners in gentrification-threatened neighborhoods who have resided in their home for at least 30 years and who live on legal 5,000-plus-square-foot lots zoned RD-1.5 and R-2.

In return for the legacy homeowner’s agreement to share property in common, thereby creating the opportunity to build two separate condominiums on the land, the Collaborative will replace the legacy homeowner’s aging, energy-inefficient, and greenhouse-gas-contributing home with efficient appliances and an equal-size dwelling designed to be “net zero” (meaning it produces as much renewable energy on site as the residence consumes annually, lowering all future energy bills to at or near \$0). The new-building design will respect the vernacular of the neighborhood and also be conducive to the legacy homeowner aging in place.

The Collaborative will construct a similar net-zero dwelling on the other half of the property and sell it at market rate in order to finance that dwelling’s development cost plus the cost of replacing the legacy homeowner’s original dwelling with a new one. Equity investors will realize a solid return.

Not only will the Collaborative partnership encourage financial and cultural integration with the sale of the second home, it will ensure that the legacy homeowner stays in the neighborhood they helped build. Moreover, it will accelerate Black household wealth creation – even amidst a pandemic-induced recession and among an especially hard-hit population – and bolster inter-generational wealth accumulation. To put it simply: the ability to pass down wealth through generations is what allows generations to rise.

Gap financing provided by social-impact investors supporting racial equity and climate-change mitigation will cover the legacy homeowner’s temporary housing as their new residence is constructed. In-kind support from large-scale area developers could be a win-win.

The total hard, soft, and social-impact cost of the pilot project is \$1.3 million.

The property reconfiguration process would be accelerated by City, State and Federal policies, programs, and property tax exclusions that ensure an equitable and affordable transition for the legacy homeowner into a new and more valuable residence; and by public financing provisions that attract the interest and financial resources of local lending institutions and community-strengthening private investment.

The end result: the legacy homeowner takes possession of a new and more valuable, highly energy efficient, and climate friendly home while the Collaborative doubles the housing stock on the original parcel with an additional net-zero-energy home – importantly, one that will be assessed for property tax purposes at its full market value.

As visionary as the Collaborative concept is, there is historic precedent: In the first half of the 20th Century, Athens, Greece, was decimated by a refugee influx, WWII’s destruction of its infrastructure, and the Greek Civil War. By 1949, thousands of refugees were still living in temporary shelters while Athens’ middle class, which traditionally inhabited the city’s Neoclassical mansions, barely had enough money to buy food

– let alone repair damaged homes. A successful ground-up solution emerged known as *antiparochi*. It doesn't have an exact English translation but can roughly be defined as 'mutual exchange,' in which a property owner cedes their land to a contractor who erects an apartment building and then hands back to the former owner some of the apartments in the new structure.

The Collaborative's mutual-exchange partnership with the legacy homeowner prioritizes sharing property rather than ceding it. Importantly, it also establishes a uniquely American housing policy that acknowledges the nation's financially crippling legacy of redlining. A family's wealth is derived mostly from home ownership but because of redlining and other discriminatory housing policies Black families have been concentrated over generations in less desirable areas. The accumulated economic loss is stark: According to the [Federal Reserve](#), the average Black family had less than 15 percent of the wealth of white families in 2019 – \$24,100 vs. \$188,200. At the current rate, it will take more than a century to catch up. That's too long.

The Collaborative's targeted approach accelerates household wealth accumulation for Black singlefamily homeowners even as it decelerates minority displacement. Our approach is a form of what UC Berkeley's Haas Institute for a Fair and Inclusive Society calls "targeted universalism," in which the universal goals of a healthy environment, neighborhood stabilization, and the eradication of the racial wealth divide are operationalized through housing policy that targets those who have been structurally excluded. The result, however, benefits the whole by moving to a more equitable and sustainable society for all.

How the Collaborative Works for Minority Homeowners and the Planet

The fact is that people of color in America live with more pollution than their white counterparts. According to a 2021 [study](#), Black Americans are exposed to more pollution from every type of source, including industry, agriculture, vehicles, construction, and residential sources.

[Climate change](#) also does not affect everyone equally. The adverse impacts of a warming climate with more "extreme heat days," drought, and wildfires [disproportionately affects](#) low-income households and communities of color. Small particles from wildfires add to airborne health hazards and are a particular threat to adults aged 65 and older. Hotter temperatures generally pose a range of threats, including heatstroke and heat-related heart attacks, that disproportionately affect the elderly, the poor, and people with chronic diseases like diabetes.

As a practical matter, more heat days mean more need for air conditioning, which means higher utility bills. Net-zero-energy homes are not only highly energy efficient and sited to take optimal advantage of prevailing winds; shade and sun; etc., they produce clean, climate-friendly energy on site and so put money in the legacy homeowner's pocket rather than in the coffers of utility companies.

Especially in neighborhoods that have borne the toxic brunt of having polluting energy generation sited there, we create the opportunity to produce rather than merely consume green energy. We're particularly bullish about democratizing clean energy and see it as a form of self-determination that benefits not just the legacy homeowner but the community and wider world as well.

The Collaborative aligns with Mayor Garcetti's L.A. Green New Deal goal of drastically reducing the greenhouse gas emissions that contribute to poor health and climate change. L.A.'s Green New Deal targets the residential-and-commercial-building sector for the steepest near-term reductions in greenhouse gas emissions – cutting 50% of building emissions by 2025 and 100% by 2050. It's the [most aggressive](#) megacity target in the world but unless older homes are replaced or extensively (and expensively) retrofitted it won't be met. The Collaborative provides a clear pathway for legacy homeowners to proactively fight the climate crisis where they live.

Who We Are

Urban Renewable cofounders, husband and wife team Gregory K. Williams and Marilyn Berlin Snell, are pragmatic visionaries.

Gregory's parents moved from Birmingham, Alabama, to L.A. in the 1950s looking for a better life. Shortly after they arrived they found their dream home in a white Orange County suburb but were told they didn't qualify for a loan. They finally found a lender for property in the segregated neighborhood of West Adams, where Gregory was born and raised – for a home that cost \$4,000 more than the one in Orange County. A graduate of UC Berkeley's School of Environmental Design and UCLA's Master's Program in Architecture, Gregory is cofounder and principal at the award-winning MASS Architecture + Design firm in L.A. In 2010, he designed one of the city's first small-lot developments, which *Dwell Magazine* highlighted for the way it capitalized on L.A.'s new Small Lot Subdivision Ordinance to maximize the property's potential, adding that, "With a host of sustainable features, including solar power and a community garden, these row house-like homes provide new models for the ever-expanding metropolis."

Marilyn, a journalist and author, has been exploring the nexus between the environment, politics, and culture for more than two decades. As staff writer for *Sierra*, the magazine of the Sierra Club, she initiated and wrote the magazine's regular feature-length profiles of environmental heroes whose ethnicity or economic status had historically rendered them invisible in the movement. In 2007, she conceptualized, executed, edited, and published the club's first-ever climate change [roundtable](#), bringing together leaders from government, science, venture capital, and the fossil fuel industry to tackle the climate crisis. The roundtable broke free of dead-end debate to engage the fierce urgency of solutions-oriented consensus building on climate change. Marilyn's 2018 book, *Unlikely Ally*, again highlighted common ground by focusing on the cutting-edge renewable energy innovations being developed on military installations in California – innovations such as green microgrids that are scalable for neighborhoods and municipalities alike.

Here's our 21st-century challenge: What we've made of our built world no longer suffices and in important ways works against our aspirations for a better life and a more just and stable community. We crave the chance to dwell well and age in place in our homes and in the neighborhoods where we worship, raise our children, and socialize. We also want to be part of the solution to a climate crisis that disproportionately impacts poor and minority communities.

The Urban Renewable Collaborative aims to meet this challenge. We possess the vision, passion, and know how. Success, however, requires partnerships with local and federal agencies, lending institutions, and investors as well as homeowners, neighbors, and community organizations.

Join us.

Gregory K. Williams + Marilyn Berlin Snell

info@urbanrenewable.org

2330 W. 3rd. St., Ste. 7, Los Angeles, CA, 90057 — (323) 660-7040 — www.urbanrenewable.org



Stop EtO

4/26/2021

From: Stop EtO

StopEtOinLakeCounty@gmail.com

To: White House Environmental Justice Advisory Council

Stop EtO, a citizen led movement seeking to curb cancerous ethylene oxide (EtO) pollution and environment racism in northeast Lake County, IL, is requesting immediate assistance and help from the federal government to take the following steps to correct harmful misconduct from federal and local agencies pertaining to ethylene oxide emissions in Lake County, Illinois, [as outlined in a recent OIG report](#), affecting tens of thousands of our residents:

1. Conduct public notification to the communities of Gurnee, Waukegan, North Chicago, and Park City, IL regarding risks of ethylene oxide emissions from Vantage, Gurnee, IL, and Medline, Waukegan, IL, within 30 days.
2. Conduct public notification to the communities of Libertyville, Mundelein, Grayslake, and Waukegan, IL, regarding the potential risks of ethylene oxide emissions from Medline warehouses located in their towns within 30 days.
3. Conduct public hearings for the communities of Gurnee, Waukegan, North Chicago, and Park City, IL, regarding risks of ethylene oxide emissions from Vantage, Gurnee, IL, and Medline, Waukegan, IL, within 60 days.
4. Conduct public hearings for the communities of Libertyville, Mundelein, Grayslake, and Waukegan, IL, regarding the potential risks of ethylene oxide emissions from Medline warehouses located in their towns within 60 days.
5. Release a risk assessment calendar within 14 days detailing the plan for creating risk assessments for communities in close proximity to an EtO emitter, including Gurnee, Waukegan,

North Chicago, and Park City, IL, and those communities housing Medline warehouses, including in Libertyville, Mundelein, Grayslake, and Waukegan, IL.

- a. Risk assessments must be based on physical measurement data and not on modeling given the fact that air testing at the Sterigenics facility in Willowbrook showed EtO air

emissions around Sterigenics in Willowbrook were ten times higher than what modeling predicted, rendering modeling undependable.

6. Independent fence line air monitoring for EtO must be conducted immediately at Vantage in Gurnee, IL, Medline in Waukegan IL, and at Medline warehouses located in Libertyville, Mundelein, Grayslake, and Waukegan, IL to accurately provide for completion of risk assessments as stated in step (5). Testing must last for a continuous period of 180 days, results should be transparent, and data should be released within 7 days. Physical measurement results must be used to create reliable risk assessments as communities have the right to know their levels of exposure.
7. A full and thorough US EPA investigation of a massive leak of EtO by Vantage Specialty Chemicals Inc. in Gurnee, IL, which allegedly occurred in November 2016, according to a lawsuit (see below).

Lake County, IL, has two confirmed emitters – Vantage Specialty Chemicals Inc. and Medline Industries Inc. - and the potential for a total of 7 emitters when Medline warehouses are taken into consideration.

Illinois does not treat sterilizer warehouses as polluting facilities and these warehouses remain unregulated. In late Summer of 2020, *Stop EtO* paid to conduct our own [air testing](#) (using EPA-approved TO15 method and a validated and qualified laboratory). We learned the air near a Medline warehouse in Libertyville, IL, had levels 500 to 1,350 times higher than EPA standards. *In addition, east Gurnee, Park City, Waukegan, and North Chicago are particularly vulnerable to ethylene oxide pollution as they are environmental justice communities consisting of racially diverse populations.*

According to the OIG report, former EPA Office of Air and Radiation (OAR) Director William Wehrum, orchestrated the EtO coverup and prevented testing and the timely dissemination of information to residents of Gurnee, Waukegan, Park City, and North Chicago, IL. In addition, Illinois EtO laws SB1852 & SB1854, passed in Spring 2019 without adequate understanding of the level of ethylene oxide pollution in Lake County as testing had not been conducted, are [filled with loopholes](#) that continue to allow polluters to legally pollute without impunity, through a system of *self-reporting for emissions and leaks*. Furthermore, recent actions by Illinois politicians and agencies, including IL State Senator and Chair of the Senate Environmental Committee Melinda Bush and IL EPA Director John Kim, have prevented additional testing of EtO facilities, including sterilizer warehouses, and the correction of EtO laws loopholes, leaving residents to continue to breathe ethylene oxide pollution.

In early 2021, *Stop EtO* became aware of a personal injury lawsuit (attached pdf) by a former contractor employee against Vantage Specialty Chemicals Inc. in the Circuit Court of Cook County, IL (case number 2018L011925). According to the lawsuit, the plaintiff was employed by Aerotech Inc., and Mostardi Platt, Inc., as an environmental scientist, and was assigned to measure stack emissions for ethylene oxide at Vantage in Gurnee, IL.

The lawsuit alleges that on November 15, 2016, the stack emission measurements for EtO obtained by the Plaintiff and his co-workers reached as high as 30,000 part-per-million. (For point of reference, the

OSHA limit of exposure for EtO for workers for an 8-hr shift is 1 part-per-million). Furthermore, these emissions appear to have continued at dangerously high levels for a period of at least several days. The lawsuit claims that Vantage Specialty Chemicals was informed of the high toxic levels being emitted, and yet, Vantage “negligently, carelessly and/or improperly failed to shut down the facility after being told of the toxic and hazardous levels of chemicals being emitted from the smokestack”.

Currently, Vantage Specialty Chemicals is countersuing Aerotech Inc. and Mostardi Platt, Inc. Publicly available documentation from the Circuit Court of Cook County, IL, show that Vantage, Aerotech, and Mostardi Platt are legally contesting which company was responsible for calling off air testing, training, equipping, and warning the contract employees of the dangers of their assignment.

It appears the 30,000 ppm EtO emissions readings are not being disputed from the countersuits public records that Stop EtO has reviewed. We also cannot find evidence this incidence was reported to the IL EPA. There are no violation notices on Vantage for November 2016. However, IL EPA staffers were aware of and had approved stack emission testing protocols for November 2016 timeframe at Vantage and should have expected a stack emission report from Vantage or Mostardi Platt Inc. for that testing timeframe.

Allowing polluters to self-report emissions results in disastrous consequences for communities and the environment. In April 2020, *Stop EtO* met with IL EPA and requested the agency investigate another potential EtO leak at Vantage from November 2019, which was also not reported. The IL EPA response during that meeting was “there was no leak because Vantage never reported one.”

Furthermore, [award-winning investigative journalist Sharon Lerner reported in *The Intercept*](#) how Vantage in Gurnee, IL retroactively revised EtO emissions in the TRI database for every year from 2010 to 2016, *thus erasing 64,000 pounds of emissions from public records*. Vantage was not the only company to do so. The article reports how up to 12 facilities changed their previous EtO emission records, erasing a total of 270,000 pounds of emissions from TRI database.

The OIG report and investigative journalism have shined a spotlight on the willful misconduct and coverups regarding ethylene oxide emissions in Lake County, IL, which have deeply impacted our communities. These misconducts must end. We need your immediate help to bring justice to our EJ communities.

Respectfully,
Stop EtO team



OCCUPATIONAL KNOWLEDGE INTERNATIONAL

4444 Geary Boulevard, Suite 208 • San Francisco, CA 94118 • tel 415-221-8900

April 27, 2021

To: The White House Environmental Justice Advisory Council (WHEJAC) Via email: whejac@epa.gov

Occupational Knowledge International is a nonprofit organization working to reduce disparities in global environmental health. We welcome the Biden administration's focus on environmental justice and encourage the White House Environmental Justice Advisory Council (WHEJAC) to focus on what may be considered the lowest hanging fruit of environmental injustice.

It has been well documented for decades that childhood lead poisoning disproportionately impacts communities of color and low-income families. Despite progress in significantly reducing lead exposures, a huge gap remains between white children and black and Hispanic children in the U.S. This disparity in blood lead levels that persists to this day remains even when controlling for known risk factors including housing age and socio-economic factors.

As the most common sources of exposure include contaminated soil and dust from lead paint in housing, and contributions from lead in water pipes and faucets, more investment in lead abatement is needed. In addition, there are some important measures that can help to alleviate these health disparities including:

- 1) **Ban Lead Paint and Lead in Plastic:** Since 1978 the Consumer Product Safety Commission restricted the use of lead paint for specific applications but lead paint is still allowed to be used in the U.S. for "industrial" purposes including on metal structures such as water tanks, elevated subways, bridges, and for roadway marking paints and even in products that are not intended to be used by children (e.g. automobile paint). There are substitutes for all these applications. In 2009, the U.S. took a leadership role at the UN International Conference on Chemicals Management (ICCM) and voted along with more than 120 other countries to eliminate all lead paints and coatings. Since that resolution, countries including the Philippines and others have put in place a ban on all lead paint products but the U.S. has not. In addition, about half of the global production of lead chromate, other lead pigments and most lead stabilizers are being used in the manufacture of PVC and other plastics. The U.S. has no regulation on the lead content of plastics that are ubiquitous in our society and end up

polluting air and soil. This administration should address the need to finally eliminate lead paint and lead in plastics.

- 2) **Update Soil Lead Hazard Standards:** Current Environmental Protection Agency (EPA) standards for soil hazards are inconsistent with Centers for Disease Control and Prevention (CDC) guidance on prevention of childhood lead poisoning. The regulatory standards in use today dating back to the early 1990s were intended to protect most children from exceeding a blood lead level of 15 ug/dl. While California is using a screening level of 80 ppm for soils (California Human Health Screening Level), EPA is using a range of levels up to 1,200 ppm to address residential soil hazards. The Committee must urge Federal agencies to update soil lead hazard and abatement standards to be consistent with the current CDC guidelines.
- 3) **Reduce Occupational Exposures:** Approximately 10 to 20 percent of childhood lead poisoning in the U.S. is linked to parental occupation in construction or other lead-related industries. Take home lead exposures contribute directly to elevated blood lead levels among children. There is consensus among public health experts and industry that the current Occupational Safety and Health Administration (OSHA) standard is out of date and not protective of workers' health. There is an immediate need for federal OSHA to initiate rulemaking to significantly revise the lead standards for both construction and general industry.
- 4) **Stop Exporting Environmental Injustice:** Finally, concerns for environmental justice must not stop at our border. The U.S. must act responsibly and stop exporting hazardous waste to low and middleincome countries with fewer regulations and resources to safely recycle or dispose of these materials. For example, every year the U.S. exports more than 445,000 metric tons of used lead vehicle batteries to countries around the world without adequate facilities to recycle these in an environmentally friendly manner. The Basel Convention is the global treaty that seeks to prevent uncontrolled exports of hazardous and other wastes to developing countries. Despite having signed the Convention in 1989, the U.S. is the only developed country that has never ratified the Convention. The WHEJAC must urge the administration to take the necessary steps to facilitate and approve ratification of the Basel Convention.

I wish the new advisory council good luck in taking on these important challenges to address environmental justice.

Sincerely,

Perry Gottesfeld, MPH
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www.okininternational.org

WHEJAC/NEJAC CC 04282021

Comments submitted by: Dr. F.E. Kirschner (fredk@aeseinc.com)

1. I am Dr. Kirschner and have worked in Superfund since I was 20 yrs. old. Today I am 60. Many of the Tribal participants know me and my Partner Dr. Barbara Harper by our work on over 10 Megasites within Superfund and the Manhattan Project. Specifically, we have developed Human Health Risk Scenarios for Tribal populations living in the major physiographic or eco regions of the US. These scenarios are being used by Tribes nationally to evaluate risk to their members associated with chemical releases. In summary, in all my years, I have not seen a superfund site on Tribal lands that did not involve EJ issues. For a more in-depth view of who we are and what we do please watch the following Video: https://youtu.be/FtJM_1PWEmg.
2. The attached whitepaper is best summarized by 85 yr. old Auntie after seeing a 30 minute PPT presentation in responses to asking me just exactly what do I do. “She stated: So people who live close to the land have to have clean lands in order to survive.”
3. Clean up and the common man. The common ordinary citizen believes cleaning-up means to return the property to the condition it was in before it was contaminated—not leaving a residual that results in HH risk forever.
4. My discussions with Mike Cook and Risk-based Superfund history
5. Six administrations, many of which let PRP’s off the hook in exchange for donations
 - a. Carter (really doesn’t count)
 - b. Reagan
 - c. Bush, Sr.
 - d. Clinton
 - e. Bush, Jr.
 - f. Obama
 - g. Trump

Republican led DOJ, starting with Regan and temporarily ending with Trump, were the worst. Bottom line is the PRPs were allowed to follow Kirschner’s 3rd law of economics which is “Personalize Gains and Socialize Losses/Liabilities.” In other words, pocket what you can, and leave a mess for someone else to cleanup.

6. Leave you with this: “Regulatory bureaucracies begin with well meaning people, but, be it EPA, NRC, DOE, FDA, NIH, NTC, etc. they realize that they are the patsies of Industry. Regulatory authorities are needed by industry to:
 - a. Build trust with the general public, but more importantly investors who cannot handle uncertainties”.

- b. To develop industrial monopolies by driving-out smaller businesses via un-even regulation.

I first observed this in the EPA LUST Program while working for Lockheed and EPA in the mid 1980's. Mom and Pop gas stations were run out of business, leaving the playing field open to the Big 7 oil/gas refiners who made millions franchising gas stations/quick stops.

Narrowing now from the big picture. I am involved in the fight of a lifetime on the Sulphur bank Mercury Mine Superfund site where EPA had cut the Elem Pomo's technical funding just before we entered into Alternative Dispute Resolution under the NCP. As a result, EPA has selected an alternative that is not protective of the Tribe or the environment. As I stated at the opening: "in all my years, I have not seen a superfund site on Tribal lands that did not involve EJ issues" IMHO ,this site is ready for NETFLIX. You have the Tribe being pressured by DOJ to release the BIA and other federal entities from ANY future liability, Combined with EPA selecting a remedy that continues to contaminate the largest natural lake in California. IMHO the state and Calpine, a major private utility, are implicated. Chairman Garcia has requested a meeting with Carlton Waterhouse as Deputy Assistant Administrator for EPA's Office of Land and Emergency Management (OLEM); to date we have had no response.

In closing. Question you need to ask yourself. Is this a new day, or just more of the same: lip service designed to check off a box or rung on the career ladder

APPENDIX D – POWERPOINT PRESENTATION

*The White House Environmental Justice
Advisory Council (WHEJAC) Public Meeting,
April 28, 2021*



Meeting attendees are in listen/ view mode only



Attendees who pre-registered for public comment will be given access to speak



The chat feature will not be available in this webinar



There is no opportunity for attendees to speak outside of the public comment period, if you would like to submit a comment in writing for the record please visit: whejac@epa.gov

Meeting Agenda: <https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council>



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Meeting Agenda

- 1:00 p.m. - 1:30 p.m. WELCOME, INTRODUCTIONS, & OPENING REMARKS
- 1:30 p.m. – 2:20 p.m. WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION
- 2:20 p.m. – 3:10 p.m. WHEJAC E.O. 12898 REVISION WORKGROUP UPDATE & DISCUSSION
- 3:10 p.m. – 3:25 p.m. BREAK
- 3:25 p.m. – 4:15 p.m. WHEJAC CLIMATE JUSTICE SCREENING TOOL WORKGROUP UPDATE & DISCUSSION
- 4:15 p.m. – 5:00 p.m. PUBLIC COMMENT PERIOD
- 5:00 p.m. – 5:55 p.m. WHEJAC BUSINESS MEETING REFLECTION & CONVERSATION
- 5:55 p.m. – 6:00 p.m. CLOSING REMARKS & ADJOURN


2

WELCOME, INTRODUCTIONS & OPENING REMARKS


- o **Karen L. Martin, Designated Federal Officer** – U.S. Environmental Protection Agency
- o **Cecilia Martinez, PhD, Senior Director for Environmental Justice** – Council on Environmental Quality
- o **Brenda Mallory, Chair** – Council on Environmental Quality



3



Brenda Mallory
Chair
Council on Environmental Quality



4

WELCOME, INTRODUCTIONS & OPENING REMARKS

- o **Richard Moore, White House Environmental Justice Council Co-Chair** – Los Jardines Institute
- o **Peggy Shepard, White House Environmental Justice Council Co-Chair** – WE ACT for Environmental Justice
- o **Catherine Coleman Flowers, White House Environmental Justice Council Vice Chair** – Center for Rural Enterprise and Environmental Justice
- o **Carletta Tilousi, White House Environmental Justice Council Vice Chair** – Havasupai Tribal Council



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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION

Speakers:

- **Peggy Shepard, Workgroup Chair**
- **Dr. Beverly Wright**
- **Ruth Santiago**



6

WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 1

Workgroup Members: LaTrice Adams , Dr. Robert Bullard , Tom Cormons, Andrea Delgado, Jerome Foster II, Dr. Beverly Wright, Peggy Shepard, Ruth Santiago, Harold Mitchell

EO 14008 Sec. 223. Justice40 Initiative. (a) Within 120 days of the date of this order, the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor, in consultation with the Advisory Council, shall jointly publish recommendations on how certain Federal investments might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities. The recommendations shall focus on investments in the areas of clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure. The recommendations shall reflect existing authorities the agencies may possess for achieving the 40-percent goal as well as recommendations on any legislation needed to achieve the 40-percent goal.

Key components that require further development for effective implementation of Justice40 and require WHEJAC input are:

- 1) Identifying the programs and policies federal (investments) in that can be included in Justice40.
 - a) Existing programs that EJ communities have found critical and important to serving their needs.
 - i. What components of these programs are most effective?
 - ii. What components present challenges to EJ communities?
 - b) Ideas for potential new programs that would meet a gap in EJ needs

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 1

These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.

CLEAN ENERGY & ENERGY EFFICIENCY

- **Recommendation:** Finance Community Resilience Projects In Frontline Communities Through Green Resilience Banks
- **Recommendation:** Identify key barriers to solar access at HUD, including reviewing utility allowances.
- **Recommendation:** Ensure that USDA Rural Utilities Service (RUS) electric programs prioritize support for clean, distributed energy, and ensure funds are directed to disadvantaged communities.
- **Recommendation:** Prioritize federal funding for rooftop/on-site/localized solar and battery energy storage systems (BESS)

CLEAN TRANSIT & TRANSPORTATION INVESTMENT

- **Recommendation:** Investing in Transit Hubs to Catalyze Economic and Small Business Development in Commercial Corridors
- **Recommendation:** Transportation infrastructure Investments, EVs, electric charging stations, walk and bike lanes and trails, and transportation-oriented development (TODs).

SAFE, AFFORDABLE & SUSTAINABLE HOUSING

- **Recommendation:** The relocation of residents whose homes were built on contaminated land or toxic sites with HUD funds (for example – Agriculture Street Landfill)
- **Recommendation:** Develop HUD policy to align with its mandate to provide assisted housing to elderly, disabled and low-income households that is affordable, safe, sanitary and outside flood plains.
- **Recommendation:** Expand project eligibility criteria of the Clean Water State Revolving Fund (CWSRF) to include homes, residences & childcare facilities. Eligibility criteria should include prioritizing highly impacted communities with a legacy of drinking water contamination in homes & apartment buildings and allow access to families & renters.

COMMUNITY/UNIVERSITY PARTNERSHIPS

- **Recommendations:** Develop guidance and directives for HBCUs and other MSIs to support communities addressing legacy pollution problems and challenges. This also includes public colleges and universities in U.S. territories, including Puerto Rico and Indian Country

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 7 **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

COMMUNITY/UNIVERSITY PARTNERSHIPS

- **Recommendation:** Develop guidance and directives for HBCUs and other MSIs to support communities addressing legacy pollution problems and challenges. This also includes public colleges and universities in U.S. territories, including Puerto Rico and Indian Country
- **Recommendation:** Allocate research funding to HBCUs to research impacts of environmental racism associated with miscarriages & other characteristics of at-risk pregnancies
- **Recommendation:** Develop a grant program exclusively for Historical Black Colleges & Universities (HBCUs) to develop green workforce & training (environmental justice) development programming prioritizing career development opportunities in frontline communities.
- **Recommendation:** Invest in HBCU agricultural programming to address food equity issues (e.g. fresh fruits and vegetables) in frontline communities with a history of elevated lead exposure and food deserts/swamps.
- **Recommendation:** Develop a Youth White House Environmental Justice Advisory Council adjacent to the National Environmental Justice Advisory Council
- **Recommendation:** Develop a Career Technology Education (CTE) grant program to support middle schools and high schools (6-12) to design and implement environmental justice career pathways curriculum prioritizing schools serving majority BIPOC students
- **Recommendation:** Identify environmental justice education as an essential component of K-12 curriculum in the district and develop state and local level (i.e. Local Education Authorities) grants to support curriculum development and implementation.
- **Recommendation:** Expand the Food and Nutrition Services program to include increased funding for lead soluble fruits and vegetables prioritizing school districts with evidence of elevated lead levels in school drinking water, soil, air, buildings (lead-based paint), and/or proximity to superfund sites, landfills, incinerators and/or brownfields.) Free and Reduced Lunch Status of 75%> and schools designated as Title I schools are also eligible.

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 7 **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

TRAINING & WORKFORCE DEVELOPMENT

- **Recommendation:** Increase funding for the NIEHS Environmental Career Worker Training Program
- **Recommendation:** Increase funding for the Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) and Assistance to Coal Communities (ACC) programs.

REMEDICATION & REDUCTION OF LEGACY POLLUTION

- **Recommendation:** Establish a program requiring the reduction of permitted emissions of hazardous air pollution to prevent the exceedance of EPA's cancer and non-cancer risk guidelines.
- **Recommendation:** Conduct civil rights compliance reviews under Title VI of the Civil Rights Act of states with delegated environmental authorities.
- **Recommendation:** Pass the RECLAIM Act (H.R. 1733) to use mine reclamation as an economic driver and augment the underfunded Abandoned Mine Lands program with treasury funds.
- **Recommendation:** Decontamination of Vieques and Culebra, Tallaboa, Penuelas and Guayanilla, Caño Martín Peña (CMP/channel).
- **Recommendation:** Medical monitoring, preventive medicine, healthy nutrition and caregiving programs for vulnerable populations in EJ communities, especially seniors and training programs in these areas for residents of EJ communities.
- **Recommendations:** Decontamination of coal ash waste sites.
- **Recommendation:** Prioritize cities and/or states with significantly high counts of superfund sites and designate local EPA staff in satellite offices/locations to support with liaising and local oversight and accountability with cleanups
- **Recommendation:** Expand Medicare/Medicaid for lifetime access for individuals from frontline communities directly impacted by environmental racism and injustice (i.e. the Flint Water Crisis)
- **Recommendation:** Extend Medicaid coverage for a year (minimum) for ALL mothers and child birthing people with inclusion of body burden & risk factors associated with climate issues: extreme heat, air pollution, lead-poisoned water, and other environmentally induced health conditions
- **Recommendation:** Develop (expand funding) grant programs for child-care based centers (including family centers/home-based daycares), traditional daycares, head start and pre-k for lead remediation and environmental safety education

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 1 continued...

These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.

DEVELOPMENT OF CRITICAL CLEAN WATER INFRASTRUCTURE

- **Recommendation:** Create a Federal Low-Income Water and Sewer Bill Assistance Program.
- **Recommendation:** Permanently institutionalize water and wastewater affordability programs.
- **Recommendation:** Replace all lead service pipelines nationwide.
- **Recommendation:** Incentivize States with mandatory lead testing policies/laws in public schools and childcare facilities through non-competitive grant funding.
- **Recommendation:** Incentivize states/cities/municipalities that prioritize BIPOC contractors for lead service line replacement.

CLIMATE MITIGATION & RESILIENCY


- **Recommendations:** Incorporate ecosystem bio-remediation measures and robust community consultation prior to investment of funds and not allow for projects that impede sustainable flood control work or adversely impact public water supply.

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 2

Speakers:

- ***Maria Lopez-Nuñez***
- ***Kim W. Havey***



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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 2

Workgroup Members: Kim Havey, Maria Lopez-Nuñez, , Maria Belen Power and Miya Yoshitani

Key components that require further development for effective implementation of Justice40 and require WHEJAC input are:

- 2) What are the key elements that are important in developing definitions of "investment benefits"?
 - a. Are there examples of definitions from federal or state legislation that would be helpful to review?

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 2 **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

Guiding Principles:

- 100% of investments must do no harm to Environmental Justice communities
- 40% of investments should go directly to EJ Communities
- X% of the investment should go directly to EJ community members/organizations
- Funding for community members and organizations to support community-driven recovery and long-term rebuilding/relocation and implementation - "Capacity Building"

Overall Goals and/or Requirements:

- Maximize economic, environmental, and public health benefits to community
- Ensure Labor standards and living wage income, rights to organize, local hire provisions
- Enhance Workforce development and training for underserved workers to join the Green Economy
- Establish Energy democracy and equal access to the grid: decentralization of grid ownership
- Develop metrics, incentives, and audits for agencies to adopt based on how much of their budget
- Work with independent and federally support local groups to ensure transparency and public reporting of results
- Improve and expand public housing that is safe, healthy and community integrated.
- Address clean drinking water and repair lead pipe systems to maintain clean drinking water into the future.

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 2 continued... **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

Recommendations for the definition of Investment Benefits:

- A J40 investment benefit will be Justice Driven, Accountable, Community Powered, Anti-Racist and be focused on climate action, just recovery, public health, and community wealth building.

Examples of the types of projects that *Will* benefit a community:

- Clean energy projects, including renewable energy and energy efficiency projects
- Regenerative agriculture and green infrastructure projects.
- Clean energy jobs training.
- Lead water pipe replacement
- Clean drinking water and environmentally sound sanitation improvements
- Programs that both reduce greenhouse gases and promote economic, social and environmental benefits.
- Public Transportation: operational and capital improvements
- Community electric microgrids
- Community and Cooperatively owned Green Housing

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 2 **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

Investments that will *NOT* benefit the community

- Fossil fuel power plant development and infrastructure repair
- Carbon capture and storage (CCS) or carbon capture, utilization, and storage (CCUS);
- The establishment or advancement of carbon markets, including cap and trade;
- Transportation infrastructure that would displace EJ community residents or small business

For further consideration:

- Legislative language from the Rep. Cori Bush GND for Cities bill
- Community Engagement towards Participatory Community Decision making
- Notification about possible investments/benefits
- Guiding Principles of the Portland Clean Energy Fund
- Development Criteria of the Minneapolis Green Zones
- The Illinois Future Energy Job Act

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WHEJAC JUSTICE40 WORKGROUP UPDATE & DISCUSSION: Question 3 **All recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**


Key components that require further development for effective implementation of Justice40 and require WHEJAC input are:

3) What are the key elements that should be included in defining "disadvantaged communities?"
a. Are there examples of definitions from federal or state legislation that would be helpful to review?

We need WHEJAC's input on examples to include.

Please put your examples in the draft document.

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Comments **40:00**

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WHEJAC E.O. 12898 WORKGROUP UPDATE & DISCUSSION

Speakers:

- **Richard Moore, Workgroup Co-Chair**
- **Carletta Tilousi, Workgroup Co-Chair**



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WHEJAC E.O. 12898 WORKGROUP UPDATE & DISCUSSION:

Workgroup Members: Richard Moore, Carletta Tilousi, Susana Almanza, Angelo Logan, Juan Parras, Kyle Whyte, Hii Xyooj

Executive Order 14008 Sec. 220

(h) The Interagency Council shall, within 120 days of the date of this order, submit to the President, through the National Climate Advisor, a set of recommendations for further updating Executive Order 12898.

- 1) What sections of Executive Order 12898 should be revised?
- 2) What components should be added to Executive Order 12898
- 3) What components should be removed from Executive Order 12898?

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WHEJAC E.O. 12898 WORKGROUP UPDATE & DISCUSSION: **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

- Each federal agency must identify gaps in existing laws or policies and make recommendations for legislative change to fulfill the goals of the executive order.
- The addition of modern definitions and tools that align with current thinking in environmental justice practices.
- The addition of populations left out of the previously written executive order, acknowledging racial, ethnic and socioeconomic populations.
- A declaration that federal agencies responsibilities must include achieving environmental justice as part of their missions when serving the public.
- A declaration that federal agencies must not exclude through programs, policies, practices, and activities because of race, color, national origin, income level, or membership in a Tribal or indigenous community.
- The establishment of timelines that federal agencies must follow when developing and reviewing strategic plans, what legislative act that the plan is guided by, and how the implementation must be carried out.
- Further research on the application of the Executive Order to state and local jurisdictions, including but not limited to enforcement of civil rights

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WHEJAC E.O. 12898 WORKGROUP UPDATE & DISCUSSION: Continued... **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

- A mandate to protect populations with different patterns of not only subsistence consumption of fish and wildlife, but also cultural practices reliant on fish and wildlife and cultural practices reliant on environmental quality, including sacred places.
- Each environmental justice strategic plan developed and updated by a Federal agency must include achieving environmental justice which includes, reducing, preventing or eliminate disproportionately adverse human health, climatic, or environmental effects, and each agency must identify gaps in existing statutes and policy.
- The active encouragement of community-based science to improve research and data collection.
- The interpretations of document must be made available and accessible by the federal agencies, especially to populations with limited English proficiency who may be disproportionately affected the action.
- General provisions: Each federal agencies must address health and environmental risk affecting Tribal and Indigenous populations. State-recognized and un-recognized indigenous peoples must not face burdensome barriers to participation in federal environmental justice programs, practices, policies, and decisions or suffer additional harms because they are not federally recognized, including situations where sacred places and cultural practices are at risk, and collective governance processes are ignored.

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WHEJAC CLIMATE JUSTICE SCREENING TOOL WORKGROUP UPDATE & DISCUSSION

Speakers:

- **Catherine Coleman Flowers, Workgroup Chair**
- **Michele Roberts**

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WHEJAC CLIMATE JUSTICE SCREENING TOOL WORKGROUP UPDATE & DISCUSSION:

Workgroup Members: Dr. Rachel Morello-Frosch, Michele Roberts, Catherine Flowers, Dr. Nicky Sheats, Viola Waghiyi, Jade Begay, Andrea Delgado

Executive Order 14008 requires the creation of a Climate and Economic Justice Screening Tool, to be established by July 2021. At this time, a phased approach for implementation is being considered to ensure a continuous process of improvement for a robust, effective, valid, and responsive tool. Therefore, the goal is to establish a base Climate and Economic Justice Screening Tool in July in compliance of EO 14008, and to establish a plan for building up the Screening Tool with benchmark dates for completion of the phases of development

- 1) What should be the goal and purpose of the Climate and Economic Justice Screening Tool?
 - a. What is the target user(s) for the tool?
 - b. For what purpose would EJ communities and other target users need/use the tool?
 - c. Are there other existing tools (other than CalEnviroScreen) used by state and local governments, or other entities that are effective and should be reviewed for consideration in development of the Climate and Economic Justice Screening Tool?


- 2) What indicators/data should, if possible, be included in the Climate and Economic Justice Screening Tool in the July 2021 release?
 - a. Are there indicators in the current EPA EJSCREEN that are useful and, if possible, should be included in the Climate and Economic Justice Screening Tool?
 - b. Are there indicators in the current EPA EJSCREEN that are not useful and should not be considered in the Climate and Economic Justice Screening Tool?

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WHEJAC CLIMATE JUSTICE SCREENING TOOL WORKGROUP UPDATE & DISCUSSION: **These recommendations are draft and are subject to change until approved by the WHEJAC on May 13, 2021.**

The goal and purpose of the Climate and Economic Justice Screening Tool	Indicators/data should be included in the Climate and Economic Justice Screening Tool
<ul style="list-style-type: none"> • Holding People Accountable • Data on The Permitting Process That Will Allow Communities to Meaningfully Participate • Data on Permits, What Are Being Allowed, What Kind of Emissions • Data on Emissions • Pollution and Emission Indicators • Healthy Indicators • Process Indicators • Economic Indicators • Performance metrics • Funding • Accountability for Process 	<ul style="list-style-type: none"> • Exposures • Proximity to Potential Hazards • Sensitive Populations • Demographic/SES factors • Energy • Economic Development • Climate Vulnerability • Infrastructure

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Comments **40:00**

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Public Comment

- Members of the public will be given three **(3) minutes to present** comments to the WHEJAC.
- Submit written comments to: whejac@epa.gov

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Public Comment Time


03:00

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WHEJAC BUSINESS MEETING REFLECTION & CONVERSATION

- o **Karen L. Martin, Designated Federal Officer** – U.S. Environmental Protection Agency
- o **Cecilia Martinez, PhD, Senior Director for Environmental Justice** – Council on Environmental Quality
- o **Richard Moore, White House Environmental Justice Council Co-Chair** – Los Jardines Institute
- o **Peggy Shepard, White House Environmental Justice Council Co-Chair** – WE ACT for Environmental Justice
- o **Catherine Coleman Flowers, White House Environmental Justice Council Vice Chair** – Center for Rural Enterprise and Environmental Justice
- o **Carletta Tilousi, White House Environmental Justice Council Vice Chair** – Havasupai Tribal Council

o **The WHEJAC will use this time to reflect on the meeting proceedings, public comment period, discuss and deliberate action items and finalize next steps.**



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CLOSING REMARKS & ADJOURN

- o **Karen L. Martin, Designated Federal Officer** – U.S. Environmental Protection Agency
- o **Richard Moore, White House Environmental Justice Council Co-Chair** – Los Jardines Institute
- o **Peggy Shepard, White House Environmental Justice Council Co-Chair** – WE ACT for Environmental Justice



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I, Richard Moore, Co-Chair of the White House Environmental Justice Advisory Council, certify that this is the final meeting summary for the public meeting held on April 28, 2021, and it accurately reflects the discussions and decisions of the meeting.



July 27, 2021

Richard Moore

Date

I, Peggy Shepard, Co-Chair of the White House Environmental Justice Advisory Council, certify that this is the final meeting summary for the public meeting held on April 28, 2021, and it accurately reflects the discussions and decisions of the meeting.



July 27, 2021

Peggy Shepard

Date