

My name is Lianne Rockstad. I live at 15950 County Road 2, Walcott, ND, in Richland county. I want to be respectful of everyone's time and the need of others to speak. Hopefully, this won't take more than ten minutes.

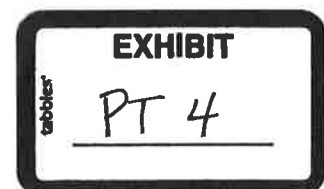
I am here because the Summit Carbon Solutions hazmat pipeline is coming down the full length, which equals one mile or 1/338<sup>th</sup> of ND's entire pipeline. These are two separate quarters of land that are two miles apart. The proposed pipeline comes down the center of my best producing cropland, coming on the east side of County Road 29 (Exhibit B, Section 14) and two miles further north (what I refer to as the home quarter), that pipeline would then be on the west side of Country Road 29 (Exhibit B, Section 3).

One quarter is located in the fast expanding (due to the FM diversion) Kindred school district leapfrogging home building south of Fargo. This quarter has the greatest commercial value to future generations of heirs, which is several times the value of what Summit proposes.

My family's ownership of this land is the same as owning CD's (certificates of deposit). By having bad pipeline routing that compromises the value of your land, it is like being forced to take early withdrawal on your CD's through no fault of your own. My heirs and three more generations will never benefit from the full maturity of what I believed was a sound savings plan: keeping my land intact.

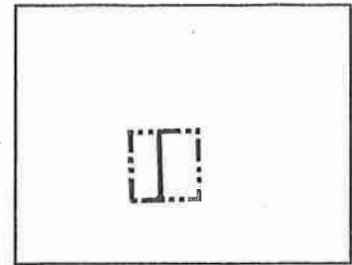
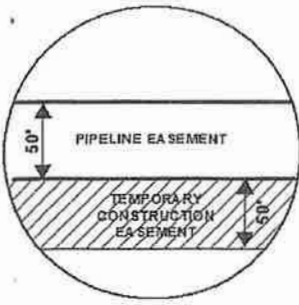
If this was a public utility pipeline, I am confident the said entity's pipeline would come down the road, and not through the center of well producing cropland. It's disruptive and totally unnecessary. They are doing the same unnecessary route to my neighbor to the south. I am asking the commission to please help me get this (Section 14) re-routed to the least intrusive path, which is along County Road 29.

Investors have paid Summit Carbon Solutions to route hazmat disposal in ND. Let's call it what it is: it's the cheapest route for the maximum return to the investors only, regardless of the impact to ND residents like myself and the damage to generational farms, like the one that's been in my family for 83 years.



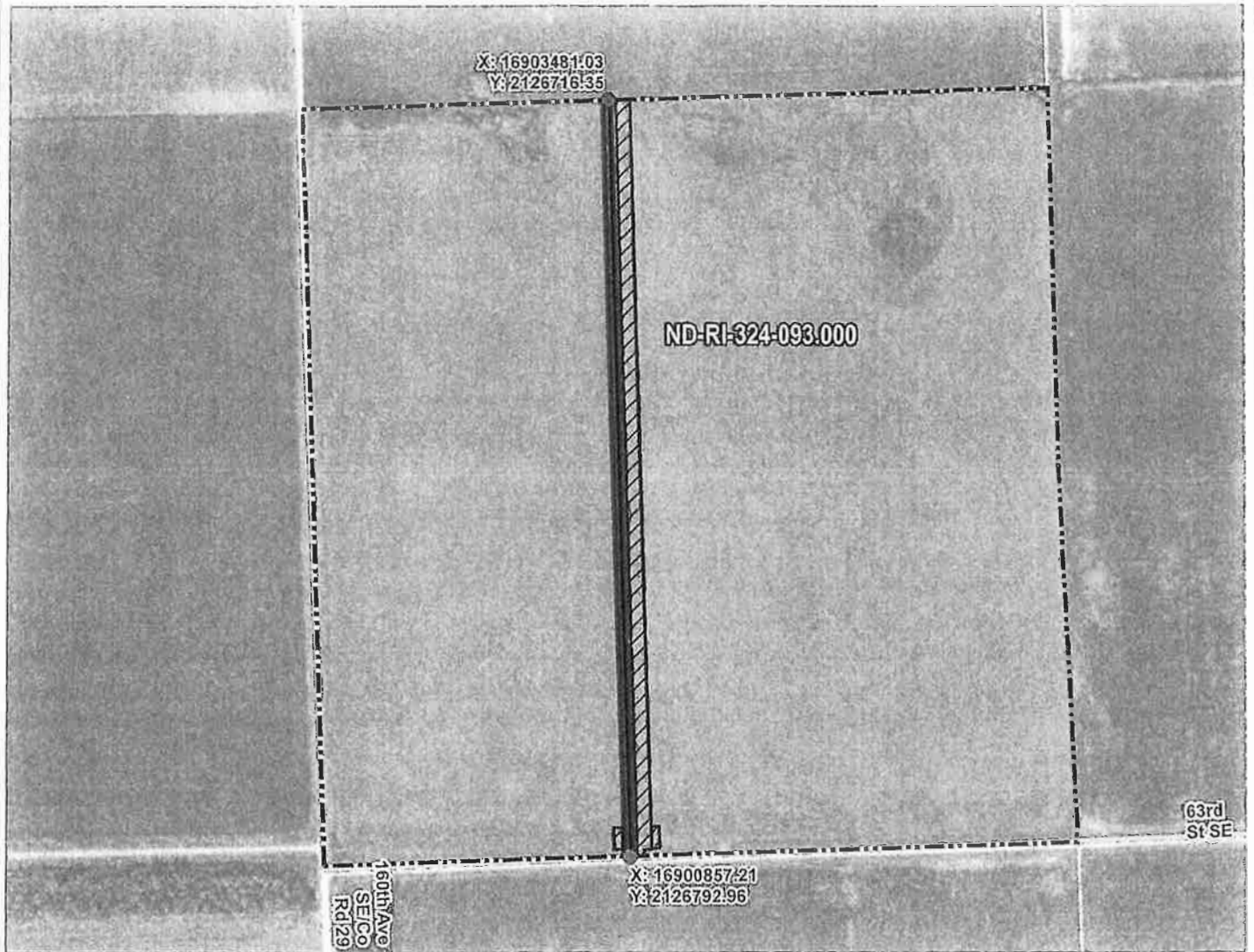
In good conscience, who would go through the center of a well producing quarter of land? A public utility would not do this, but it appears that an investment group would. Summit Carbon, in my experience, has not acted in good faith. They will not return phone calls, and frankly act as though this route is totally sewn up. I know this commission doesn't deal with the financial aspect, but the routing only. But, the lack of a fair financial value of these two quarters on top of the investor's and Summit's refusal to engage leaves me only with the hope that you as ND residents also, can assist with a common sense routing, which would follow County Road 29.

EXHIBIT "B"  
PRELIMINARY ROUTE  
RICHLAND COUNTY, NORTH DAKOTA



VICINITY MAP  
N.T.S.

SEC. 14 T135N R51W



ROUTING LENGTH = 2624.94 FT +/-

IMPACTS: PIPELINE EASEMENT = 3.013 AC. +/- / TEMPORARY CONSTRUCTION EASEMENT = 3.104 AC. +/-

Legend

	PROPOSED ROUTE		PIPELINE EASEMENT
	PARCEL BOUNDARY		TEMPORARY CONSTRUCTION EASEMENT
	ADJACENT PROPERTIES		SECTION BOUNDARY
			COUNTY BOUNDARY

NOTES:

1. THIS IS A PRELIMINARY DOCUMENT AND IS INTENDED TO DEPICT THE APPROXIMATE LOCATION OF A PROPOSED PIPELINE EASEMENT.
2. THIS DOCUMENT DOES NOT REPRESENT A LAND SURVEY AND IS NOT INTENDED TO DEPICT THE FINAL ALIGNMENT
3. COORDINATE SYSTEM: UTM ZONE 14 NORTH, NAD83, US SURVEY FEET

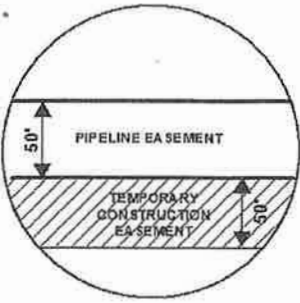
Initials: \_\_\_\_\_



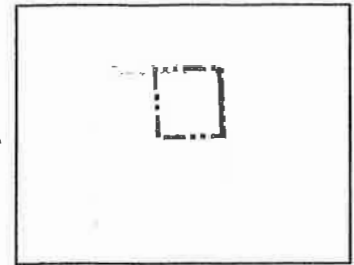
SUMMIT CARBON  
SOLUTIONS

PRELIMINARY PIPELINE ROUTE

DRAWN BY:	AC	SUMMIT CARBON SOLUTIONS MIDWEST CARBON EXPRESS JAMES O. ROCKSTAD  TAX ID: 07-0000-01553.000 TRACT NUMBER: ND-RI-324-093.000	
CHECKED BY:	JW		
MAP DATE:	12/3/2021		
SCALE: 1 inch = 566'			
REV NO.	DATE	DESCRIPTION	
A	12/3/2021	INITIAL ISSUE	
B	3/17/2022	REVISED WORKSPACE	
DRAWING NO. C-MCE-ACQ-ND-RI-324-093.000		PROJECT NO. 450959	SHEET NO. 01 of 01



**EXHIBIT "B"**  
**PRELIMINARY ROUTE**  
RICHLAND COUNTY, NORTH DAKOTA



VICINITY MAP  
N.T.S.

**SEC. 03 T135N R51W**



ROUTING LENGTH = 2673.654 FT +/-

IMPACTS: PIPELINE EASEMENT = 3.069 AC. +/- / TEMPORARY CONSTRUCTION EASEMENT = 3.096 AC. +/-

**Legend**

	PROPOSED ROUTE		PIPELINE EASEMENT
	PARCEL BOUNDARY		TEMPORARY CONSTRUCTION EASEMENT
	ADJACENT PROPERTIES		SECTION BOUNDARY
			COUNTY BOUNDARY

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3. COORDINATE SYSTEM: UTM ZONE 14 NORTH, NAD83, US SURVEY FEET

Initials: \_\_\_\_\_



**PRELIMINARY PIPELINE ROUTE**

DRAWN BY:	AC	SUMMIT CARBON SOLUTIONS MIDWEST CARBON EXPRESS JAMES O. ROCKSTAD  TAX ID: 07-0000-01502.000 TRACT NUMBER: ND-RI-324-085.000	
CHECKED BY:	JW		
MAP DATE:	12/3/2021		
SCALE: 1 inch = 576 '			
REV NO.	DATE	DESCRIPTION	
C	3/17/2022	REVISED WORKSPACE	
D	4/5/2022	REVISED WORKSPACE	
DRAWING NO. C-MCE-ACQ-ND-RI-324-085.000		PROJECT NO. 450959	SHEET NO. 01 of 01

**Public Service Commission Hearing**  
**Proposed Carbon Pipeline Project**  
**Testimony by Rep. SuAnn Olson (District 8)**  
**June 2, 2023**

To the honorable judge and Public Service Commission hearing members, I am Rep. SuAnn Olson. I am a CPA and have spent my career working with all types of business entities. I think that it is important that the PSC understand and consider who the beneficial owners of Summit Carbon Solutions LLC are.

You might ask, “Why does it matter who the owners of Summit are?”

To answer that question, let’s roll all the way back to what an LLC is and why businesses choose to operate as an LLC.

Compared to corporations, LLC’s (Limited Liability Companies) are relatively new. Wyoming was the first state to authorize LLCs in 1977 and most other states passed LLC legislation in the mid-1990s including ND in 1993.

I would guess that most new business entities that are formed today are formed as LLCs. Why is that? There are several reasons. They offer:

1. Flexibility. LLCs are generally taxed as partnerships and they have broad discretion in how income, deductions and tax credits are allocated among the LLC members. Their owners can be anyone: other corporations, LLCs, partnerships, trusts or individuals.
2. One level of taxation. LLCs are most often treated as a partnership. That means the income, deductions and credits pass out to the underlying owners. A corporation pays tax at the corporate level and the shareholder pays tax again when money or property comes out of the corporation. LLCs essentially pay tax at just the owner level.
3. Limited liability. For most investors, they cannot be called upon to contribute more money into the LLC beyond their original contribution unless they have agreed to it in the beginning.

These factors are very important to Summit’s operation. Their activities are driven by the Federal tax credit under Code Section 45Q. At full capacity, as noted on Summit’s website, they could generate \$1.5B of tax credits per year. These credits can be a direct pay from the federal government, regardless of the members’ ability to use the credits against their own US income tax, for up to 5 of the 12 years of the credit. The credits can also be sold to others. The LLC has tremendous flexibility in how they claim, allocate or sell the credits. Limited liability is also extremely important to Summit investors. Limited liability means that liabilities of the company can’t trace through to the owners. The only thing investors can lose is their original contribution. The impact of limited liability is incredibly important to our ND citizens and to the state of North Dakota if there is a catastrophic failure. Who will be responsible for the damage to life and property? An LLC can be a pretty empty pocket.

Most of us think in terms of main street businesses. If something goes wrong, the business has to stand behind their product or service, right? In terms of pipelines, we are most familiar with pipelines that our local utilities own. We know where their place of business is. Many of us may drive by it every day. We know that if there is a problem, even decades after a pipeline has been placed in service, we can actually stop by their office to seek a resolution. This type of business also has other assets that are at risk if the company fails to fulfil its promise of safe operation. A publicly traded corporation, like the PSC normally deals with, also has the additional check and balance of being accountable to its shareholders.

This may not be the case with Summit. Unless the affected states require a **significant** bond against a catastrophic event, there may not be anyone to turn to as a remedy. I would envision that very little capital will

be retained in the entity. Some undisclosed portion of Summit's underlying owners appears to be private equity investors. Private equity investors are typically promised a particular return on investment. Therefore, cash that is not needed to pay for the easements, construction, and operating costs will be distributed to the investors. And, since this is an LLC, the underlying owners cannot in most cases be required to come up with cash to pay a settlement for damages. I think this may be particularly true after the 12 years of the tax credit have expired. At that point, most of the investors will likely roll out of the entity with just a shell remaining as the owner. For example, one of the disclosed investors, Summit Agricultural Group, highlights past investments that they got in and out of within a 5 year timeframe. At least several of the currently disclosed investors' websites indicate that they are utilizing private equity funds. These funds usually have a targeted duration at the onset. They are not in it for the long haul. Clearly, ND needs to understand how our citizens are made whole if the project has a failure. Members of the commission, if it hasn't already been provided, you should request and review any and all prospectuses that are utilized to attract investors. A prospectus typically explains the business, operations and expected timeline of an investment and would provide a great deal of useful information.

### **Are there other reasons why it matters who the owners of Summit Carbon Solutions are?**

Yes. The state recognizes that foreign ownership of ND property may be a threat. That's why HB 1135 and SB 2371 passed by wide margins in the legislature and were signed into law by the governor. Make no mistake, a 99 year easement is an acquisition of a property right and allowing such a pipeline to potentially fall under foreign control is something we should be very cautious about.

Interestingly, the federal government is also aware that they don't know enough about potential bad actors doing business in the US. The Corporate Transparency Act was passed in 2021 with final rules issued early this year. Starting in 2024, most businesses will have to report their owners to the federal government. The two bills that were passed by our legislature are a start in this direction too and the legislature plans to continue studying foreign ownership in the interim. Given the enormity of this project, it only makes sense for ND to be very clear and very intentional about whom we are ultimately dealing with. This is why the Attorney General has been asked to investigate who the owners of Summit Carbon Solutions are.

### **A couple of other observations:**

The rules under 45Q state that a project has until **January 1, 2033** to start construction and yet, the Summit project is presented with a tremendous sense of urgency, such that there is no time for a careful, measured approach.

It is interesting that the websites of several of the currently disclosed owners of Summit spotlight ESG, Environmental/Social/Governance, at a time when ESG has been synonymous with anti-fossil fuel rhetoric. Even ND state law currently prohibits the State Investment Board from using "social investments" as investment criteria. NDCC 21-10-08.1

While we don't currently know the extent of foreign ownership in Summit, from a federal perspective, it would seem that awarding tax credit dollars to foreign entities is not good economic policy. If those billions of dollars of tax credits stayed entirely within the US, there would be at least some additional economic stimulation as a result. However, dollars that find their way to foreign countries not only leave our economy but, in fact, are likely to shrink our economy because US taxpayers need to cover the cost of those tax credits.





March 17, 2023

**Via Email Only**

Montana Department of Natural Resources & Conservation  
1539 Eleventh Ave.  
Helena, MT 59601  
dnrc\_publicinfo@mt.gov

**Re: Request for Records**

Dear Montana DNRC:

It is our understanding that there is a CO<sub>2</sub> pipeline system owned and operated by Denbury in the ground in the Bell Creek Field and on the property of the Giacometto Ranch. The Giacometto Ranch is situated in numerous sections throughout Township 7, Range 54; Township 8, Ranges 53 and 54; and Township 9, Range 54 in Powder River County. We are aware of several ruptures and explosions on Denbury's CO<sub>2</sub> pipeline system over the years (see attached pictures).

Under the Montana Public Records Act § 2-6-1001 *et seq.*, I am requesting an opportunity to inspect or obtain copies of public information related to the explosions or spills from this CO<sub>2</sub> system. This request includes, but is not limited to, the following:

- Correspondence
- Testing
- Reports
- Investigative reports
- Pictures
- Video
- Notes

Please include any other related documents not listed above. To the maximum extent feasible, I request that the records be provided in electronic format and emailed to [steven@braatenlawfirm.com](mailto:steven@braatenlawfirm.com). If it is not possible to provide electronic copies, then please mail these records to me at the following address:

Braaten Law Firm  
C/O Steven Price  
109 N 4th St, Suite 100  
Bismarck, ND 58501

MT DNRC  
March 17, 2023

Page 2 of 2

You have my pre-authorization to bill up to five hundred dollars (\$500) for time spent searching for and copying documents. If you believe the cost of complying with this request will exceed \$500, please inform me prior to locating and searching for these records.

If access to the information I am requesting will take longer than a 'reasonable' amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

If you have any questions, please do not hesitate to contact me at 701-221-2911 or [steven@braatenlawfirm.com](mailto:steven@braatenlawfirm.com).

Thank you for your attention to my request.

Sincerely,

A handwritten signature in blue ink that reads "Steven Price". The signature is written in a cursive, flowing style.

Steven Price  
Paralegal































## RESEARCH MEMORANDUM

To: Congressional and Administration Staff  
From: Tom Jones, American Accountability Foundation  
Date: May 23, 2023  
Re: Climate Change CO2 Pipeline Tax Credit Should be a Pay-For in the Debt Limit Negotiations.

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Over the next two weeks, Congress and the administration will need to come together on a budget deal. An integral part of the savings realized in that deal should be prohibiting use of the 45Q & 45Z carbon tax credits for the carbon pipelines in the Midwest. The reasons to jettison the pipeline and its tax credits are numerous.

- \* The pipelines are wildly unpopular, with over three quarters of Iowans opposing the pipeline.
- \* The pipeline companies will use the power of eminent domain to run their pipelines through family farm. This will destroy family farms all across the Midwest. Farms that have been in families for 100 years will be divided by unwanted pipelines, destroying rural communities, and damaging profitable farmland.
- \* The projects cannot stand on their own merit, they only keep getting protected because their chief booster, Bruce Rastetter, uses his campaign donations to curry favor with the Members of Congress protecting it. Just two weeks before the last fight on this issue he was handing checks to Members of the Iowa Delegation.
- \* There are serious national security concerns arising from Bruce Rastetter being in a business partnership to operate an ethanol plant with a Chinese firm that is financed by the China Development Bank, an arm of the Chinese Communist Party.
- \* Rastetter will profit greatly from the 45Q & 45Z tax credits which will help subsidize his foreign investments in Brazil.
- \* The most activist part of the financial sector, the ESG movement, is deeply involved in the projects with leading ESG firm BlackRock underwriting one of the three pipelines.
- \* These pipelines empower interest groups that hate fossil fuels. The pipeline advocates want to decarbonize America and are going to profit off of selling "low-carbon" ethanol to anti-fossil fuel states like California and Oregon.

## BACKGROUND

A few weeks ago, a cadre of lawmakers led by Representatives Feenstra, Hinson, Miller-Meeks, and Nunn took the debt limit bill hostage to protect home state climate change projects.<sup>1</sup> The saga garnered eye-rolls from many in Washington because most believed it was the usual Midwest kowtowing to ethanol interests – a regrettable but all too familiar ritual in Washington. Instead of it being the normal routine of protecting family farmers growing corn, this time Midwest Members were carrying the water for a mega donor. Mega donor Bruce Rastetter is working with liberal activists like BlackRock to build climate change sequestration pipelines – thousands of miles of pipelines carrying CO2 from ethanol

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<sup>1</sup> <https://rollcall.com/2023/04/26/house-gop-leaders-forge-ahead-with-debt-limit-vote/>



plants and burying it underground - funded with tax-credits from President Biden's "Inflation Reduction Act" that will literally bulldoze family farms. And he's protecting the pipelines by spreading campaign cash around Washington to get Members of Congress to go to bat for him and his dubious climate change projects.

#### RASTETTER'S CLIMATE CASH

The carbon pipelines are so problematic, the first question that needs to be answered is why haven't these things been cast aside by debt-conscious conservatives. The answer is relatively straight-forward. The pipeline advocates are led by the leading mega-donor in Iowa, Bruce Rastetter, who is spreading money around to Members of Congress to secure their support. Conservatives know these projects are a terrible idea, doubly so for Members who believe in markets and are not buying AOC Green New Deal climate hype, so there's really only one way to explain supposed "conservatives" laying down on the tracks to protect these projects. It's all about the money.

There's a lot at stake with the carbon pipelines running through the Midwest (more on that below) and to protect them, Bruce Rastetter has been aggressive in spreading campaign cash around Congress. To protect his ethanol related projects Rastetter [has spread around \\$805,295](#) to Members of Congress, their campaigns and the PAC supporting them. That's on top of the tens of thousands he's given to the RGA, and nearly two million dollars he's donated in Iowa. In Congress, the overwhelming majority of Rastetter's donations have gone to members from the Midwest.

Notable recipients of Rastetter's largesse include:

- Ashley Hinson who received [\\$27,200 from Rastetter](#). Most shockingly, the Hinson Victory Fund took an [\\$11,600 check from Rastetter on March 30, 2023](#), just two weeks before she went to the mattresses to protect the carbon pipeline tax breaks in the House debt limit bill.
- Mariannette Miller-Meeks who has taken [\\$14,200 from Rastetter](#), again with [\\$5,800 appearing on March 28](#), just a few days before she'd join the fight for Rastetter's pipeline on the debt limit bill.
- Randy Feenestra whose campaigns pocketed [\\$15,600](#).
- Zach Nunn a leading advocate for the tax breaks took multiple contributions from Rastetter totaling [\\$18,200](#).

#### THE CO2 PIPELINE IS WRONG FOR ALL THE WRONG REASONS

##### **Private Companies with Eminent Domain Powers – Kelo on Steroids**

There are three CO2 pipelines under consideration in the Midwest, Summit Carbon Solutions, Navigator CO2 Ventures, and ADM/Wolf Carbon Solutions. The pipelines would carry carbon dioxide from ethanol facilities and sequester it underground in states around the Midwest. All told the three pipeline companies would lay roughly 2300 miles of pipelines in Iowa, Illinois, Minnesota, Nebraska, North





Dakota, and South Dakota.<sup>2</sup> "Two of three companies seeking to build the pipelines, Summit Carbon Solutions and Navigator CO2 Ventures, have notified state regulators they want to use eminent domain powers to buy access where Iowans have refused to sell."<sup>3</sup>

Summit Carbon Solutions, Rastetter's company, has filed 80 lawsuits in South Dakota against property owners who do not wish to have a pipeline running through their property.<sup>4</sup> In Iowa the legislature is considering restricting the use of eminent domain and Summit has noted that despite its thousands of meetings with landowners in Iowa that it has only acquired voluntary easements from 70% of the landowners on the pipeline route.

Providing eminent domain authority to a project whose benefits will accrue only to the businesses involved in the project is a gross misuse of the eminent domain powers. Sadly, as expected abuses of the eminent domain powers are quickly becoming apparent.

### Killing Family Farms

Numerous sources have detailed how the pipelines would adversely impact family farms and hurt the quality of life in rural America.<sup>5</sup>

- "A rural water district says the Summit plan would "cause damage to every water line crossed" in their area."<sup>6</sup>
- "And a [school district](#) says Navigator's proposed route across their property would impede construction of already-planned school buildings."<sup>7</sup>
- Kathy Stockdale's kitchen may as well be mission control in a plan to keep two carbon capture pipelines from running through her Hardin County century farm. "Our house is right here," she says as she points at a corkboard dotted with tacks marking homes and lines marking where she believes the Summit Carbon Solutions and Navigator carbon capture pipelines plan to go. Summit, Navigator and Wolf Carbon Solutions all plan to build carbon capture pipelines in Iowa. If both Summit and Navigator are approved, both will run through Stockdale's farm.

<sup>2</sup> <https://www.desmoinesregister.com/story/money/business/2021/11/28/what-is-carbon-capture-pipeline-proposals-iowa-ag-ethanol-emissions/8717904002/>

<sup>3</sup> <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2023/03/14/iowa-carbon-capture-pipeline-use-eminant-domain-opposed-majority-iowa-poll/69982590007/>

<sup>4</sup> <https://www.argusleader.com/story/news/city/2023/05/01/summit-initiates-eminant-domain-claims-against-south-dakota-landowners-carbon-capture-pipelines-puc/70164962007/>

<sup>5</sup> <https://www.politico.com/news/2022/05/29/iowa-manchin-carbon-capture-pipeline-00030361>

<sup>6</sup> <https://www.politico.com/news/2022/05/29/iowa-manchin-carbon-capture-pipeline-00030361>

<sup>7</sup> <https://www.politico.com/news/2022/05/29/iowa-manchin-carbon-capture-pipeline-00030361>



"Where are our property rights that we've been guaranteed by our constitution and by our state?" she said, standing in her driveway with her son and husband. "They're being taken away. I think that's what I'm fighting for is our property rights."<sup>8</sup>

- "This is just the latest case of someone insisting on putting a pipeline or an easement on our property. I've lost track of how many times our family has had to deal with this," said Beth Richards, whose family farms in Hardin County. "Why should the landowners welcome encroachment on their land for a project that doesn't pay direct dividends to them other than a vague promise that ethanol is good for corn prices? Why isn't rent going to be paid for the land or profits shared with farmers?"<sup>9</sup>

### **Wildly Expensive and Financed by Special Federal Tax Breaks**

The carbon pipelines in the Midwest simply do not work without massive government subsidies. There is not a market to pump CO<sub>2</sub> from ethanol into the ground unless the federal government creates it. Massive tax breaks are essential for companies to make the projects work.

The left is generally supportive of green technology projects but even groups on the left have concluded that carbon pipelines are a boondoggle. Estimates from the group Food and Water Watch put a dollar value on how much the three pipelines would cost the taxpayer:

"A single federal tax credit called Section 45Q could funnel almost \$2 billion a year to Summit, Navigator and Wolf/ADM to capture carbon from ethanol facilities to feed their pipeline projects. Over the 12 years that the projects are eligible to profit from the Section 45Q credit, the companies could make \$23 billion"<sup>10</sup>

Even if they're wrong by \$10B there's still over \$10B in taxpayer subsidies wasted on the project.

### **Subsidizes the Operations of Foreign Ethanol Production**

Summit Agricultural Group is a multi-national firm with significant operations in Brazil. Rastetter's company, and its profitability, is incredibly important to the development of Brazil. As Iowa reporting noted in 2017, Rastetter's "Partnership with Iowa company helps Brazil open first modern ethanol plant,"<sup>11</sup> a plant known as FS Bioenergia. The FS Bioenergia "plant is an international collaboration

<sup>8</sup> <https://www.kcci.com/article/the-property-rights-battle-is-well-underway-as-carbon-capture-companies-plan-to-criss-cross-iowa/41937273>

<sup>9</sup> <https://www.iowapublicradio.org/ipr-news/2021-10-13/proposed-carbon-dioxide-pipeline-draws-opposition-from-iowa-farmers-and-environmentalists-alike>

<sup>10</sup> [https://www.foodandwaterwatch.org/wp-content/uploads/2022/04/Midwest-Carbon-Pipelines-True-Cost-to-Taxpayers\\_4.4.pdf](https://www.foodandwaterwatch.org/wp-content/uploads/2022/04/Midwest-Carbon-Pipelines-True-Cost-to-Taxpayers_4.4.pdf)

<sup>11</sup> [https://www.kmaland.com/ag/partnership-with-iowa-company-helps-brazil-open-first-modern-ethanol-plant/article\\_f8e33b26-8413-11e7-8ea3-67c96994cdcc.html](https://www.kmaland.com/ag/partnership-with-iowa-company-helps-brazil-open-first-modern-ethanol-plant/article_f8e33b26-8413-11e7-8ea3-67c96994cdcc.html)





between U.S.-based Summit Agricultural Group and Brazilian agribusiness Fiagril.”<sup>12</sup> Since money is fungible the profits enabled by the massive 45Q subsidies provided to the carbon pipeline in the United States will go to propping up the development of Rastetter’s ethanol infrastructure in South America.

### **Rastetter’s Energy Company is Partnering with Chinese Multi-national Company Funded by CCP Development Bank Creating Serious National Security Concerns**

As mentioned above, Bruce Rastetter’s Summit Agricultural Group has significant partnerships in Brazil, specifically the company runs the FS Bioenergia, the “F” being short for Fiagril, the “S” for Summit. As Rastetter announced in 2017, “Summit Ag Group and Fiagril are proud to have delivered this historic project to Mato Grosso, and we look forward to the development of the region as a leader in ethanol, corn and livestock production.”<sup>13</sup> Note Rastetter in front of the Summit / Fiagril banner at the groundbreaking.<sup>14</sup>



What Rastetter failed to note was that his business partner in the Brazil ethanol facility was actually a Chinese company with close ties to the Chinese Communist Party. As Fiagril’s website notes, in 2016 Fiagril was acquired by the Pengxin Group,<sup>15</sup> through its business line the “Hunan Dakang International Food & Agriculture Co.”<sup>16</sup>

Hunan Dakang International Food & Agriculture Co. has close ties to the Chinese Communist Party, using those ties to secure access to financing when the company struggled. “Fiagril has recently secured more

<sup>12</sup> <https://www.prnewswire.com/news-releases/fs-bioenergia-game-changer-in-brazils-ethanol-industry-starts-production-300504858.html>

<sup>13</sup> <https://www.prnewswire.com/news-releases/fs-bioenergia-game-changer-in-brazils-ethanol-industry-starts-production-300504858.html>

<sup>14</sup> <https://www.facebook.com/photo/?fbid=1218022258210693&set=a.1218005054879080>

<sup>15</sup> <https://www.fiagril.com.br/nossa-historia/>

<sup>16</sup> <https://www.reuters.com/article/fiagril-turnaround/brazils-fiagril-turnaround-on-track-after-chinese-investors-burned-exec-idINL2N22M1E>





capital to continue with the turnaround. This year, China Development Bank approved a \$300 million revolving loan, which will provide working capital for three years, Silva said.”<sup>17</sup>

The Chinese Development Bank exists to execute on the green agenda of the Communist Party of China, noting in that:<sup>18</sup>

CDB will continue to thoroughly implement the decisions and instructions of the CPC Central Committee and the State Council on carbon peaking and carbon neutrality, and further play the unique role of development finance in key fields and weak areas, continuously driving the green and low-carbon financing for new achievements.

Rastetter’s close partnership with a leading Chinese company funded by the one of the Chinese Communist Party’s leading development banks should raise serious questions about Rastetter’s judgement and creates serious national security concerns in a critical area like energy investment.

#### **In League with Left Wing ESG Financiers BlackRock**

While Rastetter was partnering with companies close to the Chinese Communist Party, one of the other pipelines, the Navigator Energy Solutions was partnering with Blackrock to build the Heartland Gateway Pipeline. From ESG Today reporting:

Mark Florian, Head of BlackRock’s Global Energy & Power Infrastructure team, said:  
*“We are very excited to partner with Valero and Navigator in the development of this project. Carbon capture infrastructure is a key part of reducing global carbon dioxide emissions, and we look forward to executing this important project with high-quality industry partners and creating a strong investment for our funds.”*

#### **Predicated on Catering to the Left’s Anti Carbon Agenda**

If you hate fossil fuels and want to be in league with those who want to kill them off, carbon sequestration pipelines are the perfect project. They’re being built by people who want to end fossil fuels to serve people who want to end fossil fuels.

Summit Agriculture in particular is unashamed of their anti-fossil attitude. When announcing the pipeline, they bragged:<sup>19</sup>

<sup>17</sup> <https://www.reuters.com/article/fragril-turnaround/brazils-fragril-turnaround-on-track-after-chinese-investors-burned-exec-idINL2N22M1IE>

<sup>18</sup> [https://www.cdb.com.cn/English/xwzx\\_715/khdt/202204/t20220424\\_9851.html](https://www.cdb.com.cn/English/xwzx_715/khdt/202204/t20220424_9851.html)

<sup>19</sup> <https://www.summitag.com/news/summitcarbonsolutions>



Summit Agricultural Group announces the creation of Summit Carbon Solutions, a new business platform that will address the global challenge of **decarbonization** by developing the world's largest carbon capture and storage project.

Decarbonization is exactly what it sounds like, a plan for a future without fossil fuels.

And they're in league with the decarbonization advocates on the west coast who are attempting to force all Americans to drive electric vehicles. While California is in the process of banning the internal combustion engine in automobiles,<sup>20</sup> they are also subsidizing the use of alternative fuels to strangle the traditional oil and gas industry. Carbon sequestration pipeline's sources of CO<sub>2</sub>, ethanol plants, plan to profit off of that anti-oil and gas subsidy by selling their now low "carbon intensity (CI)" fuel (after the CO<sub>2</sub> is buried under ground) to California who is requiring low CI fuels.<sup>21</sup>

Although ethanol is a clean burning fuel, carbon dioxide emissions are a byproduct of the production process. Knecht said, "The future demands lower carbon emissions and standards are increasingly pointing in that direction. We'd love to lower our carbon intensity score as needed for the West Coast market. California retailers sell a lot of E85 for the industry."

...

Proponents say carbon pipelines are necessary to control the greenhouse gases driving climate change. As Keith understands it, by transporting the carbon dioxide to the storage areas in North Dakota, the carbon footprint of ethanol will be reduced which is what customers in California are seeking. This will enable ethanol plants to increase their profits while increasing demand. "As we are on the western edge of the corn belt, keeping customers in California satisfied is important to us. They pay a premium for ethanol which has a lower emission which reduces the carbon footprint. That ends up with a higher value to me as a corn producer."

### Iowa Citizens Overwhelmingly Oppose the Pipelines

The facts on the ground are clear, the only way these projects go forward is with the power of eminent domain, and with the pipeline companies having eminent domain there is overwhelming opposition to the pipeline. From the Des Moines Register in March:

The poll shows 78% of Iowans oppose companies using the state-granted power to build carbon-capture pipelines across the state, while 15% are in favor and 7% are unsure.

"This initiative is opposed by strong majorities in every demographic group," said pollster J. Ann Selzer, who conducts the Iowa Poll.

A strong majority of Iowans oppose eminent domain for the pipelines, regardless of their political party, gender, age, religion, income or where they live.

<sup>20</sup> <https://ww2.arb.ca.gov/resources/documents/cars-and-light-trucks-are-going-zero-frequently-asked-questions#:~:text=Yes.%20California%20is%20only%20requiring,and%20fuel%20cell%20electric%20vehicles>.

<sup>21</sup> <https://www.tsln.com/news/ethanol-industry-seeks-carbon-capture-solution/>



For example, 72% of Republicans oppose using eminent domain for pipeline construction, 82% of Democrats and 79% of independents; 76% of men and 80% of women; 78% of respondents younger than 45 along with those 45 and older; and 80% of rural residents and 76% of urban residents.

Eighteen percent of men favor it, compared with 11% of women. The poll of 805 Iowans was conducted March 5-8 by Selzer & Co. It has a margin of error of plus or minus 3.5 percentage points.



Honorable Drew Wrigley  
Attorney General  
ND State Capitol

Dear Attorney General Wrigley:

Recently, two bills were passed by the North Dakota Legislature and signed by the Governor to protect North Dakota agricultural land and real property from foreign ownership and development by foreign adversaries. HB1135 was passed with a vote of 90-1 in the ND House of Representatives and a unanimous vote of 47-0 in the ND Senate and signed by the Governor. SB2371 was passed with a vote of 83-8 in the ND House of Representatives and a unanimous vote of 47-0 in the ND Senate and signed by the Governor.

A proposed Carbon Dioxide Pipeline in the state of North Dakota is requested to be built by Summit Carbon Solutions (SCS) and is under review by the ND Public Service Commission. Questions have been asked at the PSC public hearings about who the investors are in the proposed carbon pipeline. The PSC at the hearings requested that Summit provide information on the investors but Summit has provided minimal information about its investors, disclosing the names only of five investors. But its Chief Operating Officer, James Powell, admits there are many more investors. A copy of the documents provided to the PSC disclosing just five investors is attached. One of the investors Summit disclosed is TPG Rise. TPG Rise, according to various articles, has a major investor in it known as the China Silk Road Fund. The China Silk Road Fund is directly owned by the Chinese government. This appears to be a direct violation of both HB1135 and SB2371, and we request you to investigate this. Another investor in TPG Rise is Saudi Arabia's Public Investment Fund, which would be in violation of HB1135. Another investor identified by Summit to the PSC is SK Group, which appears to be South Korean company, or at least affiliated with a South Korean company. This appears to be a violation of HB1135. A letter filed with the Iowa Utilities Board outlining further concerning details about SK Group or its affiliated companies, which we request you to investigate, is attached. Although Summit has not disclosed the amount of SK Group's investment in the Summit pipeline, word is that the investment is \$110 million. And we understand that TPG has invested \$300 million, making it the largest investor in the Summit pipeline. All told there is said to be 464 investors in the Summit pipeline, but Summit has only disclosed five investors to the PSC.

Realizing the new laws referred to will not be enacted until August 1, the legislative intent is clear as well as the Governor's intention. We respectfully ask for an Attorney General investigation into the investors of the proposed SCS carbon pipeline.

Sincerely,

***Senators***

Jeffery J. Magrum  
Doug Larsen  
Robert Paulson  
Kent Weston  
Jeff Barta

***Representatives***

SuAnn Olson  
Brandon Prichard  
Karen Anderson  
Cole Christensen  
Dan Ruby

West's North Dakota Century Code Annotated

Title 49. Public Utilities

Chapter 49-22.1. Energy Conversion and Transmission Facilities

NDCC, 49-22.1-09

§ 49-22.1-09. Factors to be considered in evaluating applications and designation of sites, corridors, and routes

Currentness

The commission is guided by, but is not limited to, the following considerations, when applicable, to aid the evaluation and designation of sites, corridors, and routes:

1. Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.
2. The effects of new gas or liquid energy conversion and gas or liquid transmission technologies and systems designed to minimize adverse environmental effects.
3. The potential for beneficial uses of waste energy from a proposed gas or liquid energy conversion facility.
4. Adverse direct and indirect environmental effects that cannot be avoided should the proposed site or route be designated.
5. Alternatives to the proposed site, corridor, or route that are developed during the hearing process and which minimize adverse effects.
6. Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be designated.
7. The direct and indirect economic impacts of the proposed facility.
8. Existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.
9. The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.
10. The effect of the proposed site or route on areas that are unique because of biological wealth or because the site or route is a habitat for rare and endangered species.



11. Problems raised by federal agencies, other state agencies, and local entities.

**Credits**

S.L. 2017, ch. 328 (H.B. 1144), § 24, eff. July 1, 2017.

NDCC 49-22.1-09, ND ST 49-22.1-09

Current with legislation effective through May 10, 2023 from the 2023 Regular Session. Some statute sections may be more current, see credits for details. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

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End of Document

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May 12, 2023

Justin Buckingham and Danielle Buckingham  
2023 Harbor Dr  
Bismarck, ND 58504

**RE: In the Matter of the Application by SCS Carbon Transport LLC  
for a Permit to Construct a Carbon Dioxide Pipeline**  
**PSC Docket: PU-22-391**  
Tract(s) # ND-BU-0984.111

Dear Justin Buckingham and Danielle Buckingham:

As you are aware, we continue to plan for the permitting of the proposed Summit Carbon Solutions CO<sub>2</sub> pipeline in North Dakota. A few days ago, the North Dakota District Court for the South Central Judicial District, Judge Narum presiding, entered an order in several cases ruling that SCS Carbon Transport LLC ("Summit") and its agents have authority to access property selected for the pipeline for the purpose of conducting civil, environmental and archaeological/cultural surveys and examinations, including any necessary geotechnical/soil borings. The order and the judgment in the lead case in the group of cases is attached.

Because of the decisions made by the Court in the group of cases, Summit clearly has the authority to enter your property to conduct the survey work. We write to update you on our plans for such survey and examination work. Our expected dates of entry would be from May 15, 2023 - June 14, 2023.

If any damage should occur in conducting the surveys that is a result of the actions of Summit or its agents, Summit will pay for those damages.

We thank you for your consideration and hope to gain your trust and confidence as we proceed.

Sincerely,

Julie DiMeo, Right of Way Manager for Summit Carbon Solutions

STATE OF NORTH DAKOTA  
COUNTY OF MORTON

DISTRICT COURT  
SOUTH CENTRAL JUDICIAL DISTRICT

SUS CARBON TRANSPORT LLC

Case No. 30-2022-CV-00665

Petitioner

v.

**FINAL JUDGMENT**

HOWARD L. MALLOY, TRUSTEE OF  
THE HARRY L. MALLOY TRUST NO. 2  
DATED MAY 25, 2008

Respondent

[¶ 1] Pursuant to the Court's April 20, 2023 Order (Doc. ID# 216 in lead case no 30-2022-CV-00665), which is incorporated by reference, it is hereby **ORDERED, ADJUDGED, and DECREED** that Petitioner SUS Carbon Transport LLC's ("Summit") Petition for Entry to Survey is granted. The Court confirms that Summit has the right under N.D.C.C. § 32-13-06 to enter upon the lands described on Exhibit A attached hereto for the purpose of completing civil, environmental, and archaeological/cultural surveys and examinations, including any necessary geotechnical/soil borings, archaeological/cultural resource surveys and examinations, and including any necessary core or water sampling activities subject to any conditions.

[¶ 2] It is further hereby **ORDERED, ADJUDGED, and DECREED** that the counterclaims of Respondent Howard L. Malloy, Trustee of the Harry L. Malloy Trust No. 2 dated May 25, 2008, are dismissed with prejudice, and in their entirety.

5/2/2022 1:25:44 PM

Clerk of District Court  
South Central Judicial District

7524015

EXHIBIT A

TRACT OF LAND LOCATED IN AND BEING PART OF THE SOUTH HALF (S<sup>1</sup>/<sub>2</sub>) OF SECTION SIX (6) AND PART OF THE NORTH HALF (N<sup>1</sup>/<sub>2</sub>) OF SECTION SEVEN (7), TOWNSHIP ONE HUNDRED FORTY (140) NORTH, RANGE EIGHTY-ONE (81) WEST OF THE FIFTH PRINCIPAL MERIDIAN, MORTON COUNTY, NORTH DAKOTA, MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH BOUNDARY LINE OF SECTION SIX (6), TOWNSHIP ONE HUNDRED FORTY (140) NORTH, RANGE EIGHTY-ONE (81) WEST WITH THE EAST R/W LINE OF N.D. HIGHWAY NO. 1806, THENCE EAST ALONG SAID SOUTH BOUNDARY LINE A DISTANCE OF 795.88 FEET, THENCE SOUTH 58°12'45" EAST A DISTANCE OF 34.74 FEET, THENCE SOUTH 62°58'45" EAST A DISTANCE OF 152.10 FEET, THENCE SOUTH 73°45'45" EAST A DISTANCE OF 224.13 FEET, THENCE SOUTH 76°25'30" EAST A DISTANCE OF 153.50 FEET, THENCE SOUTH 72°59'00" EAST A DISTANCE OF 213.56 FEET, THENCE NORTH 79°39'30" EAST A DISTANCE OF 67.39 FEET, THENCE NORTH 57°36'30" EAST A DISTANCE OF 44.05 FEET, THENCE NORTH 46°29'30" EAST A DISTANCE OF 29.93 FEET, THENCE NORTH 26°26'15" EAST A DISTANCE OF 60.43 FEET, THENCE NORTH 6°50'00" EAST A DISTANCE OF 54.75 FEET, THENCE NORTH 5°41'45" WEST A DISTANCE OF 40.34 FEET, THENCE NORTH 12°43'30" WEST A DISTANCE OF 245.59 FEET, THENCE NORTH 2°20'00" WEST A DISTANCE OF 91.09 FEET, THENCE NORTH 1°01'00" WEST A DISTANCE OF 123.50 FEET, THENCE NORTH 3°02'45" EAST A DISTANCE OF 103.54 FEET, THENCE NORTH 11°19'30" EAST A DISTANCE OF 65.68 FEET, THENCE NORTH 36°03'00" EAST A DISTANCE OF 61.35 FEET, THENCE NORTH 54°06'00" EAST A DISTANCE OF 46.47 FEET, THENCE NORTH 73°21'00" EAST A DISTANCE OF 34.55 FEET, THENCE NORTH 88°05'15" EAST A DISTANCE OF 44.92 FEET, THENCE NORTH 87°50'45" EAST A DISTANCE OF 292.47 FEET, THENCE NORTH 80°05'15" EAST A DISTANCE OF 83.69 FEET, THENCE NORTH 67°48'30" EAST A DISTANCE OF 68.05 FEET, THENCE NORTH 58°51'15" EAST A DISTANCE OF 177.61 FEET, THENCE NORTH 67°42'00" EAST A DISTANCE OF 94.33 FEET, THENCE NORTH 84°16'00" EAST A DISTANCE OF 58.11 FEET, THENCE SOUTH 88°01'45" EAST A DISTANCE OF 52.33 FEET, THENCE SOUTH 77°17'45" EAST A DISTANCE OF 35.47 FEET, THENCE SOUTH 73°04'00" EAST A DISTANCE OF 254.81 FEET, THENCE SOUTH 71°17'15" EAST A DISTANCE OF 164.22 FEET, THENCE SOUTH 64°44'45" EAST A DISTANCE OF 87.72 FEET, THENCE SOUTH 67°45'00" EAST A DISTANCE OF 226.53 FEET, THENCE SOUTH 64°25'30" EAST A DISTANCE OF 266.68 FEET, THENCE SOUTH 62°04'30" EAST A DISTANCE OF 124.44 FEET, THENCE SOUTH 49°27'00" EAST A DISTANCE OF 25.53 FEET, THENCE SOUTH 37°25'45" EAST A DISTANCE OF 42.94 FEET, THENCE SOUTH 25°32'30" EAST A DISTANCE OF 50.10 FEET, THENCE SOUTH 12°17'45" EAST A DISTANCE OF 45.21 FEET, THENCE SOUTH 5°22'00" EAST A DISTANCE OF 205.30 FEET, THENCE SOUTH 19°35'15" EAST A DISTANCE OF 73.56 FEET, THENCE SOUTH 30°33'15" EAST A DISTANCE OF 45.63 FEET, THENCE SOUTH 51°10'30" EAST A DISTANCE OF 54.56 FEET, THENCE SOUTH 71°56'30" EAST A DISTANCE OF 27.44 FEET TO THE WESTERLY R/W LINE OF THE BURLINGTON-NORTHERN RAILROAD, THENCE SOUTH 21°50'15" WEST ALONG SAID WESTERLY R/W LINE A DISTANCE OF 338.31 FEET, THENCE SOUTH 68°09'45" EAST ALONG SAID WESTERLY R/W LINE

A DISTANCE OF 50.00 FEET, THENCE SOUTH  $21^{\circ}30'15''$  WEST ALONG SAID WESTERLY R/W LINE A DISTANCE OF 613.20 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 5779.65 FEET, THENCE SOUTHWESTERLY ALONG SAID CURVE TO THE LEFT (THE CHORD OF WHICH BEARS SOUTH  $21^{\circ}03'30''$  WEST) AN ARC DISTANCE OF 157.27 FEET, THENCE SOUTH  $73^{\circ}15'00''$  WEST A DISTANCE OF 575.49 FEET, THENCE SOUTH  $38^{\circ}18'30''$  WEST A DISTANCE OF 328.73 FEET, THENCE SOUTH  $71^{\circ}15'00''$  WEST A DISTANCE OF 771.91 FEET, THENCE SOUTH  $59^{\circ}59'30''$  WEST A DISTANCE OF 784.05 FEET, THENCE SOUTH  $85^{\circ}43'00''$  WEST A DISTANCE OF 645.05 FEET, THENCE NORTH  $32^{\circ}08'45''$  WEST A DISTANCE OF 837.18 FEET TO THE EAST R/W LINE OF N.D. HIGHWAY 1806, THENCE NORTH  $60^{\circ}55'11''$  EAST ALONG SAID EAST R/W LINE A DISTANCE OF 1628.34 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5654.65 FEET, THENCE NORTHERLY ALONG SAID CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS NORTH  $1^{\circ}28'29''$  EAST) AN ARC DISTANCE OF 99.66 TO THE POINT OF BEGINNING, ALSO KNOWN AS TRACT F.



**SUMMIT  
CARBON  
SOLUTIONS**

August 31, 2022

*Via: Hand Delivered*

Justin & Daniele Buckingham  
2023 Harbor Dr  
Bismarck, ND 58504

**RE: Offer to Acquire Easements**  
**Tract #: ND-BU-0984.111 Burleigh County, North Dakota**

Dear Landowner:

In our previous communications with you, Summit Carbon Solutions, LLC ("Summit") announced the construction of a carbon dioxide pipeline and any necessary appurtenant facilities (collectively the "Pipeline") across Burleigh County, North Dakota, for the Midwest Carbon Express project (the "Project"). Summit has hosted public meetings across the Project area for landowners to learn more about the Project and its benefits and we have been communicating with you regarding survey permissions. In order to implement the Project, Summit must obtain rights to each property along the Project route. Summit is currently in the process of acquiring easements from landowners, and public records indicate that you are the record titleholder of the property described in the enclosed easement agreement ("Easement Agreement").

The Easement Agreement sets forth the easements Summit desires to obtain (the "Easements") and their approximate location across your property. In a good faith effort to reach an agreement for the Easements, Summit offers to pay you the sums set forth in the attached Easement and Damage Calculation Sheet (the "Offer Amount") as compensation for the Easements and damages referenced in the calculation sheet, all in exchange for your execution of the Easement Agreement in favor of Summit. Summit makes this offer to you premised upon its understanding that you are the owner of the property referenced in the Easement Agreement and that you can lawfully convey the Easements free and clear of any claims of others. If this is not the case, please so advise. If there are multiple owners and interest holders of the property, the Offer Amount will be paid proportionately based upon your undivided interest in and to the property.

Summit is committed to working closely with landowners as we continue to develop the Project and are available to answer your questions about the Project. Summit has established a project email, [InfoND@summitcarbon.com](mailto:InfoND@summitcarbon.com) and a 24-hour project toll free number, 1-800-948-1722, should you need to contact us.

Sincerely,

Julie Dimeo  
Summit Carbon Solutions

Enclosures: Easement Agreement  
Easement & Damage Compensation Worksheet  
W9 – IRS Form

---

PO Box 2655, Bismarck, ND 58502



*Signature page to Easement Agreement*

**LANDOWNER:**

\_\_\_\_\_  
**Justin Buckingham**  
2023 Harbor Dr  
Bismarck, ND 58504

Date: \_\_\_\_\_

\_\_\_\_\_  
**Danielle Buckingham**  
2023 Harbor Dr  
Bismarck, ND 58504

Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

State of NORTH DAKOTA       )  
  )ss  
County of \_\_\_\_\_ )

This record was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by  
Justin Buckingham and Danielle Buckingham, as joint tenants and not as tenants in common.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Initials: \_\_\_\_\_

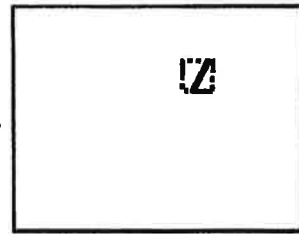
**EXHIBIT A**

**Burleigh County, North Dakota  
Township 138 North, Range 78 West, 5th P.M.  
Section 07: NE1/4NE1/4**

**Initials: \_\_\_\_\_**

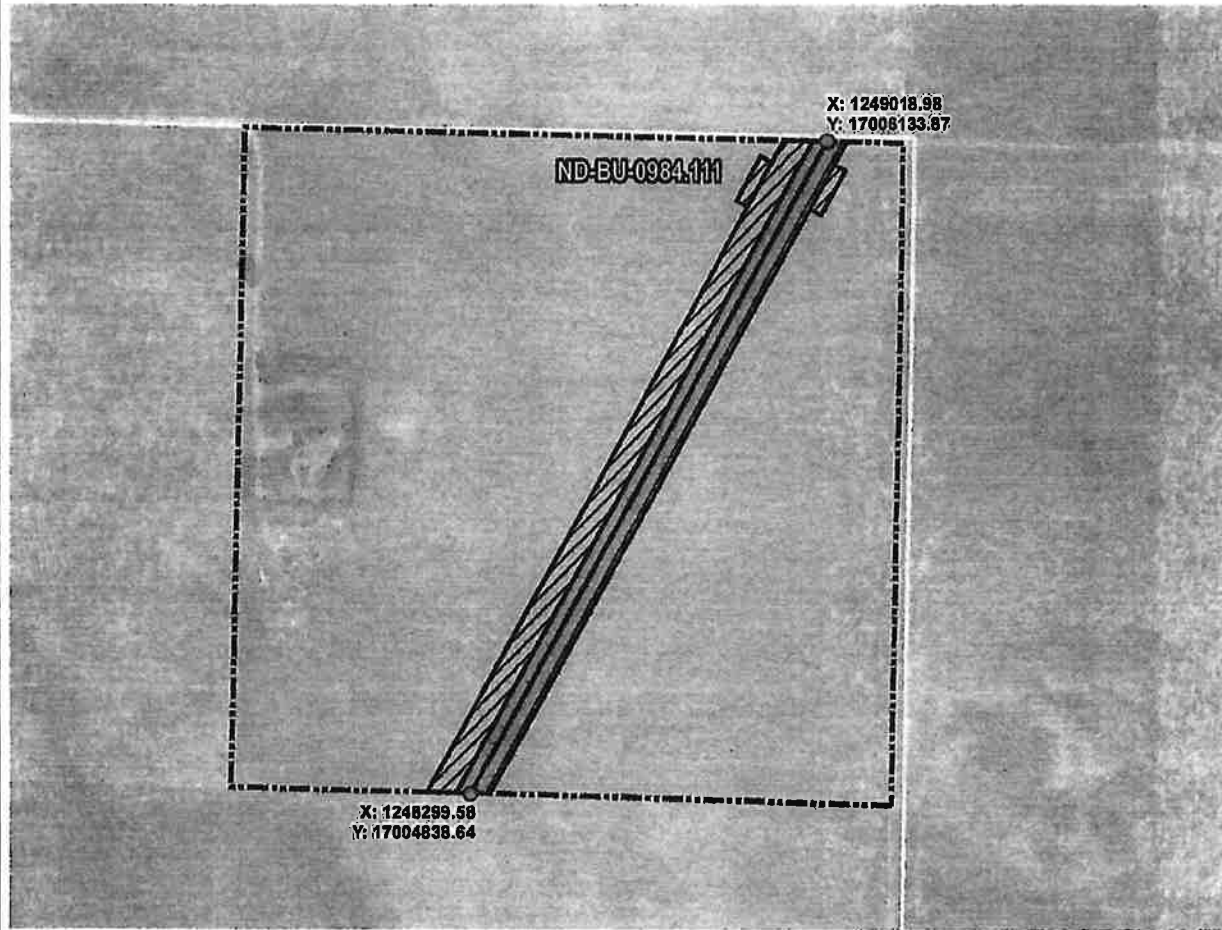


# **EXHIBIT "B"** **PRELIMINARY ROUTE** **BURLEIGH COUNTY, NORTH DAKOTA**



**SEC. 07 T138N R78W**

**VICINITY MAP  
N.T.S.**



**ROUTING LENGTH = 1481.804 FT +/-**  
**IMPACTS: PIPELINE EASEMENT = 1.701 AC. +/- / TEMPORARY CONSTRUCTION EASEMENT = 2.165 AC. +/-**

## **Legend**

- PROPOSED ROUTE
- PIPELINE EASEMENT
- PARCEL BOUNDARY
- TEMPORARY CONSTRUCTION EASEMENT
- ADJACENT PROPERTIES
- SECTION BOUNDARY
- COUNTY BOUNDARY

## **NOTES:**

1. THIS IS A PRELIMINARY DOCUMENT AND IS INTENDED TO DEPICT THE APPROXIMATE LOCATION OF A PROPOSED PIPELINE EASEMENT.
2. THIS DOCUMENT DOES NOT REPRESENT A LAND SURVEY AND IS NOT INTENDED TO DEPICT THE FINAL ALIGNMENT
3. COORDINATE SYSTEM: UTM ZONE 14 NORTH, NAD83, US SURVEY FEET



## **PRELIMINARY PIPELINE ROUTE**

DRAWN BY: AC		SUMMIT CARBON SOLUTIONS MIDWEST CARBON EXPRESS MATTHEW GROSS  TAX ID: 40-138-78-00-07-210 TRACT NUMBER: ND-BU-0984.111
CHECKED BY: JW		
MAP DATE: 5/17/2022		
SCALE: 1 inch = 316'		
REV NO.	DATE	DESCRIPTION
A	5/17/2022	INITIAL ISSUE
B	5/24/2022	REVISED WORKSPACE
DRAWING NO. G-MCE-ACQ-ND-BU-0984.111		PROJECT NO. 450959
		SHEET NO. 01 of 01



NORTH DAKOTA: BURLEIGH COUNTY

## CALCULATION SHEET

Tract Number: ND-BU-0984.111  
Landowner Name: Matthew Gross  
Pipeline Easement Footage 1,481.604 feet (+/-)

Date 8/30/22

## EASEMENT COMPENSATION

Easement Type	Acres		Price Per Acre		Total Easement Compensation
Permanent Pipeline	1.701	X	\$3,700.00	=	\$6,293.70
Temporary Construction	2.155	X	\$1,850.00	=	\$3,986.75
		X		=	
		X		=	

TOTAL EASEMENT COMPENSATION **\$10,280.45**

## DAMAGE CALCULATION

Crop Loss %	Crop Type	Price Per Bushel	Yield Per Acre	Price Per Acre	Acres		Advance Payment of Damages
Yr 1 - 100%	Corn	\$6.00	125	\$750.00	3.856	=	\$2,892.00
Yr 2 - 80%	Soybean	\$13.00	31	\$403.00	3.856	=	\$1,243.17
Yr 3 - 60%	Corn	\$6.00	125	\$750.00	3.856	=	\$1,735.20
3 Years - Pasture	Pasture	N/A	N/A	\$800.00		=	

TOTAL CROP DAMAGES **\$5,870.37**Difference to Settle **\$19,766.85**TOTAL COMPENSATION **\$35,917.67**Acceptance

Landowner Signature \_\_\_\_\_

Date \_\_\_\_\_

Landowner Signature \_\_\_\_\_

Date \_\_\_\_\_

# Missouri-Telfer-Boyd Township Zoning Board

## Building Permit

Date:

Owner Name	
Owner Phone	
Site Address	
Site Legal Description	
Township	
Description of Project	
Flood Plain	Yes or No (circle one)
Total building coverage after build (sqft)	
Distance from the property boundary (feet)	
Project Cost (\$)	
Permit Fee (\$)	
Installs Needed	Plumbing Heating Electric Gas (circle all that apply)
Contractor Name	
Contractor Phone	

- Notice of fee schedule can be found with the Missouri-Telfer-Boyd Zoning
- Owner agrees to comply with all current Missouri-Telfer-Boyd Zoning ordinances
- Construction shall be in strict accordance with applicable county and/or state regulations and/or ordinances and to hold Missouri, Telfer, and Boyd Townships and Zoning Board harmless from any and all damages or disputes. This permit is null and void if construction as authorized is not started within 180 adays or if construction is suspended for a period of 360 days after construction is started, extension may be granted by Missouri-Telfer-Boyd Zoning Board.

Owner Signature:		Date:	
Inspector Signature:		Date:	

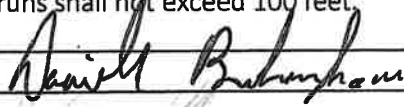
# Missouri-Telfer-Boyd Township Zoning Board

## Septic Permit

Date:

Owner Name	
Owner Phone	
Site Address	
Site Legal Description	
Township	
Number of Bedrooms	
Flood Plain	Yes or No (circle one)
Type of Structure	Single Family Multi Family Detached Commercial (circle one)
Distance from the property boundary (feet)	
Type of System	Engineered or Soil Report (circle one)
Permit Fee (\$)	
Contractor Name	
Contractor Phone	

- No work shall be undertaken after the ground has frozen
- The Inspector will conduct an inspection of the septic tank and drain field prior to hole closure and upon completion of the system to ensure the installation complies with the ND Plumbing Code.
- Notice of fee schedule can be found with the Missouri-Telfer-Boyd Zoning
- I acknowledge that the information provided is complete and accurate and that the work will be in compliance with the ordinances and codes of the Missouri-Telfer-Boyd Zoning and the ND Plumbing code.
- Owner agrees to hold Missouri, Telfer, and Boyd Townships and Zoning Board harmless from any and all damages or disputes.
- For septic tanks and drain fields, a report from a Certified Soils Classifier or a Certified Soils Testing Agency, that indicates the soil types and specifications for an individual site and the property is suitable for the location of a septic system on the site as per the current ND Plumbing Code, is required prior to the issuance of a permit. As an alternative, installation of three hundred and fifty (350) square feet of drain field per bedroom, installed in accordance with the applicable requirements of the ND Plumbing Code, will be allowed and a permit issued for such installation.
- Trench length cannot exceed four (4) feet in depth and two (2) feet above any water or mottling. Individual runs shall not exceed 100 feet.

Owner Signature:		Date: 5-23-23
Inspector Signature:		Date: 5-23-23

Ticket Number: **23035762**

Location: 14301 10TH AVE SE BOYD TWP, ND

As of **5/24/23 15:35 CDT**, participating facility owners have responded to Ticket Check as follows:

<b>District Code</b>	<b>Status</b>
SOUTH CENTRAL REG. WTR DISTR	Marked
CAPITAL ELECTRIC CO-OP, INC.	Clear/No conflict Marked CLN lines running through property, CEC clear
CTLQL-CENTURYLINK	Clear/No conflict
BEK COMMUNICATIONS CO-OP	Marked

To review this ticket in its entirety, visit Search and Status ® on [www.managetickets.com](http://www.managetickets.com).





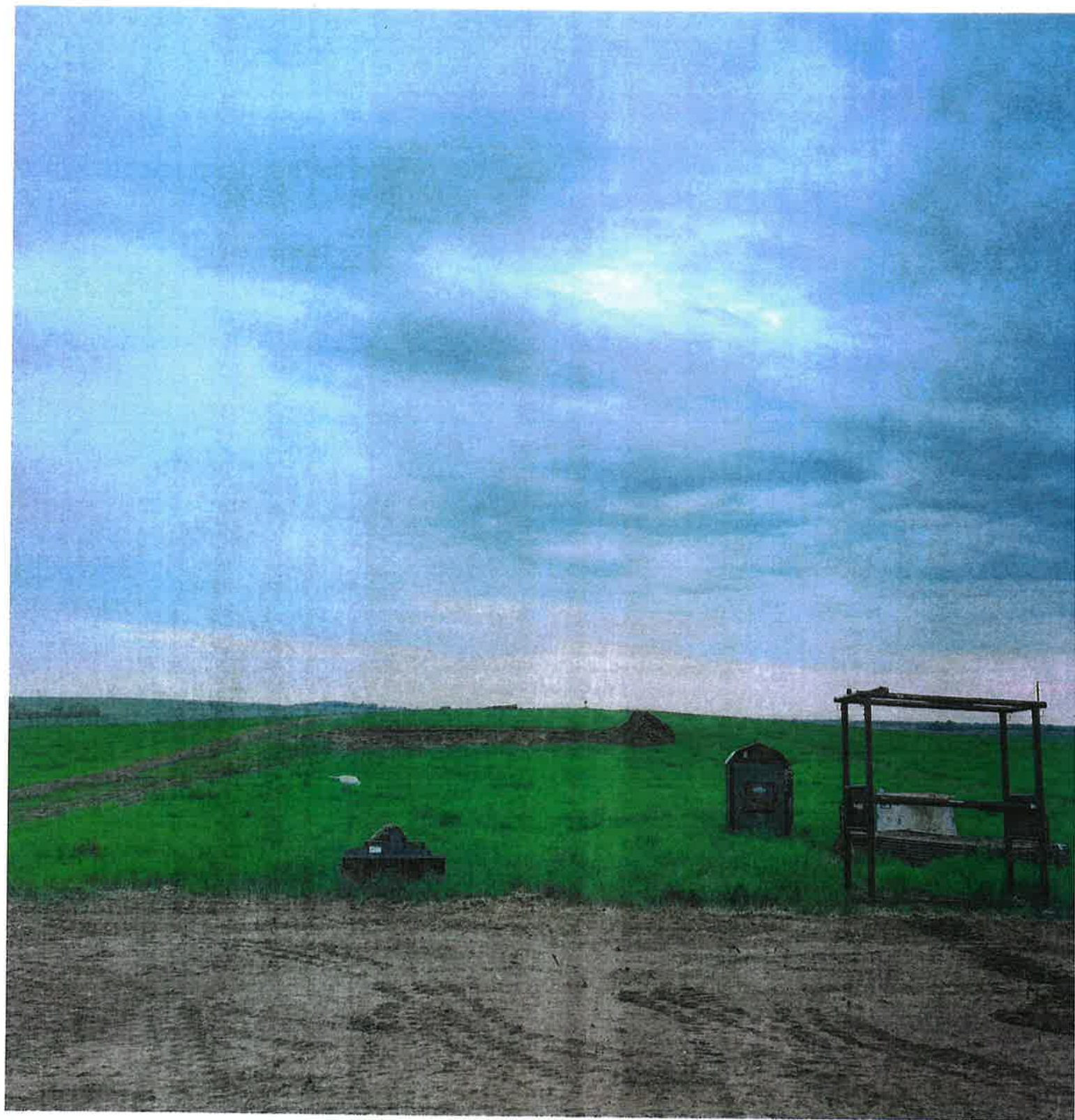














# **White House Environmental Justice Advisory Council**

**Final Recommendations:**

**Justice40**

**Climate and Economic Justice Screening  
Tool**

**&**

**Executive Order 12898 Revisions**

**May 21, 2021**



## ACKNOWLEDGEMENTS

The White House Environmental Justice Advisory Council (WHEJAC) acknowledges the efforts of the NEJAC Executive Order 12898 Revisions Work Group, Justice40 Initiative Work Group and Climate and Economic Justice Screening Tool Work Group in preparing the initial draft of this report. The WHEJAC acknowledges the stakeholders and community members who participated in the work groups' deliberation by providing public comments. In addition, the work groups' efforts were supported by the U.S. Environmental Protection Agency staff, notably, Karen L. Martin as the Designated Federal Officer, George Q.E. Ward and Paula Flores-Gregg.

## DISCLAIMER

This report of recommendations has been written as part of the activities of the WHEJAC, a public advisory committee providing independent advice and recommendations on the issue of environmental justice to the Administrator, The Council of Environmental Quality (CEQ) and other officials of the White House. In addition, the materials, opinions, findings, recommendations, and conclusions expressed herein, and in any study or other source referenced herein, should not be construed as adopted or endorsed by any organization with which any Work Group member is affiliated. This report has not been reviewed for approval by the EPA or CEQ, and hence, its contents and recommendations do not necessarily represent the views and the policies of the EPA or CEQ, nor of other agencies in the Executive Branch of the Federal government.

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May 21, 2021

The Honorable Ms. Brenda Mallory, Chair  
The Council on Environmental Quality  
Executive Office of the President  
Washington, DC 20500

Dear Chair Mallory:

The White House Environmental Justice Advisory Council (WHEJAC) enthusiastically submits its final report to you and President Biden. This report is in response to a charge issued in March 2021, from The Council on Environmental Quality to provide recommendations on Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions. Over the next few months, the WHEJAC will also consider and submit recommendations on the Scorecard, the administration and implementation of Justice40, and final recommendations on the Climate and Economic Justice Screening Tool.

The WHEJAC urges President Biden, Vice President Harris and the CEQ to consider the following requests:

- The careful administration of Justice40 is paramount to the effectiveness of the Biden Administration's signature Environmental Justice initiative. WHEJAC members strongly believe that there must be a transformative and accountable process developed for the fair and just distribution of 40% or more of the benefits to be invested in frontline communities. Otherwise, the investment will not reach frontline communities, given the bias and ambivalence of many state and local governments, and the systemic racial bias, inertia, and resistance to change that we must never underestimate. In order to avoid primarily helping those communities that already have the advantage, transformative investments must be made in capacity building, technical assistance, and consultation, and creating a user-friendly federal process for the administration of funding and other support.
- Justice40 must start today. All local investments from energy benefits (such as through The American Jobs Plan) must utilize a Justice40 framework as outlined in the WHEJAC recommendations.

- Begin regular meetings between the WHEJAC and the White House Environmental Justice Interagency Council (WHEJIC), and that the WHEJAC receive a copy of the Interim Guidance to the relevant agencies. We will follow up on this request by letter.
- Environmental Justice advisors should immediately begin working with relevant federal agencies as they develop their budget data requests to identify programs for Justice40.
- Justice40 must ensure that 100% of the investments do no harm to frontline communities. Using funds to add to cumulative pollution only to use other funds to mitigate the impacts is a losing proposition for our communities.
- Justice40 must include taking bold action to sunset investment by 2030 in fossil fuels, plastics, dangerous chemicals and nuclear energy and to set requirements for 100% renewable electricity by 2030.
- Justice40 must ensure safe drinking water by replacing all lead water pipes in frontline communities across America by 2030.
- The Executive Order must include compliance by several federal agencies that have not been named in the current order: The Federal Emergency Management Agency, The Federal Energy Regulatory Commission, The Appalachian Regional Commission, The U.S. Department of Education, The U.S. Department of Homeland Security, The U.S. Department of State, The Tennessee Valley Authority, and The U.S. Department of Veteran Affairs.

The WHEJAC looks forward to submitting its recommendations on these issues that are crucial to an effective Justice40 and Executive Order. We expect to meet with several key administration officials in the coming weeks to consult with us on the fair and just administration of Justice40. We look forward also to a discussion of the recommendations that the CEQ and National Climate Advisor accepts and to learn about the protocols, processes, and procedures regarding implementation of

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Justice40. Insight at this level is critical to ensure that our recommendations will be executed effectively. We are encouraged by this new beginning and the Biden Administration's commitments to frontline/EJ and Indigenous communities.

Sincerely,



Richard Moore, WHEJAC Co-chair



Peggy M. Shepard, WHEJAC Co-chair

cc: Members of the WHEJAC  
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White House Environmental Justice Interagency Council  
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## ABOUT THE WHEJAC

Through President Biden’s Executive Order 14008, titled [Tackling the Climate Crisis at Home and Abroad](#) , the White House Environmental Justice Advisory Council (WHEJAC) was established to advise the Chair of The Council of Environmental Quality (CEQ) and the White House Environmental Justice Interagency Council (WHEJIC) to increase the Federal Government’s efforts to address environmental injustice. The WHEJAC’s efforts will include a broad range of strategic, scientific, technological, regulatory, community engagement, and economic issues related to environmental justice.

This Council advises on how to increase the Federal Government’s efforts to address current and historic environmental injustice through strengthening environmental justice monitoring and enforcement. The duties of the WHEJAC are to provide advice and recommendations to the WHEJIC 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:

- Climate Change Mitigation, Resilience, and Disaster Management
- Toxics, Pesticides, And Pollution Reduction in Overburdened Communities
- Equitable Conservation and Public Lands Use
- Tribal and Indigenous Issues
- Clean Energy Transition
- Sustainable Infrastructure, Including Clean Water, Transportation, And the Built Environment
- NEPA, Enforcement and Civil Rights
- Increasing the Federal Government’s Efforts to Address Current and Historic Environmental Injustice.

## WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL CHARGE QUESTIONS

### JUSTICE40 WORK GROUP CHARGE QUESTIONS

#### **Executive Order 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.*
- b) *In developing the recommendations, the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor shall consult with affected disadvantaged communities.*

#### **Justice40 Is to Increase Investment in Priority Communities**

The highest goal of the Justice40 initiative is to ensure that more investments are directed into historically overburdened and underserved communities.

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. Note: the areas of investment are listed in the Executive Order – and include clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; remediation and reduction of legacy pollution; and development of critical clean water infrastructure.
  - 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.

- 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?
- 3) What are the key elements that should be included in defining “disadvantaged communities?” Note: We understand there are concerns about this term – are there other terms that you consider more appropriate, i.e., underserved, overburdened, etc.
  - a. Are there examples of definitions from federal or state legislation that would be helpful to review?

## SCORECARD WORKGROUP CHARGE QUESTION

### **Executive Order 14008 Sec. 220 (d)**

Executive Order 14008 requires in Sec. 220 (d) that the EJ Interagency Council (IAC) develop clear performance metrics to ensure accountability, and publish an annual public performance scorecard on its implementation, and that the IAC do so by consulting with the White House Environmental Justice Advisory Council. The scorecard would provide a method for evaluation and accountability to assess progress on the agency’s progress in addressing current and historic environmental injustice. Note: This is not an immediate deliverable, however we would like to initiate WHEJAC input.

- 1) What types of indicators or data would be useful in an agency scorecard? At this time, your input can be in the form of general ideas or specific data. As noted, this will be a continuing process, and the WHEJAC will have ongoing opportunity for providing further input.

***The WHEJAC established this workgroup during the May 13, 2021, public meeting and will begin to develop recommendations over the next several months.***

## CLIMATE AND ECONOMIC JUSTICE SCREENING TOOL WORK GROUP CHARGE QUESTION

### **Executive Order 14008 Sec. 222 (a)**

*Executive Order 14008, Sec. 222 (a) The Chair of the Council on Environmental Quality shall, within 6 months of the date of this order, create a geospatial Climate and Economic Justice*



*Screening Tool and shall annually publish interactive maps highlighting disadvantaged communities.*

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? Note: Discussions with California and New York stakeholders have been ongoing, and ideas on other tools beyond CalEnviroScreen would be valuable information.
- 2) What indicators/data should, if possible, be included in the Climate and Economic Justice Screening Tool in the July 2021 release? Note: your input can be in the form of general ideas or specific data.
  - 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?

## EXECUTIVE ORDER 12898 REVISIONS WORK GROUP CHARGE QUESTIONS

### **Executive Order 14008 Sec. 220 (h)**

*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?

## JUSTICE40 INITIATIVE RECOMMENDATIONS

### JUSTICE40 INITIATIVE QUESTION 1: RECOMMENDATIONS FOR IDENTIFYING PROGRAMS AND POLICES TO INCLUDE IN JUSTICE40

Justice40 investments should be administered and overseen by a central unit/office that approves agency investments and monitors and tracks the investments. It will ensure that monies are spent as intended and can audit agencies or recipients. Justice40 Initiative program is a whole of government program applicable to all federal agencies and not limited to the federal agencies listed in the Executive Order 140008. For purposes of these recommendations the term “**community of color**” means a geographically distinct area in which the population of any of the following categories of individuals, individually or in combination, is higher than the average population of that category for the State in which the community is located:

- (i) Black;
- (ii) African American;
- (iii) Asian;
- (iv) Pacific Islander;
- (v) Other Non-White race;
- (vi) Hispanic;
- (vii) Latino;
- (viii) Indigenous or members of a Tribe; and
- (ix) Linguistically isolated.

This definition is consistent with the definition used in H.R. 5986 Environmental Justice for All Act.

## CLEAN ENERGY & ENERGY EFFICIENCY

*Current Program / Agency: U.S. Department of Energy - Office of Energy Efficiency and Renewable Energy*

**Recommendation:** Establish a grant program that incentivizes community solar projects in cities and rural communities with discounted subscriptions for low income households whose monthly cost burden for conventional electricity is 12.5% percent or greater, first prioritizing households with the greatest energy burden.

*Current Program / Agency: U.S. Department of Energy & U.S. Department of Commerce*

**Recommendation:** Installing rooftop solar, community solar, energy efficiency upgrades to homes and buildings would lower the cost of electricity to most individuals in frontline and low-income communities. In addition, community resilience projects, including sustainable and regenerative agriculture, other nature based solutions (e.g. green roofs for mitigation of extreme heat, mangroves/wetlands, porous roads for flood mitigation), clean water infrastructure (e.g. sewage management and drinking water access), and broadband installation projects would provide significant benefits to frontline and low-income communities. It is important to note that much of the demand side technology for energy management requires stable internet access. However, individuals in these communities cannot afford to put any funds down to obtain a loan and cannot afford to repay loans at commercial interest rates. Grants alone will not support the level of scale that is needed.

**Recommendation:** To scale up rooftop and community solar, energy efficiency upgrades, and resilience projects in frontline and low-income communities, a green bank should be created to provide low-interest loans covering 100% of costs so that no upfront capital is needed. The loan would be at a low enough interest rate so that the combined energy bill and loan repayment will be less than a participant's current energy bill. Where the cost of repayment plus electricity costs would exceed the current cost of electricity, the bank would provide grants that lower the cost so that electricity costs go down. Currently, there is proposed green bank legislation in both the House and the Senate, (often with a different name for the bank). It is critical for frontline and low-income communities that the legislation specify that a specific percentage of the bank's funds (40%) must go to frontline and low-income communities. Low cost green bank financing would also be available for a wide range of traditional infrastructure projects in frontline and low-income communities to supplement direct infrastructure funding in these communities. Green bank financing can reach the necessary scale because loans are



repaid and can be securitized, resulting in a revolving source of funds, and loans can be leveraged with private capital and green bonds. Funds will cover costs to develop onsite solar, storage and other renewable energy and energy efficiency projects. Funds also to pay for new roofs, electrical system upgrades, and other infrastructure improvements needed to make sites ready for renewable energy production. Funding decisions and allocation should be led and informed by Biden's Interagency Climate Equity Task Force and local community leadership. Funds must be dedicated solely to investments that benefit frontline communities and restricted from use for any other purposes.

*Current Program / Agency: U.S. Department of Energy & U. S. Department of Housing and Urban Development*

**Challenge:** HUD services our most disadvantaged communities; ensuring access to affordable clean energy through HUD is key to reaching disadvantaged communities.

**Recommendation:** Identify key barriers to solar access at U.S. Department of Housing and Urban Development, including reviewing utility allowances. DOE and HUD should collaborate to identify barriers to solar in HUD housing and ensure sufficient financing programs for low income households.

**Recommendation:** Establish a joint DOE and HUD study on home repair and structural barriers to solar installations by 2022 and deploy at least 3 gigawatt of local solar on HUD assisted housing by 2025, with at least 1.2 gigawatt in disadvantaged communities.

**Recommendation:** Increase funding to DOE for distributed renewable energy programs and ensure that at least 40% of incentives and program funds for clean energy support disadvantaged communities. DOE programs have been an important part of expanding clean energy access across the country, but modifications are needed to ensure the benefits reach disadvantaged communities.

*Current Program / Agency: U.S. Department of Agriculture*

**Recommendation:** Ensure that U.S. Department of Agriculture (USDA) Rural Utilities Service (RUS) electric programs prioritize support for clean, distributed energy, and ensure 40% of funds are directed to disadvantaged communities. The RUS program currently provides loans, loan guarantees, and grants for rural electric utilities, electric distribution, transmission, and generation facilities, as well as efficiency, conservation, and renewable energy programs; ensuring these programs prioritize clean energy deployment for disadvantaged communities is crucial to bringing equity to USDA programs.

**Recommendation:** Expand the USDA Rural Energy for America Program (REAP) to tax-exempt entities including nonprofits and government entities and increase program funding to \$100 million per year to support tribal energy and energy efficiency projects. Require 40% of funds to be directed to disadvantaged communities. The REAP program has been very successful in bringing clean energy to some rural communities, but program eligibility expansion and increased funding is needed to ensure the program is reaching the most disadvantaged communities, among them, farmworkers.

*Current Program / Agency: U.S. Department of Homeland Security - Federal Emergency Management Agency & U.S. Department of Housing and Urban Development*

**Recommendation:** Prioritize federal funding for rooftop/on-site/localized solar and battery energy storage systems (BESS) as proposed in the We Want Sun Civil Society Proposal (<https://www.queremossolpr.com/>). The Federal Emergency Management Agency (FEMA) has allocated \$9.7 billion for electric system work in Puerto Rico. In addition, HUD will provide Community Development Block Grant Disaster Recovery (CDBG-DR) funds for the 10% cost share. Most of the FEMA funding is authorized pursuant to section 528 of the Stafford Act. Additional funding could be available under sections 404 and 406 of the Stafford Act. The 2018 Bipartisan Budget Act (Public Law 115-123), allows for the use of funds for alternative technologies, such as rooftop on-site localized solar and storage (BESS). FEMA Building Resilient Infrastructure and Communities (BRIC) can also be used for rooftop/on-site/localized solar and battery energy storage systems.

**Recommendation:** Prohibit FEMA funding for going to permanent fossil fuel generation and infrastructure; require plans and recovery dollars for energy systems to go toward energy efficiency and literacy programs, including solar water heaters, efficient appliances, clean energy, and battery storage.

**Recommendation:** Require public input and hearings for investments in disaster recovery efforts to ensure impacted communities have a voice in how funds are spent.

*Current Program / Agency: U.S. Department of Energy*

**Recommendation:** Energy conservation, efficiency, customer engagement, and demand response programs. Quick-Start Energy Efficiency programs:

- Widescale solar water heaters implementation,
- Energy audits,

- Appliance replacement programs,
- Tuning up air conditioners or replacing old air conditioners,
- Expanding low-income weatherization programs,
- Energy literacy and prosumer education programs.

### *Current Program / Agency: Tennessee Valley Authority*

**Recommendation:** As the nation's largest public power provider, Tennessee Valley Authority should lead by example by implementing a transition to clean energy well ahead of the President's industry-wide target of 2035, as well as by ensuring the large population of disadvantaged communities in their territory receive the benefits of this transition. Specific actions the administration should take include calling on TVA to set an ambitious goal of transitioning to clean energy by 2030 in its next integrated resource plan, creating a specific carve out for TVA in federal Clean Energy Standards, and prioritizing the rapid and safe cleanup of coal ash contaminated sites across its territory.

### *Current Program / Agency: Legislation Needed*

**Recommendation:** Expand Department of Energy low-income programs by Enacting the Affordable Solar Energy for Our Communities Act ([116th Congress H.R. 8165](#)) to create new DOE low-income solar programs to ensure DOE programs are reaching the most disadvantaged communities.

**Recommendation:** Federal Renewable Energy Investment Tax Credit Revisions. Extend a 30% renewable energy tax credit for 10 years, and to ensure that the benefits of clean energy reach disadvantaged communities, and service organizations: (1) allow for 100% credit refundability for projects on the distribution grid, and (2) clarify that tax exempt entities are eligible for a cash grant/direct pay refundable version of the ITC. The ITC has been crucial for renewable energy growth across the country, but these modifications are needed to ensure disadvantaged communities are able to benefit from the incentive.



## CLEAN TRANSIT & TRANSPORTATION INVESTMENT

*Current Program / Agency: U.S. Department of Transportation, U.S. Department of Energy, U.S. Department of Housing and Urban Development*

**Investment Topic:** Investing in transit hubs to catalyze economic and small business development in commercial corridors.

**Recommendation:** We should invest in transportation hubs because the communities that are most impacted by the lack of access to transportation are the low-income, people of color, and elderly communities. In New York, WE ACT, along with the assistance from the 40 local community groups and Farzana Gandhi Design Studio, created the “East 125th Community Visioning Action Plan” that focused on making transit accessible and sustainable. This plan would improve mobility amongst commuters by reducing congestion and improving flow of traffic, create efficient public transit lines to connect and make it easier for riders and commuters, and implement sustainable infrastructure for noise, waste, and lighting management in prevention of extreme weather. Transit hubs catalyze housing and small business development, cultural and historic preservation, and attract investment in sustainability especially if they are in a flood zone.

*Current Agency: U.S. Department of Transportation and U.S. Environmental Protection Agency*

**Investment Topic:** Electrify Fleets of School Buses and Sanitation Trucks and Other Public Vehicles

**Recommendation:** School buses and sanitation trucks are some of the dirtiest vehicles that travel throughout EJ communities spewing diesel exhaust and fine particulates which contribute to poor air quality.

*Current Agency: U.S. Department of Transportation and U.S. Department of Energy*

**Recommendation:** Support development of alternate shared transit entrepreneurship. Many communities have little to no public transit, and many low-income communities have a low percentage of car ownership. Many low-income residents and young people have no way in small towns and suburbs and under-resourced cities like Detroit or Los Angeles to get to jobs without public transit. Many new ways of van sharing and other entrepreneurial ventures are

starting that can address this challenge. These startups need to be resourced with incentives and seed money.

## SAFE, AFFORDABLE & SUSTAINABLE HOUSING & COMMUNITIES

*Current Program / Agency: U.S. Department of Housing and Urban Development – Community Planning and Development Program - Federal housing assistance include HUD Project-based Section-8, Conventional Public Housing, Section 202 and Section 811, and Housing Vouchers*

**Challenge:** There are no funds for the relocation of residents whose homes were built on contaminated land or toxic sites with HUD funds, such as the Urban Development Action Grant (1977-1988). Within this program, there is the Environment and Energy Office, but it does not provide ongoing assessments of the environmental health conditions at sites where HUD-financed homes are built.

**Recommendation:** HUD should establish a voluntary community relocation program that provides replacement housing cost to residents whose homes were built with HUD funds on toxic sites, such as former waste dumps.

**Recommendation:** The relocation of residents whose homes were built on contaminated land or toxic sites with HUD funds, such as the Urban Development Action Grant (1977-1988).

**Recommendation:** HUD should establish a voluntary community relocation program that provides replacement housing cost to residents whose homes were built with HUD funds on toxic sites, such as former waste dumps.

**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 of flood plains.

**Recommendation:** HUD should establish guidance and a policy for recipients of assistant housing to use their rent certificates and housing vouchers to locate housing outside flood plains. The current HUD policy ties the assisted housing voucher to housing units.

*Current Program/ Agency: U.S. Environmental Protection Agency and U.S. Department of Housing and Urban Development*

**Investment Topic:** Clean Water State Revolving Fund

**Recommendation:** Expand project eligibility criteria of the Clean Water State Revolving Fund (CWSRF) to include homes, residences, schools, and childcare facilities. Eligibility criteria should include prioritizing highly impacted communities with a legacy of drinking water contamination in homes & apartment buildings. Eligibility requirements should allow access to families and renters. [CWSRF Project Eligibilities](#)

*Current Program/ Agency: U.S. Department of Health & Human Services*

**Investment Topic:** Expand Low Income Home Energy Assistance Program (LIHEAP) to Support Cooling as Well as Heating

**Challenge:** As climate change brings more heat waves each year as well as cold to southern areas that do not anticipate the need for heating, more communities are left in the cold or sweltering in the heat. Both extremes are deadly for vulnerable households.

**Challenge:** The challenges we may encounter include a lack of national impact data and household recipients. There hasn't been a rigorous evaluation on the performance outcomes or impact of LIHEAP, but a national study in 2014 used a simulation, which estimated that if LIHEAP were cut, the population of energy-secure households would decrease by 17%, leading to late and unpaid energy bills among vulnerable population. When utilities are cut off, some households turn to their last resort of alternative, unsafe heating options, such as turning ovens on for an extended period of time to heat a home. The average cost of heating a home costs around \$911 per year nationally, making it one of the highest house-hold expenses.

**Recommendation:** Adequate home heating and cooling are a human necessity. Without proper temperature control the effects can be devastating and lead to extreme health and safety issues, and even death. We should invest in the Low-Income Home Energy Assistance Program (LIHEAP) because it helps eligible families with energy costs by providing federally funded assistance for energy bills, weatherization, and other energy crises and home repairs. With help from LIHEAP grants, there are currently over 6 million families around the U.S. who are able to pay heating and cooling bills, emergency services such as utility shutoffs, and low-cost home improvements, which make homes more energy efficient and lower utility bills. Additional funding for LIHEAP is crucial to help support low-income families with energy bills and protect the most vulnerable.

*Current Program/ Agency: U.S. Department of Health & Human Services  
U.S Department of Homeland Security - Robert T. Stafford Disaster Relief and  
Emergency Assistance Act, Federal Emergency Management Agency – Building  
Resilient Infrastructure and Communities, U.S. Department of Commerce – Small  
Business Administration Disaster Assistance Loans and Grants & Department of  
Housing and Urban Development – Community Development Block Grant*

**Recommendation:** Develop guidance and policy for governors requiring them to certify relief assistance and funds received during major declared disasters and emergencies are spent in an equitable and nondiscriminatory way, including individual assistance, hazard mitigation, and public assistance.

*Current Program/ Agency: U.S. Department of Health & Human Services – Health  
Resources and Services Administration, U.S. Environmental Protection Agency, U.S.  
Department of Housing and Urban Development – Office of Sustainable  
Communities, U.S. Department of Transportation*

**Investment Topic:** The U.S. Department of Health & Human Services, The U.S. Environmental Protection Agency, The U.S. Department of Housing and Urban Development, and The U.S. Department of Transportation should establish a grant program for cities and towns to address major infrastructure deficits and environmental protection that do not exist in many EJ and other communities. These grant programs could be designed in a fashion that imitates other large and consequential programs that the government has supported which resulted in substantive change for the country, e.g. the Housing Urban Development first time homeowner’s project.

**Challenge:** Establishing a “whole of government” approach to rebuild whole communities will require several government agencies coming together and working in tandem to address the major sustainability problems of entire communities.

**Recommendation:** Establish a sustainable communication office for communities that have been so egregiously neglected by government and impacted by racist public policy, environmental pollution and climate change. This office will be established to utilize a “whole of government” approach to address the enormous challenges that exist for improving the quality of life of these communities. “The Black Belt” of rural Alabama is an example of an area that needs a “whole of government approach to address the challenges that exist in this area. “The Black Belt” of rural Alabama has several environmental justice communities in need of federal investments to improve air and water quality and basic health services, especially the City of



Uniontown. The city needs fundamental infrastructure such as a hospital, local ambulance service, a fire department, equipment for local police, and storm shelters to protect residents from tornados which are prevalent in the area. The community also needs a community youth center to create a safe, clean space for community engagement and education. Importantly, any federal investments to the area must involve transparency and public participation. For example, residents of Uniontown have not been given basic information about the U.S. Department of Agriculture's grant to improve wastewater infrastructure, and as a result there is a lack of trust and accountability.

## TRAINING & WORKFORCE DEVELOPMENT

### *Current Program/Agency: National Institute of Environmental Health Sciences - Worker Training Program*

**Recommendation:** Increase funding for the NIEHS Environmental Career Worker Training Program. Expand this program to provide grants to support nonprofits, labor, academic institutions, etc. in establishing worker training programs, in particular for un- and underemployed individuals, that prepare people for careers in renewable solar and wind energy infrastructure, installment and maintenance; as well as green infrastructure development and maintenance for community resilience, flood mitigation, and storm surge defense.

**What Works:** Grant program for non-profits, labor, health and safety organizations, and academic institutions to workers for occupations in environmental cleanup and restoration, disaster and emergency response, critical facilities maintenance and operation, construction, etc. Includes training tailored for un- and underemployed individuals and non-English speakers.

### *Current Program/Agency: U.S. Department of Labor - Occupational Safety and Health Administration & U.S. Department of Agriculture*

**Challenge:** At the national level, there is a lack of parity regarding provision of and access to basic sanitation facilities and supplies. OSHA's Field Sanitation Standards require agricultural employers with 11 or more workers to provide "hand laborers" with: toilets, potable drinking water, and hand-washing facilities. Across the country there are approximately 2.4 million farmworkers who are predominantly of Latinx and/or indigenous ancestry. More than 1 million work farmworkers work in farms with 10 or less workers per the 2017 Census of Agriculture. A 2018 [study](#) on field sanitation in U.S. agriculture also found that workers with less education,

who do not speak English well, and who hail from Mexico are more likely to lack access to field sanitation than other workers (Pena & Teather-Posadas, 2018).

**Recommendation:** Access to basic sanitation supplies and handwashing facilities for all agricultural workers.

**Recommendation:** Leverage federal funds to ensure that employers, including those that receive federal funds and/or benefit from federal government procurement, provide all agricultural workers, not just “hand laborers” with access to toilets, potable drinking water and hand washing facilities, regardless of the number of workers in the establishment.

*Current Program/Agency: U.S. Environmental Protection Agency, U.S. Department of Agriculture & The White House*

**Challenge:** The EPA estimates that updating water infrastructure in rural America (water systems serving populations of less than 10,000) would require an investment of approximately \$190 billion in the coming decades.

**Recommendation:** Justice40 investments AND any federal investments in infrastructure should prioritize the establishment of and/or modernization of water infrastructure in rural America and in environmental justice communities to ensure low-income and community of color households, including those in unincorporated communities, have access to reliable, clean and safe drinking water that protects public health.

*Current Program / Agency: Appalachian Regional Commission and Economic Development Administration*

**Recommendation:** Increase funding for the Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) and Assistance to Coal Communities (ACC) programs. POWER and ACC have provided critical support for planning activities in communities affected by the coal transition, but they remain underfunded compared to the scale of communities’ needs. This problem will worsen as mine and plant closures accelerate in the coming years.

*Current Program / Agency: U.S. Department of Labor*

**Recommendation:** Expand funding for existing training programs as well as union apprenticeship and pre-apprenticeship programs. These programs include the Adult and Dislocated Worker programs at the Department of Labor. This is a way to support workers

getting paid while also up-skilling in real work environments. Expand the National Dislocated Worker Grants to ensure a focus on dislocated workers in coal communities with an additional \$5.4 billion. This is also a way to ensure the new jobs created are good paying jobs with benefits. A genuine focus on diversity, equity, and inclusion is crucial in order for apprenticeship programs to be open and available to all workers and should be prioritized in the recommendations of the task force.

*Current Program / Agency: U. S. Housing and Urban Development, U.S. Department of Agriculture, Appalachian Regional Commission and Economic Development Administration, U.S. Economic Development Administration, National Telecommunications and Information Administration Broadband Programs*

**Recommendation:** Reduce or eliminate matching requirements for broadband construction projects in environmental justice coal-impacted communities. It is critical to subsidize broadband construction in coal-impacted communities and existing grant programs. Programs at ARC, EDA, USDA, and NTIA are important tools for increasing access. In coal-impacted areas, the match requirements are prohibitive and limit the number of communities who can apply for funding.

**Recommendation:** Expand covered functions of the HUD Utility Allowance to include internet service. Currently, HUD's Utility Allowance doesn't cover internet service. However, without this service, those in public housing lack access to opportunities to find new work, workers cannot attend training programs, and children lack access to complete homework after school.

*Current Program / Agency: Legislation Needed*

**Recommendation:** Incentivize hiring of remote workers in environmental justice coal-impacted areas by extending the Work Opportunity Tax Credit to include employees in coal-impacted communities. With the expansion of remote work, there is an opportunity to close the rural-urban divide and leverage larger economic markets to create jobs in coal-impacted communities.

**Recommendation:** Regional Energy Transition Commission. Use ARC as a model for helping communities in other regions impacted most by the decline of fossil fuels to transition economically.

**Recommendation:** Support workers in Coal-Impacted Communities. Workers affected by coal closures need targeted workforce development and training programs, in addition to investment in broader economic development strategies that spur quality job creation. Provide

immediate support to contractor businesses to afford online training in home energy performance (such as through Reps. Welch & McKinley's Hope for Homes Act or Rep. Rush's Blue Collar to Green Collar Jobs Act/H.R. 1315). Workforce development more broadly should be provided through funding to promote high-quality, family-sustaining, environment- or infrastructure-related jobs in communities that need them the most (such as through Rep. Bass' Build Local, Hire Local Act, H.R.4101/S.2404 or Rep. Rush's Blue Collar to Green Collar Jobs Act/H.R. 1315).

**Recommendation:** Comprehensive Wage Replacement for Dislocated Workers for Five Years. Comprehensive wage replacement means a worker's full salary to include continued health care coverage and employer-sponsored retirement contributions (which can come through 401(k) or defined-benefit plans). This benefit is essential to providing temporary support to workers and their families as they prepare for new career opportunities.

**Recommendation:** Expand funding for and give priority to training programs that pay the trainees. The federal government should directly fund creative pilot projects which focus on direct employment and job training in emerging sectors and environmentally sustainable industries. For example, the Jobs for Economic Recovery Act (introduced in 2020 by Sen. Wyden) would directly fund community-based social enterprises that prioritize the well-being and economic mobility of the workers staffing the enterprise.

**Recommendation:** Increase broadband access for rural communities. H.R. 2 (Sec. 31301, 31141) would provide \$100 billion to deliver affordable, high-speed broadband Internet access to every part of the country, prioritizing underserved communities, and the American Jobs Plan would make these investments to ensure that all Americans have affordable broadband access.

**Recommendation:** Develop a sliding scale broadband subscription program to make the internet accessible to those who need it most for attending school, finding new work, and taking advantage of the opportunity of remote work. The federal government should work with telecommunications providers to develop negotiated sliding scale subscriptions rates and an accompanying tax credit to offset agreed upon operating costs necessary for the additional subscriber.

**Recommendation:** Invest in programs that support Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs). These institutions provide quality, affordable training for the Black, Latinx, Asian, Pacific Islanders and Tribal populations and serve as key partners in local economic development initiatives. Expanding federal programs that support tribal colleges and universities is critical to supporting communities' efforts to develop local workforces and diversify their economies. Important programs are administered by the Bureau of Indian Education, Department of Education, USDA, Department of Labor, National Science Foundation, and Health and Human Services.



*Current Program/ Agency: U.S. Department of Labor*

**Recommendation:** Develop a frontlines climate corps to support youth leadership development and training of underemployed workers.

**Recommendation:** Develop a Frontline Climate Corps of youth 16-24. First track is Job Training. Partner with Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) to recruit candidates and set up new job training programs that prepare students to succeed in these industries. Hire people of color in leadership positions in relevant federal agencies for these programs, and work with community leaders for local outreach and recruitment to improve cultural competency and ensure equitable program design. Pre-identify roles that do not require a college education and invest in outreach and recruitment from high schools in communities of color and low-income. Where appropriate, provide federal funding for a network of trade schools and scholarships across the country for high schoolers to train for these industries without needing to pursue a college education.

**Recommendation:** The second track is Youth Climate Leadership Development. Creating a climate leadership pipeline of youth from frontline communities working in their communities on identified citizen science projects with grassroots EJ groups. Investment in frontline communities can address underserved youth and under-resourced grassroots groups on the frontlines of fighting for environmental and climate justice through the federal development of a corps targeting youth of color and low income living in environmental justice communities.

**Recommendation:** The corps can develop young leadership on issues of climate and environmental degradation while linking those youth to grassroots groups fighting for climate and environmental justice. The youth can develop a career path, compensation, education awards, and job skills while living in their own communities and being part of the solution.

*Current Program/ Agency: U.S. Department of Labor and U.S. Department of Energy*

**Recommendation:** Incentivize Development of Green Worker Cooperatives. Underemployed workers of color who have been trained in construction skills and solar installation have a difficult time getting employment through labor unions (construction trades) which are often biased against people of color and tend to be tightly controlled by white ethnic groups for multi generations. One effective response to this challenge is for workers to own and develop their own worker businesses or associations where they incorporate and bid on jobs and become certified as MWBEs.

*Current Program / Agency:*

- CALIFORNIA §3395. Heat Illness Prevention in Outdoor Places of Employment <https://www.dir.ca.gov/title8/3395.html>
- WASHINGTON § 296-62-095–296-62-09560. Outdoor heat exposure. <http://ap+p.leg.wa.gov/WAC/default.aspx?cite=296-62&full=true#296-62-095>
- U.S. MILITARY Heat stress control and heat casualty management. (2003) <https://apps.dtic.mil/dtic/tr/fulltext/u2/a433236.pdf>
- NIOSH Criteria for a Recommended Standard Occupational Exposure to Heat and Hot Environments. (2016) <https://www.cdc.gov/niosh/docs/2016-106/pdfs/2016-106.pdf>

**Investment Topic:** Climate Change and Heat Stress

**Challenge:** There is no federal standard to protect outdoor workers, and other workers that don't work in climate-controlled spaces from heat stress. The California and Washington standards apply to outdoor workers but not indoor workers. In California, the Standard is in effect year-round. In Washington State, the Standard is in effect from May 1st through September 30th. Both the Military heat stress management and the NIOSH recommendations apply to all worksites, year-round.

**Recommendation:** Establish heat illness safeguards for all outdoor workers that don't have the luxury to work in climate-controlled spaces.

**Recommendation:** Leverage federal funds to ensure that employers, including those that benefit from federal government procurement, have a heat illness prevention plan in place that at a minimum includes training, access to potable and cool water, shade, paid rest breaks, and protocols for emergency response.

*Current Program / Agency: U.S. Environmental Protection Agency Office of Chemical Safety and Pollution Prevention, Office of Enforcement and Compliance Assurance, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health*

**Challenge:** EPA is not considering how climate change and the risks of heat-related illness associated with Personal Protective Equipment (PPE) affect farmworkers. When workers apply pesticides, they must do so wearing any personal protective equipment required by EPA. The Agency has acknowledged that the use of such equipment when working in hot temperatures increases the risk of heat-related illness. EPA does not evaluate this risk when conducting

occupational risk assessments for pesticides that assume varying levels of personal protective equipment.

**Challenge:** Farmworker organizations arduously fought for and secured historic changes to the Agriculture Protection Standard (WPS), the only federal safeguards designed to protect the nation's 2.4 million farmworkers and their families from pesticide exposure and drift.

**Challenge:** It is current EPA policy to mitigate a chemical's risks early in the registration review process rather than wait for the completion of a chemical's registration review. Moreover, when modifying, leaving in effect, or revoking a tolerance or exemption for a pesticide chemical residue, EPA has the authority to consider "available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity" (21 U.S.C. § 346a).

**Challenge:** EPA is recommending continued use of a temporary guidance issued in June 2020 by the Trump EPA regarding respiratory protection for agricultural pesticide handlers, a move that puts these workers at risk of pesticide exposure. In delaying respirator fit testing for agricultural pesticide handlers, EPA suggests doing so is necessary based on an assumption of shortage of N95s, even though U.S. manufacturers say they have vast surpluses for sale and the FDA recently recommended that "health care personnel and facilities transition away from crisis capacity conservation strategies," referring to a return to single use of N95s. In doing so, EPA is allowing employers to continue avoiding an important requirement regarding fit testing, either initially when they buy a new respirator model or annually. Extended use or reuse of filtering facepiece respirators for pesticide handling puts pesticide handlers at increased risk of pesticide exposure because a) pesticide residue contamination may not be readily evident; b) some pesticides degrade very slowly and others, like neurotoxic organophosphates degrade initially to more toxic oxons. Additionally, certain alternatives to filtering facepiece respirators are not designed to provide an adequate seal on the face and pose an increased risk of pesticide exposure.

**Recommendation** Assess the risk of heat-related illness associated with any and all personal protective equipment that the Agency assumes that workers will wear when conducting occupational risk assessments for pesticides.

**Recommendation:** Repeal the Trump Administration revisions to the Application Exclusion Zone (AEZ) provision within the Agricultural Worker Protection Standard.

**Recommendation:** Restore the 2015 version of the AEZ adopted by the Obama Administration.

**Recommendation:** Direct EPA to consult with farmworkers and farmworker-serving organizations and ensure that farmworker input is integrated into agency decisions on mitigation measures relevant to pesticides.

**Recommendation:** Direct EPA to leverage existing policy to immediately protect pesticide applicators, farmworkers, agricultural communities and consumers from pesticide exposure

and drift BEFORE the pesticide registration review process is completed and even while revocation and/or cancellation proceedings are in progress for certain pesticides.

**Recommendation:** Account for all cumulative exposures to organophosphate pesticides in the registration review process. Currently, EPA is conducting risk assessments for each organophosphate pesticide individually without taking into account cumulative exposures.

**Recommendation:** Implement the 2009 guidance adopted by the Obama Administration called “2009 Revised Risk Assessment Methods for Workers, Children of Workers in Agriculture Fields, and Pesticides with No Food Uses.” Improve cost-benefit analyses by considering the availability of safer alternatives early in the process and considering social costs of use of pesticides. DEVEOP methods for gathering true exposure data showing the extent of farmworker exposure, rather than relying on industry-generated data.

**Recommendation:** Invest in research on pesticide illness and injury surveillance documenting work-related pesticide poisoning incidents as well as broader pesticide exposure and its impact on pesticide applicators, farmworkers, farmworker children, farmworker women of childbearing age. Additionally, invest in the Sentinel Event Notification System for Occupational Risk (SENSOR) Pesticides Program to build, maintain and bolster occupational illness and injury surveillance capacity within state health departments.

**Recommendation:** Finalize the 2015 proposed rule revoking all food tolerances of chlorpyrifos.

**Recommendation:** Ensure the food tolerance revocation of chlorpyrifos is based on the 2014 and 2016 human health risk assessments, the full administrative record and review of the comments submitted on the 2020 update to the human health risk assessment.

**Recommendation:** The California Department of Pesticide Regulation’s (DPR) Pesticide Use Report (PUR) is the largest database on pesticide use in the world and could serve as a model for national pesticide use reporting. In addition to requiring pesticide use reporting for agricultural uses (Sec. 6626) and making that information publicly available, PUR also requires “Pesticide Use Report for School Sites and Child Day Care Facilities” (Sec. 6224). According to the California Code of Regulations Sections 6624 and 6626, pesticide use records must include the following information: “(1) date of application; (2) name of the operator of the property treated; (3) location of property treated; (4) crop commodity, or site treated; (5) total acreage or units treated at the site; (6) pesticide, including the U.S. Environmental Protection Agency (U.S. EPA),” among other relevant information.

**Recommendation:** Require full and nationwide reporting of agricultural uses of pesticides regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for agricultural uses.

**Recommendation:** Require full and nationwide reporting of pesticide usage on school sites and child day care facilities.



**Recommendation:** Ensure that at a minimum, disclosure of pesticide use data is publicly accessible and includes the information required by California's Pesticide Use Report (PUR).

Challenge: Hazard information in languages workers can understand.

**Recommendation:** Require the translation of pesticide labels into Spanish and any language common to a significant portion of the pesticide applicators or agricultural workers that are not fluent in English.

**Recommendation:** EPA must prioritize the health of those who are on the frontlines of exposure to a range of agricultural pesticides and should not offer guidance that undermines handler protection and/or the directions provided on pesticide labels. Use of contaminated or otherwise compromised respirators is of particularly high concern for pesticide handlers, including those of reproductive age. We must protect the health and safety of all agricultural workers, including pesticide handlers. This means that if adequate personal protective equipment is not available, handlers should not be authorized to apply the pesticide product.

**Challenge:** The revised TSCA requires EPA to specially consider groups who are at greater risk of harm from chemical exposures when it evaluates, and then manages, chemical risks. The Trump Administration failed to protect fenceline communities from unreasonable risk.

**Recommendation:** Office of Chemical Safety and Pollution Prevention (OCSPP) must Account for the greater risks that fenceline communities face, including cumulative exposures to many chemicals which makes them more susceptible to harm from individual chemicals, as it develops risk management rules for the first 10 TSCA chemicals.

**Recommendation:** OCSPP must revise the TSCA scope documents for the 20 high-priority chemicals undergoing review so fenceline communities are identified as subpopulations that face greater risk than the general population. If it does this, EPA would have to calculate these communities' risks separately from the risks the general population faces, and then ultimately it would have to manage the specific risk they experience from TSCA chemicals so it is no longer unreasonable.

**Recommendation:** OCSPP must act aggressively to gather information about fenceline communities' real-world exposures to all of the chemicals subject to review and risk management under TSCA, including reasonably foreseeable releases from extreme weather events.

*Current Program / Agency: U.S. Environmental Protection Agency, U. S. Department of Labor and U.S. Congress*

**Recommendation:** A bedrock principle of occupational hygiene is the “hierarchy of controls,” which the Occupational Safety and Health Administration (OSHA) and others rely on to identify options for controlling worker exposures to occupational hazards. The hierarchy prioritizes the elimination of the hazardous agent or substitution of a less hazardous agent. These are preferable to the implementation of engineering controls, which in turn are preferable to requiring personal protective equipment. For workers who are protected by OSHA, personal protective equipment is always the mitigation measure of last resort. When it comes to protecting workers from pesticides, EPA is in charge and the agency starts by considering personal protective equipment, then considers engineering controls, and never considers substitution with less toxic options or practices. To protect a predominantly community of color workforce from exposure to a range of toxic pesticides, EPA should follow the hierarchy of controls when selecting options to reduce occupational risk from pesticides for farmworkers and pesticide applicators.

**Recommendation:** Collaboration between the EPA Office of Chemical Safety and Pollution Prevention (OCSPP), the Department of Labor and the Occupational Safety and Health Administration (OSHA) to provide technical assistance in integrating the hierarchy of controls when selecting options to reduce occupational risk from pesticides for farmworkers and agricultural pesticide applicators.

*Current Program/Agency: U.S. Department of the Interior & U.S. Geological Survey, Pesticide National Synthesis Project*

**Investment Topic:** Investing in data collection to allow individuals and communities to be aware of their exposure to a range of agricultural pesticides

**Recommendation:** Invest in the USGS Pesticide National Synthesis Project which estimates annual agricultural use for a range of pesticides.

**Recommendation:** Update the survey to ensure it contains the most recent data (the latest data available is from 2017).

**Recommendation:** Integrate data from the Pesticide National Synthesis Project into EJSCREEN.

*Current Program / Agency: U.S. Environmental Protection Agency, U.S. Department of Education and The White House*

**Recommendation:** Environmental education (EE) is the process used to achieve the goal of environmental justice. A curriculum that is focused on teaching students about environmental justice (EJ) would provide the history of the movement and what environmental issues frontline and EJ communities face that are different from other communities, in addition to the knowledge and skills a student learns through environmental education.

**Recommendation:** Any EE curriculum focused on achieving environmental justice must meet the same standards for all EE curriculum, as outlined in the Materials Guidelines for Excellence (linked below). Environmental education can and should promote the development of the attitudes, knowledge, skills, and motivations that people need for meaningful involvement in and resolution of environmental justice issues. The focus should always be on helping students develop the critical thinking, problem-solving, decision-making skills that students need to both understand and take actions that support the ideas that environmental protection is for all, regardless of who you are and where you live.

**Recommendation:** A clear distinction between helping students understand environmental justice and advocating a specific set of actions needs to be made. Environmental education does not focus on specific recommendations on how to act but teaches students that they have the knowledge and skills and empowers them to take actions in support of environmental protection and environmental justice goals.

**Recommendation:** It is important to recognize that there are actions within the environmental justice sphere that do not involve education (e.g., advocacy, political activism, taking legal actions, lobbying) and that there are aspects of the environmental education process (e.g.,

teaching basic environmental science) that are not necessarily directly related to environmental justice. However, environmental knowledge, skills, and attitudes gained through environmental education should empower meaningful involvement in environmental justice decision-making.

**Recommendation:** “In terms of policy recommendations, the federal government can be really helpful at providing capacity building grants either for professional development, pre-service teacher preparation, and curriculum development. Ultimately, I think this can best be leveraged in conjunction with the established programs at the Department of Education, given they are large enough to achieve maximum scale—Title II (teacher pd), Title IV (curriculum and pd) for ESSA primarily and Title II (teacher prep) of HEA. I would recommend staying away from any prescriptive curriculum requirements on things like standards. In thinking about this, you might consider developing a program to support building capacity and elevating some of the promising work occurring—a federal effort could help further incentive this work in other districts or states but would be most helpful to be grounded in local assets, context, and need.”

**Examples where this has been successfully implemented:**

- Local level: [Learning in Places](#) in Seattle, with Megan Bang ([mbang@spencer.org](mailto:mbang@spencer.org)) and Carrie Zhou ([tzouct@uw.edu](mailto:tzouct@uw.edu)) as researchers heading up this project.
- [ClimeTime](#) is a robust professional development network funded by Washington State with a Climate Justice Focus through the lens of science education. Lead: Deb Morrison [eddeb@uw.edu](mailto:eddeb@uw.edu)

**Recommendation:** Identify climate justice education as an essential component of K-12 curriculum in the district. [Schools for Climate Action’s website](#) offers free resolution templates for teachers, students and allies to draft a school board resolution calling for a climate justice curriculum.

**Examples where this has been successfully:**

- [Portland Public Schools: Climate Justice Curriculum](#) was the first EJ curriculum requirement in the nation. Their department’s mission is to “Support the teaching and learning of climate change and climate justice in all classrooms in Portland Public Schools. Collaborate to develop transdisciplinary curriculum and professional learning that empowers educators and youth to become transformative racial equity leaders and global stewards and ambassadors. Collaborate with district and community partners to empower youth to lead the district and the world in becoming more sustainable.” This initiative was created via school board resolution: “the Board of Education directs the Superintendent in collaboration with PPS students, teachers, and community members to develop an implementation plan so that there is curriculum and educational opportunities that address climate change and climate justice in all Portland Public Schools. implemented an environmental justice curriculum across all levels”



**Recommendation:** Ensure that climate justice education is transdisciplinary with touchpoints in literature, social studies, history, mathematics, and science.

- “Too often we see climate change in educational settings relegated to science classrooms and students may not be able to make the connection that our local/state/federal government is responsible for the big climate change decisions, such as policies that affect greenhouse gas emissions. Students can examine systemic racism in social studies classes and make clear connections to environmental policies that have disproportionately affected communities of color for decades- including redlining, fossil fuel extraction concentrated in communities of color and link to the rates of health impacts of these communities.”(Source EPA)

**Recommendation:** From the National Environmental Justice Advisory Council (NEJAC) Youth Perspectives on Climate Change Report to increase accessibility to climate change curricula and educational resources:

- Create a youth climate change educational hub with curricular materials, presentations, and interactive workshop plans on EPA website
- Strengthen accessibility of these resources to those not in college or in the college pipeline
- Validate alternative ways of understanding climate change
- Integrate climate change curricula into the broader context of other social justice movements.

Examples of these recommendations in action:

- The Harambee House, INC./ Citizens for Environmental Justice (HH/CFEJ) is a tax-exempt organization located in Savannah, Georgia. HH/CFEJ created the Black Youth Leadership Development Institute (BYLDI), whose mission is to empower African American youth to be change agents able to facilitate transformation of themselves, their communities, and the nation by building capacity, skills, culturally-competent models, and developing confident youth leaders. The organization consists of a group of young black teachers, community educators, parents, and professionals committed to redirecting the talent and energy of black youth into positive growth and development. In practice, the program puts youth in charge of work assignments, asks for and uses their input, and lets them lead in a structured space with guidance and feedback. One useful curriculum around climate change, the Climate Change and Civic Engagement Course, is required for all BYLDI students, and gives them a stronger foundation in scientific knowledge.
- Alliance for Climate Education’s ACE Assembly, as well as the digital climate education resource and scaled-up version of the assembly, Our Climate Our Future. The ACE assembly, like the fellowship, is geared toward and serves many Title I

schools. This hour-long series of video clips conveys the science of climate change and related health impacts in an accessible and action-oriented manner. (Source: NEJAC)

**Recommendation:** Develop a Youth Environmental Justice Education Grant for K-12 Schools in majority community of color school districts. This can target creating a funding mechanism and collaboration between the Office of Children’s Health Protection in the Program Implementation Coordination Division Schools Coordinators (to manage the program evaluation and monitoring for the program) along with the Office of Environmental Justice, and Office of Ground Water Drinking Water. Funding should be available for remediation of drinking water sources at schools, testing, etc., parameters should include special consideration for schools and child care facilities serving environmental justice communities by accounting for factors such as (but not limited to): race/ethnicity of the student population, public funding allocation to schools, test-score and performance of students.

**Recommendation:** Develop a Youth White House 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 high school to career pathways curriculum prioritizing schools serving majority (75%+ community of color student populations)

**Recommendation:** Develop a grant program exclusively for Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) to develop green workforce & training (environmental justice) development programming prioritizing career development opportunities in frontline communities

**Recommendation:** Invest in Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) 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:** Invest in Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) (via grant funding) to develop innovative career pathways focused on the care and increased growth of trees through urban planning and development through an environmental justice lens Source: Black Millennials 4 Flint

## REMEDATION & REDUCTION OF LEGACY POLLUTION

### *Current Program/ Agency: U.S. Environmental Protection Agency*

**Challenge:** Black and other communities of color are disproportionately exposed to permitted emissions of hazardous air pollutants that cause an exceedance of the EPA's guidelines for cancer risk and non-cancer risk.

**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. These reviews should prioritize states where there are decades of civil rights complaints by Black and other communities of color against permitted pollution in their communities, such as Louisiana's Cancer Alley and the Houston Ship Channel.

**Recommendation:** Establish a policy for disaster recovery dollars to fund healthy land restoration in environmental justice communities.

**Recommendation:** Invest in urban agriculture to provide sustainable, healthy and affordable food choices.

**Recommendation:** Invest in flood mitigation and climate resilience infrastructure (green and gray) in Black and other communities of color who are systemically overlooked when disaster strikes and systemically excluded from investments in stormwater management, drainage and flood protection. This investment needs to correct the cost-benefit analysis applied by FEMA that has an inherent racial bias against Black and other communities of color due to historic redlining and present-day low appraised values placed on homes and properties owned by Black and other people of color.

**Recommendation:** Invest in educating the public about environmental justice and the impacts of environmental racism.

**Recommendation:** Fund environmental monitoring located inside communities exposed to pollution, along with funds for compliance enforcement.

**Recommendation:** Fund the implementation of programs and policies in the bill by Sen. Booker and Rep. Haaland -- The Environmental Justice Legacy Pollution Clean-up Act.

*Current Program/ Agency: U.S. Department of Transportation - Federal Highway Administration Air Quality Program*

**Challenge:** Black and other communities of color are disproportionately exposed to interstates and highways that expose residents to high levels of PM<sub>2.5</sub> and other air pollutants in vehicle exhaust.

**Recommendation:** Develop an air monitoring network that includes the detection of PM<sub>2.5</sub> in areas where a DOT-funded transportation project, a fossil-fired power plant, or PM<sub>2.5</sub> major emitting facility is located within three miles of a residential area. Provide public access to the air quality data. Coordinate with the Centers for Disease Control a public health response that removes the threat of air pollution exposure for residents.

**Recommendation:** Conduct civil rights compliance reviews under Title VI of the Civil Rights Act to ensure that DOT funds allocated to states are not invested in transportation projects that exacerbate or otherwise perpetuate racial discrimination.

*Current Program/Agency: U.S. Environmental Protection Agency - Office of Enforcement and Compliance Assurance.*

**Investment Topic:** Reduction of legacy pollution

**Recommendation:** Develop guidance for the EPA to use targeted enforcement and resources priorities directed at legacy environmental justice “hot-spots” with the goal of reducing combined risks to human health or the environment from multiple agents or stressors.

*Current Program / Agency: Legislation Needed*

**Recommendation:** Pass the RECLAIM Act (H.R. 1733) to use mine reclamation as an economic driver. The RECLAIM Act would direct \$1 billion over five years to reclaim and repurpose abandoned mine lands (AML) sites for community and economic development. This bipartisan legislation will cleanup sites while spurring immediate job creation and creating the conditions for longer term, locally driven economic development efforts to build better, brighter futures in coal communities across the country.



*Current Program/Agency: U.S. Environmental Protection Agency*

**Investment Topic:** Clean Air: Mandate new air quality monitoring in frontline and fence line communities

**Recommendation:** Fund and ensure that each state adequately monitors environmental pollution, including emissions, criteria pollutants, and toxics, in frontline and fence-line communities. This should include generating hyperlocal measurements in frontline communities where they are lacking to provide accurate and publicly available data.

*Current Program/Agency: U.S. Environmental Protection Agency & U.S. Department of Housing and Urban Development*

**Investment Topic:** Engage Communities in Regional Office Action Teams

**Recommendation:** Support development of regional office action teams. Institutionalize representation of fenceline and frontline communities in enforcement decision-making through development and convening of community-based Regional Environmental Justice Action Teams; Direct the Interagency Environmental Justice Enforcement Task Force to work with Action Teams to develop regional community protection and action plans; Provide dedicated funding for communities to access representation and conflict resolution resources. Hold regular public comment sessions so people do not have to travel to Washington and to ensure that regional officers are engaged with the public on enforcement concerns.

*Current Program/Agency: U.S. Department of Housing and Urban Development*

**Investment Topic:** Support HUD to expand the Lead Education and Lead Abatement Program

**Recommendation:** Reinstate HUD lead education outreach and lead abatement programs. Children of low-income families, African Americans, people living in large metropolitan areas, and people living in houses built before 1978 are most at risk of lead poisoning which is a neurotoxin and affects the brain development of children who are exposed under the age of six. HUD used to have a robust Lead Education program which ended over a decade ago despite the prevalence of lead in frontline communities where children of color are predominantly affected by poor maintenance in their homes. It has been found that removing lead paint hazards from homes of children from low-income families would provide \$3.5 billion in future benefits and protect more than 311,000 children. Investing in lead education and abatement

will lead to the health and economic benefits of greater brain development and lifetime productivity.

*Current Program/Agency: U.S. Department of Housing and Urban Development & U.S. Department of Energy*

**Investment Topic:** Energy Efficiencies in Frontline Communities

**Recommendation:** Address legacy pollution by supporting development of green zones. Bring green benefits to frontline communities that need it the most. Aggregate investments in solar, energy efficiency, weatherization, open streets, green infrastructure, tree planting, bioswales, flood resilience, extreme heat impacts, targeted enforcement, mitigation of mobile sources, electrification.

*Current Program/Agency: U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement*

**Recommendation:** Ensure that OSMRE assesses the new wave of post-1977 abandoned mine lands and assesses the scale of the problem in each state. In bankruptcy, coal companies are abandoning their permits and associated reclamation responsibilities, but even coal companies that have not filed for bankruptcy are functionally abandoning permits such that there has been little to no coal production or reclamation activity occurring on the permit for months or years. Reforms to the bonding system and to reclamation plans are needed to ensure adequate bond amounts to cover reclamation and water treatment obligations, regulators must act to ensure that reclamation is occurring contemporaneously with mining rather than delayed, and OSMRE must be equipped with the tools and staff it needs to actively engage in coal bankruptcies and ensure that reclamation standards are upheld even on abandoned permits and in order to improve agency data collection and databases to better track violations and outstanding coal company liabilities.

*Current Program/Agency: U.S. Department of Agriculture*

**Recommendation:** Fund the Rural Utility Service Hardship Loan Program at \$100 billion, which is equal to the value of all electric cooperative debt and establish conditions for forgiveness for rural electric cooperatives. Such loan forgiveness should include conditions to facilitate the retirement of all coal plants currently in operation in exchange for new investment in clean energy, distributed energy resources, energy efficiency, high-speed broadband, storage, workforce development, and electric transportation with new loans at U.S. Treasury rates. These conditions would also prompt electric co-ops to forgive unpaid residential utility bills,

continue service for the hardest-hit families, and deliver more affordable power to rural households. Rural electric cooperatives serve 42 million Americans, including many communities of color and low-income communities. Members of these cooperatives face far higher energy burdens than other utility customers, and many are facing shutoffs and growing debts because of the COVID-19 crisis.

*Current Program/Agency: U.S. Environmental Protection Agency*

**Recommendation:** Coal Combustion Residuals Rules are not being enforced. Impoundments are being capped in place, closures are being slow walked, and proper groundwater monitoring is not being followed, causing environmental disasters in disadvantaged communities. Funding should be allocated to monitor and remediate coal ash waste pollution and health monitoring for disadvantaged communities, and workers handling the coal ash must be protected.

**Recommendation:** Strengthen the Coal Combustion Residuals Rule to require enforceable coal ash cleanup measures such as removal of the pollutants in groundwater. Justice 40 funding could be used to monitor and remediate coal ash waste pollution in water bodies and land and provide medical monitoring for EJ communities and the funding to ensure closure of coal-fired power plants.

*Current Program / Agency: Legislation Needed*

**Recommendation:** Pass the Abandoned Mine Land Reauthorization Act (H.R. 1734) to reauthorize the Abandoned Mine Land (AML) fee under the Surface Mining Control and Reclamation Act (SMCRA) for 15 years. 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 of lands permitted to be mined prior to 1977. Cleaning up AML sites will not only make our communities safer and our water cleaner but will generate thousands of jobs. Without action from Congress, the fee that funds the AML program will expire in September 2021.

**Recommendation:** Ensure continued funding for black lung benefits. Many individuals can no longer participate in any kind of future workforce because they are disabled by black lung disease. The Black Lung Disability Trust Fund (BLDTF) provides monthly stipends and medical benefits to disabled coal miners (and surviving dependents). Revenues for the BLDTF come from a small tax on coal sales, but without congressional action, the tax will be cut in half at the end of 2021. It is critical that Congress extend the excise tax for 10 years (see Rep. Scott's Black Lung Benefits Disability Trust Fund Solvency Act/[H.R. 3876](#).) and also develop a long-term

funding solution as coal sales decline. In addition, Congress should change the fee from an excise tax to a severance tax in order to close the current loophole that allows exported coal (including much metallurgical coal) to go untaxed.

**Recommendation:** Increase black lung benefits to provide immediate economic stimulus to coal communities. Coal states receive millions of dollars annually from the BLDTF. Not only are these benefits critical for miners and their families, but they are also a direct input into local coal community economies. Currently, a disabled miner receives \$693 a month. In an effort to provide immediate economic stimulus to coal communities, Congress should increase the monthly benefits that a miner receives. Additionally, the process by which miners and their survivors file claims for black lung benefits must be improved. Currently, the claims process demands that claimants meet unreasonable bureaucratic proof requirements and allows exhaustive opportunities for employers to challenge claims and appeal decisions. This process is discouraging and burdensome for people who are sick and worried about the financial stability of their families. In consultation with experts in the Department of Labor and attorneys that litigate federal black lung claims, Congress should enact legislation that makes the benefits process fairer to miners and their families.

*Current Program / Agency: U. S. Department of Labor - Mine Safety and Health Administration*

**Recommendation:** The Mine Safety and Health Administration should strengthen regulations and enforcement procedures to protect coal miners from excessive levels of respirable silica dust, a primary culprit behind the ongoing epidemic of black lung in Appalachia. Currently, the permissible exposure limit for respirable silica dust in coal mines is 100 micrograms per cubic meter. This limit should be reduced to 50 micrograms per cubic meter to be brought into parity with regulations applicable to all non-mining industries and per the recommendation of the National Institute for Occupational Safety and Health. Additionally, the silica standard is not separately enforceable but, instead, based on a complicated calculation of silica as a percentage of total respirable dust. This indirect enforcement method should be replaced by a separately enforceable standard whereby any exceedance of 50 micrograms of silica per cubic meter causes MSHA to issue a citation and compel corrective action on the part of the operator.

*Current Program/Agency: U.S. Department of Defense - U.S. Navy*

**Recommendation:** Decontamination of Vieques and Culebra. Invest Justice 40 funds to allocate \$10 million to purchase closed detonation chambers in the efforts to rid Vieques of unexploded



ordnance. Community groups are calling for “genuine community participation in the process of decontamination, so that the cleanup will be thorough and effective” and the budget to carry out a complete cleanup.

*Current Program/Agency: U.S. Environmental Protection Agency*

**Recommendation:** Require decontamination of legacy sites, and sustainable development projects at the old refinery and the petrochemical complex in Tallaboa, Penuelas and Guayanilla, Puerto Rico that promote integral community development. Polluting industries such as industrial landfill operators must be prosecuted and punished. Investments to address the serious deterioration of the health of residents, and the environment, especially fishing areas are imperative. Energy independence should be promoted and encouraged through rooftop photovoltaic systems with battery energy storage systems. The community urgently needs new schools and training programs to create community-based businesses and employment opportunities to avoid dependence on the government.

**Recommendation:** The Biden Administration should consult with the South-Central St. Croix community to determine how Justice 40 investments can best be made to address environmental injustice, including but not limited to groundwater, air quality, and coastal zone cleanup. The St. Croix Environmental Association requests that EPA exercise “strict enforcement of the law and to investigate violations” of the Limetree Bay Refinery since the refinery restarted operations in Dec. 2020 after being closed for nearly a decade. They also request transparency and reporting on incidents, including online, real time access to emissions data and notices of unscheduled releases to the community via text message. Sustained funding and trained personnel are needed for air and water quality monitoring using federally approved methods, including a community-based monitoring center in partnership with the Department of Natural Resources and the local university. Crucians need household surveys conducted to gather data on the odors, health impacts, and property damage caused by the refinery restart. EPA must take a “hard look at the Reactivation Policy that EPA abandoned under the Trump Administration to grandfather Limetree Bay as an operating facility.” Crucians indicate that the Limetree Bay Refinery should be recognized as a new facility and undergo new source review, adopt the best available control technology and that EPA’s ECHO database and EJSCREEN tools be updated with demographic and environmental information for St. Croix and the USVI in general. St. Croix needs capacity for community-led discussions of a just transition to wean the economy off the fossil fuel industry, including stakeholder meetings, education programs, workshops, and job retraining.

**Investment Topic:** Superfund Site Program

**Recommendation:** Prioritize cities and 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

*Current Program/Agency: U.S. Department of Defense U.S. Army Corp of Engineers*

**Recommendation:** Require the U.S. Army Corp of Engineers to proceed with plans to dredge the Caño Martin Peña (CMP/channel). Specifically, the Biden Administration should select the Caño Martin Peña Ecosystem Restoration Project (ERP) as a construction New Start for the FY22 US Army Corps of Engineers Work Plan or include the resources in the Justice 40 investments, any upcoming Supplemental related to President Biden’s Infrastructure Plan or through direct spending.

*Current Program/Agency: U.S. Department of Agriculture*

**Investment Topic:** Food and Nutrition Service

**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 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. (Source: Black Millennials 4 Flint)

**Recommendation:** Funding for a Green jobs center in Black, Latinx, Tribal and other people of color environmental justice communities. Government grants and subsidization for local food cooperatives and community gardens.

**Recommendation:** Expanding grants & training program for Black organic & regenerative farmers. Source: Generation Green

*Current Program/Agency: U.S. Department of Health and Human Services*

**Investment Topic:** The Centers for Medicare & Medicaid Services (CMS)

**Recommendation:** Expand Medicare/Medicaid for lifetime access for individuals from frontline communities directly impacted by environmental racism and injustice (e.g. the Flint Water Crisis)

**Recommendation:** Extend Medicaid coverage for a year 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

*Current Program/Agency: U.S. Department of Health and Human Services - National Institutes of Health*

**Investment Topic:** Eunice Kennedy Shriver National Institute of Child Health & Human Development

**Recommendation:** Increase appropriations in the Great American Outdoors Act to prioritize frontline and communities of color as well as local schools receiving Title I funding and majority communities of color serving schools with improvements and developments of community/local parks and investment in urban tree nurseries to mitigate environmental hazards such as increased CO2 emissions and other toxic air pollutants. Source: Black Millennials 4 Flint and American Forests

**Recommendation:** The Federal Health Equity For All Act will institute infrastructure and mechanisms to fund communities in creating conditions for well-being and aims to reinvent our health infrastructure to promote inclusive, community-driven, and localized interventions, with well-being and equity as core metrics. There are three approaches in the act: (1) a network of health equity innovation hubs led by community-based organizations and (2) supporting social entrepreneurs through flexible and non-programmatic funding streams to change the system from the ground up (3) funding for local government entities to implement community approved racial equity plans. Source: Act on Health Equity

**Recommendation:** Implement and utilize environmental health assessment data combined with maternal health and birth outcomes in the agency's cost-benefit analyses.

**Recommendation:** Allocate research funding to HBCUs, HSIs, TCUs and ASPISIs to research impacts of environmental racism associated with miscarriages & other characteristics of at-risk pregnancies.

**Recommendation:** Allocate research funding to HBCUs, HSIs, TCUs and ASPISIs to research impacts of climate on lead exposure in communities of color.

**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 (Example Programming: [Children's Environmental Health Network's Eco-Healthy Child Care Program](#)).

## DEVELOPMENT OF CRITICAL CLEAN WATER INFRASTRUCTURE

*Current Program/Agency: U.S. Department of Housing and Urban Development & U.S. Department of Energy*

**Investment Topic:** Lead Water Pipe Infrastructure Replacement

**Recommendation:** Create a federal low-income water and sewer bill assistance program. This program will assist low-income customers with paying their water and sewer bills. This will be structured as grants to state and Tribal entities to provide direct assistance to low-income water and sewer customers, similar in concept to the established Low-Income Home Energy Assistance Program (LIHEAP). This would bring parity to water, as the federal government already recognizes heat and home energy as essential to well-being.

**Recommendation:** Support the retrofit of lead water pipe infrastructure.

**Recommendation:** Ensure that environmental justice communities are tested for lead water pipe infrastructure and replace those pipes where necessary to protect the most vulnerable (children and pregnant women) from lead exposure.

**Investment Topic:** Development of Critical Clean Water Infrastructure

**Recommendation:** Ensure Every Home Has a Wastewater System and Indoor Plumbing.

**Recommendation:** Many homes throughout the south, Appalachia and rural areas are forced to use septic tanks even though they pay municipal taxes for water and sewer. Many do not have indoor plumbing as well. A wastewater treatment system receives, stores, treats, and disposes wastewater not only from a septic tank, but accompanying pipes, drains, percolation areas, and fitting, which ensure that the water is treated and discharged correctly. Wastewater systems are a way to reduce waste from our environment, save money, and ensure removing chemically treated water in a safe, environmentally friendly way. Furthermore, toxins are removed during the treatment process which produces clean and safe water. About 3% of the earth's water is drinkable and through this renewable resource it helps provide crystal clear, and safe reusable water. The main challenges we may encounter with wastewater systems are the cost and energy consumption. It is estimated that the United States must invest \$271 billion towards wastewater systems and their upgrades.

**Recommendation:** Develop mapping tools and GIS of where these homes are so they can be identified and retrofitted.



### *Current Program/Agency: Legislation Needed*

**Recommendation:** Permanently institutionalize water and wastewater affordability programs. In addition to investment in water and wastewater infrastructure, it is also essential to ensure that households can afford to access these services. Prior to the COVID-19 pandemic, there were no customer assistance programs to help low-income or families in economic crises pay water bills. Section 533 of the Consolidated Appropriations Act, 2021, authorized a new program to provide \$638 million in federal water and wastewater bill assistance to low-income customers. An additional \$500 million was included in the American Rescue Plan. We encourage Congress and the administration to create a permanent assistance program by adding the following: \$22.5 billion (for a total of \$45 billion) for replacing all lead service lines and a \$100 billion infusion into the Clean Water and Drinking Water State Revolving Funds with at least a 20 percent set-aside as grants for disadvantaged communities and at least a 20 percent set aside for green infrastructure. Direct an additional \$10.5 billion for the Small & Disadvantaged Communities program, Alaska Native Villages and Rural Communities Water Grant program, US-Mexico Border Water Infrastructure program, Sewer Overflow Grant program, and the Water and Waste Disposal Loan and Grant program. Also, permanently extend the Buy America provision for the Drinking Water State Revolving Fund (see Sec. 22110 and Sec. 33104 of H.R. 2). In addition to investment in water and wastewater infrastructure, it is also essential to ensure that households can afford to access these services. Congress should continue to invest in the newly created low-income household water assistance program (LIHWAP) at HHS.

### *Current Program/Agency: U.S. Environmental Protection Agency*

**Investment Topic:** Lead and Copper Rule

**Recommendation:** Continues to treat full lead service line (LSL) replacement as a last resort. LSL replacement should be an integral part of a long-term solution, including periodic benchmarks for all water systems to achieve regardless of water testing results.

**Recommendation:** Continues to allow water systems to conduct partial replacements where the property owner is unwilling or unable to pay the cost for the portion not owned by the water system. Partial replacement significantly increases short-term lead in water levels and fails to provide the long-term lead exposure reductions provided by full replacement.

**Recommendation:** Backslides on the rate of mandatory LSL replacement. When a water system's lead levels are so high that full LSL replacement is mandated, EPA proposes an annual replacement rate of 3% instead of the current 7%, effectively giving a system with high levels of lead in water 33 years rather than the current 15 years to replace all of its LSLs. While more

systems are likely to have to conduct mandatory full LSL replacement because of the stricter sampling requirements, most will not. **Source:** [Environmental Defense Fund](#)

**Recommendation:** Incentivize States with mandatory lead testing policies/laws in public schools and childcare facilities through non-competitive grant funding.

**Recommendation:** Incentivize cities and municipalities that prioritize community of color contractors for lead service line replacement.

**Recommendation:** Develop a robust and (public) transparent national database and GIS map(s) to centralize and locate lead testing data for schools, cities/municipalities, and states.

**Recommendation:** Develop a grant program for cities and municipalities and states to create robust and (public) transparent databases and GIS maps to centralize and locate lead testing data for schools, residential, agricultural, and commercial areas.

**Recommendation:** Establish medical monitoring, preventive medicine, healthy nutrition and care-giving programs for vulnerable populations, especially seniors in EJ communities and training programs for care-givers from EJ communities.

## CLIMATE MITIGATION & RESILIENCY

*Current Program/Agency: U.S. Department of Defense, U.S. Army Corp of Engineers & U.S. Geological Survey*

**Recommendation:** Pending flood control projects such as the Nigua River in Salinas, Puerto Rico and the Rio Piedras-Puerto Nuevo River in San Juan, Puerto Rico and coastal protection projects should 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.

**Recommendation:** Invest Justice 40 funds to designate the South Coast Aquifer in Puerto Rico as a sole source public water resource and decontaminate the aquifer.

*Current Program/Agency: U.S. Department of Labor, U.S. Department of Agriculture - Rural Development Housing and Community Facilities Programs Office*

**Recommendation:** Modernize temporary labor camp standards and farm labor camp standards to mitigate the risks that climate change, extreme weather events and pandemics pose on migrant and seasonal farmworkers and their families.

**Recommendation:** Invest in USDA Section 521, 515, and Section 514 and 516 Farm Labor Housing to invest in building resiliency to extreme weather events, energy efficiency, climate control, and facilities such as water and waste disposal systems.

**Recommendation:** Ensure investments in Farm Labor Housing prioritize housing for U.S.-based workers and their families, without regard to legal status, and do not promote the displacement of the domestic agricultural workforce.

*Current Agency: U.S. Environmental Protection Agency, U.S. Department of Energy, Department of Housing and Urban Development*

**Recommendation:** Support funding for frontline and EJ communities to organize, convene and develop climate action plans that address climate resilience, communication and prioritize potential climate impacts. Each community has differing levels of potential impacts and issues associated with blackouts, flooding, extreme heat, evacuation, right of return to homes by climate refugees and ensuring that climate gentrification potential is addressed through education of relevant government officials.

## INTERSECTIONAL RECOMMENDATIONS: COMMUNITY AND UNIVERSITY PARTNERSHIPS

*Current Program/Agency: White House Initiative on HBCUs, HSIs, TCUs and ASPISIs*

**Investment Topic:** Reduction of Legacy Pollution & Workforce Development

**Recommendation:** Develop guidance and directives for Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) to support communities addressing legacy pollution problems and challenges.

**Recommendation:** New funding for Environmental and Climate Justice Centers and Centers of Excellence at HBCUs, HSIs, TCUs and ASPISIs to support education, training, mentoring, research, policy and civic engagement work in underserved, economically disadvantaged, and environmentally vulnerable communities threatened by the climate crisis.

<https://www.doi.gov/pmb/eeo/doi-minority-serving-institutions-program>.

*Current Program/Agency: U.S. Health and Human Services Administration, Health Resources and Services Administration (HRSA)*

**Investment Topic:** Climate Change & Health

**Challenge:** There is a need to address the vulnerability and health care needs of uninsured, isolated, or medically vulnerable individuals and communities to the threats posed by climate change.

**Recommendation:** Invest in Community & Migrant Health Centers which serve migrant and seasonal farmworkers across the U.S.

**Recommendation:** Invest in Community Health Centers that partner with Community Based Organizations (CBOs), labor unions and worker organizations with experience serving migrant and seasonal farmworkers, communities of color and low-income communities in rural and agricultural communities.

**Recommendation:** Prioritize grants to academic institutions that establish partnerships and fund-sharing agreements with CBOs and other organizations with experience serving migrant and seasonal farmworkers, communities of color and low-income communities in rural and agricultural communities.

*Current Program/Agency: The White House, Cabinet Secretaries, and the Broader Executive Branch*

**Investment Topic:** Climate Change, Workforce Development & Protection of Communities of Color and Undocumented Workers and Communities

**Challenge:** Lack of immigration status fundamentally limits the ability of immigrants to enforce their rights and have access to programs and services that would promote their food, housing, economic security, and improved environmental quality. In a changing climate, undocumented immigrants are vulnerable to disasters and are represented in industries and work settings where they cannot get refuge from the elements.

**Recommendation:** The Administration should leverage its discretion and resources to ensure that undocumented individuals and families are not left out or ineligible to benefit from EJ40 investments.

**Recommendation:** Where limitations in servicing undocumented individuals require statutory changes, the Administration, at the highest levels, should work aggressively with Congress to secure a path to legalization for undocumented immigrants as well as other improvements to



prevent the exclusion of the undocumented from Justice40 investments, given that they are predominantly from communities of color.

*Current Program/Agency: U.S. Department of Health and Human Services, National Institute of Environmental Health Sciences; U.S. Environmental Protection Agency*

**Recommendation:** Improve health equity by mandating that NIH support community-academic partnerships in all relevant research centers and in grant programs

**Recommendation:** NIEHS should reinstate its Environmental Justice through Communications grant program that supported the development of Community Principal Investigators (PIs) and partnerships between academic research centers and community organizations that carried out Community-Based Participatory Research, community education on environmental health, and translation of research to policy and action. These partnerships have been evaluated to increase the quality and dissemination of research, provide communities with relevant data, support citizen science, and create trust.

**Recommendation:** In addition, the EPA used to have Community-University Partnership (CUP) grants which provided funds for EJ and CBOs to partner with academic institutions to develop data and studies of interest to both partners.

*Current Program/Agency: All Federal Agencies*

**Recommendation:** Carry out the nation-to-nation consultative duties of the U.S. to federally-recognized Tribes in the identification, planning, and implementation of infrastructure investments and projects, consistent with the January 21, 2021, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships and Best Practices on Consultation*.

**Recommendation:** Review the letter from over 580 federally recognized Tribal governments on infrastructure legislation from April 13, 2021. Though about legislation, it covers important information and positions from Tribal leaders relevant to Justice 40: The [Indian Country Infrastructure Letter](#) covers comprehensive infrastructure programs in the federal government needing reform, including programs in infrastructure tied to healthcare, water, telecommunications and broadband, energy, housing, transportation, law enforcement, public safety, and justice, lands and natural resources, climate, education, Indian child welfare, agriculture and rural development, tax parity and equity, economic and workforce development, and Tribal governance and funding stability. The letter offers recommendations:

- funds must be provided directly to Tribal recipients and not as pass-through funding to states or another entity;
- indirect costs must be an eligible use of funds and Tribal recipients must be given the maximum flexibility possible in their use of federal funds;
- funds must not be limited to shovel-ready projects;
- all funds for Tribal recipients should be available until expended;
- funds must not be subject to competitive grants and match requirements;
- explicitly require the Indian canons of construction be applied to provisions of this bill.

**Recommendation:** Review other significant inter-Tribal and government reports related to Tribal infrastructure that identified key programs, priorities, and needs. They include [The Report on the Unmet Infrastructure Needs of Tribal Communities and Alaska Native Villages in Process of Relocating to Higher Ground as a Result of Climate Change](#); The U.S. Government Accountability Office [Report Climate Change: A Climate Migration Pilot Program Could Enhance the Nation's Resilience and Reduce Federal Fiscal Exposure](#) and the Affiliated Tribes of Northwest Indians [Policy Briefing: Tribal Perspectives on Proposed Policies in the Congressional Action Plan on the Climate Crisis](#), which has several sections on infrastructure.

**Recommendation:** Federally-recognized Tribes have inherent sovereignty, and exercise sovereignty in the U.S. context with states and the federal government. The federal government has an obligation to have a government-to-government or nation-to-nation relationship with Tribes. The federal government also has a trust responsibility to Tribes, obligations tied to treaties (treaty rights) and statutes, and obligations to ensure equity and environmental justice. Tribal consultation, including how it is referenced in the January 21, 2021 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, is a cornerstone of a genuine nation-to-nation relationship. Consultation has an important connection to free, prior, and informed consent. Infrastructure investments and projects, including their identification, planning, and implementation, must occur through Tribal consultative processes when such investments and projects relate to federally-recognized Tribes. Infrastructure investments and projects may relate to federally-recognized Tribes when they involve activities and technologies that Tribal governments have the potential lead, administer, operate, and own the assets too. They also relate to Tribes when the investments or projects may occur outside of Tribal government jurisdictions, but where the expected impacts – including benefits and risks – will have economic, social, environmental, cultural, and political (jurisdictional) ramifications and implications for Tribes. Permitting processes are key areas where Tribes must be involved as decision-makers, planners, and leaders. Regarding projects affecting public lands and other relevant lands, Tribal co-management must be an available option.

**Recommendation:** Tribes must have comparable and fair opportunities to benefit from infrastructure investments and projects that are delegated to states. There must be parity in

federal investments to Tribes and states. There should be consideration of a Tribal set aside, as is used in other federal programs.

**Recommendation:** Under the Biden/Harris administration, consultative activities have already taken place through the Department of Interior and other agencies. These consultative activities have or are likely to yield critical information about how the federal government is planning to invest in infrastructure relating to Tribes.

**Recommendation:** There is a growing literature on best practices for Tribal consultation that aims to improve the quality of nation-to-nation relationships, literature produced by both university researchers and major non-governmental organizations, such as the National Congress of American Indians, and inter-Tribal organizations, such as Midwest Tribal Energy Resources Association. A major best practice that reflects a nation-to-nation relationship is that Tribes should be part of the earliest discussions about infrastructure development and design, which means as early as any other governing entity, such as states, are involved in such discussions.

**Recommendation:** There are currently underfunded programs for federally-recognized Tribes tied to energy infrastructure, and Tribal consultation is crucial as connected to recommendations for how to build on and improve these programs, and whether there are lessons learned that can be carried over to other agencies and to new or forthcoming investments and projects. Major examples are the Department of Energy's Office of Indian Energy Policy and Programs, Department of Interior Indian Affairs Department of Energy and Mineral Development, USDA's Rural Energy Programs (which Tribes qualify for), USDA's High Energy Cost Grants Program, the Tribal Energy Guarantee Program (Energy Policy Act), among others that may be in existence. Grid modernization is a major area of need given that 14.2% of households in Tribes lack basic electric services. Regarding other areas of infrastructure, here is a further listing of programs: Division of Sanitation Facilities Construction (Indian Health Service); Clean Water State Revolving Fund; Water and Waste Disposal Grant Program (EPA); Tribal Climate Resilience Program (Bureau of Indian Affairs); Safety of Dams Program (Bureau of Indian Affairs) (including, dam maintenance programs that Tribes can use); Irrigation Program (BIA); Indian Water Settlements Funding (Bureau of Reclamation); Indian Housing Block Grant Program; Roads Maintenance (BIA); Tribal Transit Program (Federal Transit Administration); healthcare infrastructure aspects of Indian Health Services and other agency programs tied to Tribal health; infrastructure needs tied to Bureau of Indian Education, Indian Community Development Block Grant Program, USDA Community Facilities Programs, Tribal law enforcement, emergency management, and broadband and wireless; Native Community Development Financial Institutions; Tribal Colleges and Universities.

**Recommendation:** In 2009, [a group of U.S. senators wrote a letter claiming a \\$50 billion unmet need for infrastructure on reservations](#). The Tribal consultative process should gain updated information on the size of the need in today's terms.

**Recommendation:** Permitting processes and infrastructure planning must be strategically organized so that the implementation of infrastructure investments and projects can proceed successfully in Tribal nations. Given the unmet infrastructure needs, certain infrastructure projects should be implemented in a certain order or together. Tribal consultation should pave the way for a coordinated, strategic implementation of infrastructure investments given the challenges to infrastructure developed posed by the unmet infrastructure needs in Tribal nations. See for example, [Principles to Advance Energy Justice for Native Americans](#).

**Recommendation:** Tribal Historic Preservation Offices must have sufficient funding and support for increases in on and off-reservation infrastructure projects that must be reviewed.

**Recommendation:** Cultural impacts of infrastructure are critical to consider, whether for projects operated by Tribes or for projects that will affect Tribes. Tribal ecological knowledge has an important role in the design of projects and the assessment of risks.

**Recommendation:** Tribes should have access to resources for feasibility studies, and such funding for feasibility studies must be flexible for Tribes.

**Recommendation:** Funding for infrastructure projects, such as grants, should be multi-year, providing support for Tribes to build long term capacity, stability, consistency, and a strong foundation.

### *Current Program/Agency: All Federal Agencies*

**Recommendation:** Federal agencies must consider the self-determination of non-federally-recognized Indigenous peoples and grassroots organizations, community organizations, and entrepreneurship in infrastructure development

**Recommendation:** Indigenous peoples who are not recognized as sovereigns by the U.S. federal government have the right to self-determination as collective societies with their own cultures, heritage, and economic and political organizational systems, which can include the ownership and administration of infrastructure. State- and un-recognized Tribes, working without affirmation of their self-government, have strategically used incorporation as 501c3 nonprofits as a way to build capacities to provide services for their members. They have used private conservation tools as well to protect their lands. Native Hawaiians have organized through institutions such as the Office of Hawaiian Affairs (OHA), a self-governing corporate body established in the 1978 state constitution of Hawaii. Federal infrastructure investments must ensure that programs and policies work with and advance the self-determination of non-federally-recognized Indigenous peoples.



**Recommendation:** Infrastructure investments must include opportunities for Indigenous peoples' community organizations, grassroots organizations, and entrepreneurs to receive relevant infrastructure funds for the development of their own capacities for infrastructure projects, such as community solar, and many others. Investments and benefits in infrastructure funding and programs should not fund federally-recognized Tribal governments in ways exclude Tribal members and other Indigenous persons rights to apply for and develop relevant infrastructure programs and policies at the community and grassroots levels and as entrepreneurs.

## JUSTICE40 INITIATIVE QUESTION 2: RECOMMENDATIONS FOR DEFINING “INVESTMENT BENEFITS”

### RECOMMENDATIONS FOR THE DEFINITION OF INVESTMENT BENEFITS

**Recommendation:** Direct Investments in Geography: Investments in defined frontline geographies (by census tract or other designations based on EJ criteria such as [Minneapolis Green Zones](#)).

**Recommendation:** Direct Investments in People: Investments that benefits to Black, Indigenous, Latinx, Asian, Pacific Islander, GLBTQ, People of Color, and Immigrants to improve health and economic opportunities.

**Recommendation:** Indirect and direct Investment in Community: Investment which support local communities, community-based organizations, community ownership, cooperatives, small-business, community job training and local ownership tracks, etc.

**Recommendation:** External Direct Investment benefits: Investments that are outside EJ communities but provide essential services to EJ such as water, energy, and sanitation.

**Recommendation:** All Investments: Must do no harm to EJ Communities.

### GUIDING PRINCIPLES: PROGRAM CRITERIA TO MAXIMIZE FEDERAL INVESTMENT BENEFITS AND AVOID HARM IN EJ COMMUNITIES

**Recommendation:** 100% of investments must do no harm to Environmental Justice communities. We want 100% Justice; it would be unreasonable to have any climate investment working against historically harmed communities. To that end we acknowledge the Justice40 to be the floor not the ceiling, 40% should not be seen as a cap but as a starting point.

**Recommendation:** Just recovery to support community-driven recovery and mid- to long-term rebuilding and implementation projects with improvements that further equitable mechanisms for adaptation, recovery, and rebuilding.

**Recommendation:** For investments to be considered truly beneficial, process and implementation are key. All investments should incorporate a community driven, community-controlled approach so that communities most directly impacted benefit as intended. Investments that do not have community accountability should not be considered part of the Justice40. Community accountability in development and implementation is an important “justice” making element that must be included.

## EXAMPLES OF THE TYPES OF PROJECTS THAT MAY BENEFIT A COMMUNITY

1. Clean energy projects, including renewable energy and energy efficiency projects
2. Regenerative agriculture and green infrastructure projects
3. Clean energy jobs training
4. Lead water pipe replacement
5. Clean drinking water and environmentally sound sanitation
6. Programs that both reduce greenhouse gases and promote economic, social and environmental benefits
7. Public Transportation: operational and capital improvements
8. Community microgrids
9. Community and Green Housing
10. Housing/community preservation and or planned retreat for communities that choose to move due to unsafe conditions
11. Example of the 2501 USDA Block grant for outreach and technical assistance and training to “socially disadvantaged farmers” can be a model for block grant available with mandatory (not discretionary) budgets for groups that do outreach to EJ groups
  - a. [Outreach and Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers \(Section 2501\)](#)
12. Community climate resilience plans
13. Transit hubs that promote sustainability and small business development in EJ communities
14. Future Energy Jobs Act from Illinois (worked on by LVEJO) helped to secure worker benefits and investments that prioritized EJ communities and further those most impacted or marginalized within EJ communities
  - a. LVEJO participated as a lead architect of critical policies serving low-income communities in the legislation, including the new Illinois Solar for All — a nation-leading low-income solar program with targeted goals for environmental justice communities. The program is paired with a jobs training pipeline that will target recruitment in these same communities, with additional incentives to hire 2,000 individuals with criminal records and alumni of the foster care system.
  - b. <http://www.lvejo.org/lvejo-statement-on-passage-of-future-energy-jobs-bill/>

## EXAMPLES OF THE TYPES OF PROJECTS THAT WILL NOT BENEFIT A COMMUNITY

1. Fossil fuel procurement, development, infrastructure repair that would in any way extend lifespan or production capacity, transmission system investments to facilitate fossil-fired generation or any related subsidy.
2. Carbon capture and storage (CCS) or carbon capture, utilization, and storage (CCUS)
3. Direct air capture
4. The procurement of nuclear power
5. Research and development
6. The establishment or advancement of carbon markets, including cap and trade
7. Geoengineering and techno fixes
8. Highway expansion
9. Road improvements or automobile infra-structure, other than electric vehicle charging stations
10. Industrial scale bioenergy
11. Incentives for investor-owned utilities
12. Projects that promote gentrification without any housing policy crafted by a community to prevent displacement
13. Incineration, waste-to-energy or biomass incineration, and landfilling ([Anishinabek Nation and Iroquois Caucus Transport and Abandonment of Radioactive Waste](#))
14. Pipeline creation, expansion, or maintenance
15. [Memo to the Biden administration: What not to do on climate](#)
16. [The Conversation: Climate Scientists: Concept of Net Zero Is A Dangerous Trap](#)
17. [NAACP Environmental and Climate Justice Program: Fossil Fueled Foolery](#)

## LEGISLATIVE LANGUAGE FOR FURTHER CONSIDERATION

**Recommendation:** Legislative language from Green New Deal for Cities Bill Congresswoman and Congresswoman Alexandria Ocasio-Cortez

- [One Pager](#)
- [Full Text](#)

**Recommendation:** Examples from California Greenhouse Gas Reduction Fund

- Reduce greenhouse gas emissions
- Maximize economic, environmental, and public health co-benefits
- Benefits should outweigh costs and burdens
- [Secondary criteria from CA \(page 18-21\)](#)

**Recommendation:** Community Engagement Towards Participatory Community Decision Making

- There should be specific funds dedicated to community engagement processes to help determine that benefits make community specific sense and are part of the local vision.
- Should provide a direct line of responsibility and accountability to these community-based organizations. Funding of up to 10% should be considered to support inclusive engagement and community decision making. Community representatives and organizations are paid for their work to represent and engage the broader community.

**Recommendation:** Notification About Possible Investments/Benefits

- Communities should be made aware of the possible grants and funding opportunities that are available to them. Notification must be in local languages and as widely accessible as possible.
- No project should be undertaken without community consent.
- Should include metrics, incentives and audits for agencies to adopt based on how much of their budget they have dedicated both directly and indirectly to frontline groups in a way that is transparent and reported publicly.
- Communities should be granted the “right to sue” for disparate impacts, without needing to prove intent but rather outcome or impact

**Recommendation:** Formulas like Community Development Block Grants need to be revised or updated. Currently some communities are severely underserved due to archaic formulas that have not been updated. Formulas to determine need should be developed in consultation with EJ communities.

## OVERALL GOALS AND/OR REQUIREMENTS FOR INVESTMENT BENEFITS

1. Develop long term local wealth and ownership
2. Local ownership and democratic decision making for infrastructure
3. Addressing institutional racism
4. Maximize economic, environmental, and public health benefits to community
5. Labor standards must meet the living wage income, rights to organize, local hire provisions
6. Workforce development and training for underserved workers
7. Air quality improvement requirements for clean energy infrastructure
8. Tie funding to local community organizations for accountability
9. Should not be discretionary funding for state or municipal budgets
10. Reparations to address past harm and disproportionate burdens



11. Clean, affordable, and accessible public transit
12. Addressing food deserts with investments in locally owned, organic agriculture
13. Training people on long term climate adaptation and resilience jobs
14. Create long term investments and demand for climate resilience infrastructure
15. Siting of infrastructure doesn't have a negative impact on local communities
16. Requirements to assess externalities of proposed infrastructure or programs
17. Net metering requirements of utilities
18. Energy democracy and equal access to the grid: decentralization of grid ownership
19. Should include metrics, incentives, and audits for agencies to adopt based on how much of their budget they have dedicated to these groups that is transparent and reported publicly
20. Maintain public housing that is safe, healthy and community integrated
21. Address clean drinking water and repair systems to maintain clean drinking water into the future
22. Improve water quality
23. Reduce/remove exposure to environmental hazards; remediate existing pollution and hazards
24. Provide long-term health benefits/health care to people who have experienced past harm and disproportionate burden
25. Establish a fund to accelerate the decommission of coal, oil and fossil gas plants and infrastructure by 2040
26. Pass policies to accelerate utility adoption of clean renewable energy and ending use of fossil fuels by 2030
27. Ban the use of single use plastics within 5 years and all non-essential plastics by 2030
28. To maximize investment benefits delivered to EJ communities, federal agencies must provide clear EJ criteria and guidance for grant applicants and centralized oversight. Federal agencies should establish outreach offices to promote awareness of federal program funding opportunities among EJ organizations and communities. The administration should also apply an equity and justice lens governmentwide to update federal program goals and grant-making, and it should build a clear monitoring, reporting, and evaluation process for federal programs and benefits delivered to EJ communities. Federal agencies must also make EJ and stakeholder engagement a requirement to receive program grants and other financial support. Both existing and new programs, regardless of the administering agency, should have criteria to address pollution, climate change, and displacement of people and communities to help ensure that benefits are delivered to EJ communities. All Agencies including those; as IAC and others (e.g. Army Corp, FEMA), should score projects based on their ability to meet these and other EJ criteria. The CEQ should

also create a Justice40 task force to recommend these project criteria to support the delivery of benefits to EJ communities.<sup>1</sup>

29. Establish outreach offices to promote awareness of federal program funding opportunities among EJ organizations and communities. Federal agencies should employ staff to provide application support and to answer questions about funding requirements. For instance, each agency could hire adequate community liaison staff to help support and monitor applications, or it could pair capacity-building grants for smaller, locally led organizations with resources such as program staff able to assist EJ organizations to apply for the benefits. Agency outreach programs or offices should have an outreach plan that provides adequate notice and requires feedback from EJ communities and community of color led organizations through public meetings, town halls, webinars, or engagement with regional offices, in various languages. These meetings should be held regularly to inform priorities and planning. Agencies must also allocate resources to translate applications to make them accessible to non-English speakers.<sup>2</sup>
30. The whole of government approach requires that all agencies develop mechanisms to incorporate environmental justice into their programs. Agencies should notify EJ communities and organizations of applications for permits submitted to the agencies for projects or actions in, close to or with potential impacts to EJ communities. Agencies can fulfill the notice requirements by compiling a list of EJ communities and organizations to be notified of pending projects and actions.
31. Portland Clean Energy Fund guiding principles<sup>3</sup>:
  - a. Justice driven. Advance systems change that addresses historic and current discrimination. Center all disadvantaged and marginalized groups – particularly Black and Indigenous people.
  - b. Accountable. Implement transparent funding, oversight, and engagement processes that promote continuous learning, programmatic checks and balances, and improvement. Demonstrate achievement of equitable social, economic, and environmental benefit. Remain accountable to target beneficiaries, grantees, and all Portlanders.
  - c. Community powered. Trust community knowledge, experience, innovation, and leadership. Honor and build on existing work and partnerships, while supporting capacity building for emerging community groups and diverse coalitions. Engage with and invest in community-driven approaches that foster community power to create meaningful change.
  - d. Focused on climate action with multiple benefits. Invest in people, livelihoods, places, and processes that build climate resilience and community wealth, foster

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<sup>1</sup> Equitable & Just National Climate Forum, Center for American Progress, Tishman and Design Center

<sup>2</sup> *ibid*

<sup>3</sup> Guiding principles from the [Portland Clean Energy Fund](#)

healthy communities, and support regenerative systems. Avoid and mitigate displacement, especially resulting from gentrification pressures.

32. **Be Actively Anti-Racist** - We pursue policies and strategic investments to reverse racial inequities and strive to repair the environmental injustice of more than 500 years of institutional policies and practices.
33. **Expand Environmental Justice and Climate Energy Literacy and Education** - Building a future that requires a just transition, and collaboration with the residents and businesses. Energy and Climate Literacy are integral parts of the just transition and building equitable outcomes from the transition to a clean green future.

## JUSTICE40 INITIATIVE QUESTION 3: RECOMMENDATIONS FOR DEFINING “DISADVANTAGED COMMUNITIES”

**Recommendation:** Underserved communities include:

1. Majority minority communities
2. High rate of health disparities
3. Non-attainment of clean air and water standards
4. Formerly redlined
5. Food insecurity and child nutrition levels
6. Children receiving school lunch program
7. Income and % of households on supplementary income benefits
8. Numbers of superfund, waste, landfills and toxic facilities
9. Low education attainment and low high school graduation rates
10. High maternal and infant mortality rates
11. High asthma rates and deaths
12. Poorly maintained stock of housing
13. Lack of grocery stores, proliferation of (cent stores and fast-food outlets)

## CLIMATE AND ECONOMIC JUSTICE SCREENING TOOL RECOMMENDATIONS

### CLIMATE AND ECONOMIC JUSTICE SCREENING STATEMENT OF PRINCIPLES

1. Climate and Economic Justice Screening Tool must be integrated and / or supplemented with local community knowledge and data;
2. Climate and Economic Justice Screening Tool must be continually updated and improved as new and updated data become available. The tool should also accommodate integration of new relevant metrics as new data layers become available
3. Climate and Economic Justice Screening Tool needs to acknowledge data gaps and uncertainties-- no data or poor data availability should not lead to the assumption that there is not a problem;
4. Climate and Economic Justice Screening Tool should be leveraged to track progress on EJ goals, including Justice 40 Investments and their impacts;
5. CEQ and USDS should engage private tech companies to learn about leverage their existing data sources and tools that can be leveraged for the CEJ Tool to facilitate its rapid development and deployment;
6. CEQ and USDS should facilitate a timely process of data sharing and collaboration across all relevant federal agencies to enable integration of existing data and ensure efficient development and deployment of the Climate and Economic Justice Screening Tool.



## CLIMATE AND ECONOMIC JUSTICE SCREENING TOOL QUESTION 1: RECOMMENDATIONS FOR IDENTIFYING THE GOAL AND PURPOSE OF THE CLIMATE AND ECONOMIC JUSTICE SCREENING TOOL

1. Holding industries, institutions, agencies, governments and people accountable
  - a. Industry
  - b. Military
  - c. Federal, state and local facilities
  - d. State and local governments
2. Identifying areas of need for specific communities and directing resources/programming accordingly (for example: directing resources & benefits under Justice40)
3. Preventing further damage in disadvantaged or overburdened communities
4. Prioritizing resources
5. Informing policy changes
6. Evaluating the effects of regulatory and policy interventions (tracking progress toward EJ goals)
7. Helping communities advocate for themselves Data on the permitting process that will allow communities to meaningfully participate
8. Data on permits, what is being allowed, what kind of emissions
9. Data on emissions
10. Including federal facilities
11. What do we need?
12. Holding people accountable
13. We know we have 10 times more rates of cancer than the State of Alaska, the state is blaming cigarette smoke (*for more information: Alaska Community Action on Toxics*)
14. pollution and Emission Indicators
15. Better capture impacts to indigenous people
16. Water quality and sanitation data
17. Water access data
18. Structural & geological hazards (such as mine highways, collapsing structures, etc.)
19. Excessive/loud noise and induced earthquakes from explosives, mine collapses, or fracking
20. Health and Equity Indicators
  - a. Large scale administrative data has not historically captured all impacted communities or misses critical environmental justice challenges in rural and indigenous communities.
    - i. Therefore, administrative data and national screening tools need to be supplemented with local-level data and community knowledge to inform screening results and decision-making. We need health screening, our community's own knowledge of our health (*for more information: Alaska Community Action on Toxics*)

- ii. It is important to track access to amenities as part of screening (e.g. proximity and availability of fresh food, greenspace, health care facilities, etc.)

21. Process Indicators

- a. Assurance and community engagement on consent giving
- b. Tribal nations part of record of decision
- c. Community capacity to access financial, infrastructure and other resource programs that are supposed to advance environmental justice.

22. Economic Indicators

- a. Job, creation, employment trends, and infrastructure metrics are important elements of screening
  - i. Alaska has so much renewable energy
    - wind, solar, this would be a way to bring jobs and training
  - ii. Jobs that go to Alaska native people
  - iii. Loss of jobs over time (to capture areas where jobless is occurring at a faster pace); or rate of job loss
  - iv. Rate of industrial decline (e.g., in the mines and/or power plants shutting down) causing economic dislocation (often without abatement of pollution of or environmental factors)
  - v. Workforce participation levels
  - vi. Number of minority-owned businesses
  - vii. Employment by demographic indicators (e.g., race, ethnicity, gender, age)

23. Performance metrics

- a. EPA enforcement as a performance evaluation
- b. Tracking of Justice 40 investments, including institutional recipients (e.g. local governments, versus community-based organizations)

24. Funding

- a. Adequate funding for remediation as well as new projects that support economic, climate and environmental justice

25. Accountability for Process

- a. Tracking of barriers in communities participating in the process and accessing resource through Justice 40
- b. Initiatives Telecommunications, broadband issues COVID as a barrier to communities meeting
  - i. Ensuring community capacity to apply, secure, administer and oversee projects funded by Justice 40.

CLIMATE AND ECONOMIC JUSTICE SCREENING TOOL QUESTION 2:  
RECOMMENDATIONS FOR IDENTIFYING INDICATORS TO BE INCLUDED  
IN THE CLIMATE AND ECONOMIC JUSTICE SCREENING TOOL

**1. Exposure Burdens**

- a. Air quality (*data sources: CACES (<https://www.caces.us/>) and/or U.S. EPA modeled data on air toxics and criteria air pollutants, NATA*)
  - i. PM<sub>2.5</sub>, PM<sub>10</sub>, ozone, NO<sub>2</sub>, SO<sub>2</sub>, Pb, hazardous air pollutants, diesel PM
- b. Pesticide Use (*data source: USGS*)
- c. Drinking water contamination (community water systems and groundwater, US EPA, Environmental Working Group)
- d. Noise levels (night and daytime) – (*Mennitt DJ, Fristrup KM. 2016. Influence factors and spatiotemporal patterns of environmental sound levels in the contiguous United States. Noise Control Eng J 64(3):342-353.*)
- e. USEPA and State level drinking water surveillance for PFASs (*EPA's Unregulated Groundwater Monitoring Program*)
- f. Human environmental chemical body burden (*CDC NHANES biomonitoring data by state or county*)

**Other important indicators for which data are needed:**

- g. Persistent Organic Pollutant contamination wildlife and the environment
- h. Lead and lead paint
- i. Acid mine drainage
- j. Methane
- k. Silica / silica dust
- l. Asbestos
- m. Indoor air pollution

**2. Proximity to Potential Hazards**

- a. Superfund sites (*US EPA Facility Registry Service (FRS)- <https://www.epa.gov/frs>*)
- b. Brownfields (*US EPA Brownfields Program*)
- c. Oil and gas production/development (wells and pipelines) (*ENVERUS – formerly Drilling Info*)
- d. Oil and gas refining/production downstream (like refineries) (*US EPA FRS, US Energy Information Administration (EIA)*)
- e. Industrials facility (*US EPA TRI/RSEI*)
- f. Operating and retired power plants/peaker plants (*US EPA FRS or EIA*)
- g. CAFOs (*US EPA FRS*)
- h. Traffic Density (*US EPA- Department of Transportation or Bureau of Transportation Statistics*)
- i. Landfills, municipal solid waste sites (*US EPA FRS*)
- j. Incinerators (*US EPA FRS*)

- k. TSDFs, treatment storage and disposal facilities, and hazardous waste sites (*US EPA FRS*)
- l. Existing and former defense sites, military bases (*DOD*)
- m. Coal Ash dump sites

**Other important indicators for which data are needed:**

- n. Abandoned and currently operating mining sites
- o. Presence of Dollar Stores
- p. Lead water service lines
- q. Displacement and relocation
- r. Trains carrying (and storing) toxics and hazardous materials
- s. Train derailments – those carrying hazardous materials
- t. Number and amount of hazardous infrastructure and facilities declared critical by Homeland Security and therefore will provide no information to the community
- u. Landslides

**3. Sensitive Populations**

- a. Rates of PTB/LBW births (*National Center for Health Statistics (NCHS) - CDC*)
- b. Maternal death rates (*NCHS - CDC*)
- c. Rates of cardiovascular disease (*NCHS - CDC*)
- d. Rates of asthma and chronic obstructive pulmonary disease (*COPD*) (*NCHS - CDC*)
- e. Rates of cancers (*CDC <https://www.cdc.gov/cancer/npcr/index.htm>*)
- f. Rates of diabetes (*NCHS - CDC*)
- g. Rates of obesity (*NCHS - CDC*)
- h. Rates of lung disease (*NCHS - CDC*) Rates of obesity and heart disease - (*NCHS - CDC*)
- i. Rates of opioid addiction - (*NCHS - CDC*)
- j. Respiratory risks due to cumulative impacts (hazard index) (*EPA EnviroAtlas*)
- k. COVID infection and mortality rates (*NCHS - CDC*) Coverage for health insurance (*US Census American Community Survey ACS*)
- l. Incarcerated residents (broadly defined, detention centers, prisons, jails, group homes) (*US Census ACS*)
- m. Disabled population (*US Census ACS*)
- n. Farmworkers (*USDA Census of Ag, among others*)
- o. Food insecurity/Food Deserts (*USDA*)

**Other important indicators for which national data are needed:**

- p. Occupationally exposed groups (e.g. ag workers, construction & other workers that don't work in climate-controlled spaces)

- q. Arctic Indigenous Peoples burdened by persistent organic pollutants (POPs) body burden
- r. Marine mammals/wildlife burdened by POPs and upon which communities depend.
- s. Access to mental health systems and care
- t. Access to hospitals, health clinics and affordable health care
- u. Access to health care: health care professionals shortage

**4. Demographic/SES factors**

- a. Crowding (*US Census ACS*)
- b. Racial/Ethnic Demographics (*US Census ACS*)
- c. Educational attainment (*US Census ACS*)
- d. Poverty (*US Census ACS*)
- e. Unemployment Rate (*US Census ACS*)
- f. Index of Concentration at the Extremes (ICE) - this indicator of concentration of wealth or deprivation can be calculated at the block group or census tract level) (*US Census ACS*)
- g. Home Ownership Rates (*US Census ACS*)
- h. Linguistic isolation (*US Census ACS*)
- i. (Voter turnout (*LS - proprietary but probably based on government data*))
- j. Housing burdened low income households (*US Census ACS*)
- k. Housing affordability: percent of household income spent on housing (*US Census ACS*)
- l. Housing access: evictions/foreclosures or foreclosure risk (*US Census ACS, HUD*)
- m. Redlined neighborhoods (University of Richmond - <https://dsl.richmond.edu/panorama/redlining/#loc=11/37.81/-122.395&city=oakland-ca>)
- n. Racial Segregation—multi-group dissimilarity index (county or MSA level) or isolation index at tract level (*US Census ACS*)
- o. Gentrification Pressure (*US Census, ACS—temporal changes in neighborhood racial/ethnic churning, changes in median income over time*)
- p. Racially restrictive covenants
- q. Gerrymandering (*Fairmandering - <https://www.fairmandering.org/index.html> and <http://www.cornellpolicyreview.com/rigging-elections-spatial-statistics-analysis-political-unintentional-gerrymandering/>*)
- r. Lack of childcare community development services
- s. Age distribution (*US Census ACS*)
- t. Gender distribution (*US Census ACS*)

**Other important indicators for which local and/or data are needed:**

- u. Online, real time access to emissions data and notices of unscheduled releases to the community via text message.



- v. Community-based monitoring center in partnership with the Department of Natural Resources and the local university.
- w. Household surveys conducted to gather data on the odors, health impacts, and property damage caused by the refinery restart.
- x. Update EPA's ECHO database and EJSCREEN tools with demographic and environmental information for St. Croix and the USVI in general.
- y. The tool to include narrative explanations about the data in plain English and accessibility in languages that are prevalent in EJ communities

## **5. Energy**

- a. Energy shut-offs (DOE)
- b. Percent of low- and middle-income households with access to energy efficiency programs (DOE)
- c. Weatherization investment for low- and middle-income households by census tracts (DOE)
- d. Percent of household income that goes to paying for energy (DOE) or affordability: energy burden per household per census tract (data source: LEAD)

### **Other important indicators for which national data are needed:**

- e. Community access to solar and other renewable energy sources for household energy needs (wind, geothermal, etc.)
- f. Community access to benefits from local renewable energy projects (to create local green jobs)
- g. Housing/community capacity to support renewable energy sources
- h. LIHEAP enrollment vs LIHEAP eligibility by census tract
- i. Local energy resiliency: mapping of microgrid locations and services
- j. Local energy resiliency: data on battery storage capacity and locations
- k. Home heating method (gas, electric, wood, propane)
- l. Home cooking fuel (gas, electric, etc.)

## **6. Economic Development/Investment (Treasury, HUD, data sources to be identified)**

- a. Federal investment and benefit indicators
- b. Number of small businesses
- c. Number of minority-owned businesses
- d. Number of community-based organizations
- e. Business lending rates
- f. Mortgage lending rates
- g. Average debt rate (credit card, student loans)
- h. Investment: funding opportunities for EJ communities; grant and loan programs

## **7. Climate Vulnerability**

- a. Percent of elderly living alone (*US Census ACS*)
- b. Percent of car ownership (*US Census ACS*)

- c. Tree canopy (*National Land Cover Dataset*)
- d. Impervious surface (*National Land Cover Dataset*)
- e. Green space (*Normalized difference vegetation index*)
- f. Coastal sea level rise and flooding risk (*NOAA, Climate Central Surging Seas Interface and US EPA Climate Indicators site <https://www.epa.gov/climate-indicators>*) Projected temperature change into the future (e.g. 2050 or 2021 NOAA, and US EPA Climate Indicators site <https://www.epa.gov/climate-indicators> (e.g. In California, Cal-Adapt data has good information on project temperature changes that was used in the EJ Screening Method EJSN. Heat Islands check out NOAA, US EPA Climate Indicators site <https://www.epa.gov/climate-indicators> Portland State University, [https://pdxscholar.library.pdx.edu/usp\\_fac/182/](https://pdxscholar.library.pdx.edu/usp_fac/182/);
- g. Frequency of wildfires or wilderness urban interface (WUI) fires (*US EPA Climate Indicators site <https://www.epa.gov/climate-indicators>*)
- h. Ocean acidification (*NOAA*)

**Other important indicators for which national data are needed:**

- i. Presence of storm shelters, cooling centers, etc. to deal with extreme weather events
- j. Regionally specific climate vulnerabilities
- k. Flood impacts: number of claims and policies under the National Flood Insurance Program and disaster mitigation data at the scale of buildings and individual policies
- l. Air pollution events connected to disasters of both a natural nature and otherwise
- m. Displacement and relocation in low-lying areas
- n. Homelessness
- o. Deforestation (because worsens flooding)
- p. Wildfire data (data on risk of increased fires)
- q. Data regarding access to clean water, age of water infrastructure

**8. Infrastructure**

- a. Internet and Broadband access /Digital Divide (*Policy Map, Simply Analytics*)
- b. Affordable housing (*HUD and National Housing Trust*)
- c. Housing on tribal land (*Office of Native American Programs*)
- d. Housing quality and type (e.g. mobile homes, etc.) (*HUD and National Housing Trust*)
- e. Migrant labor housing (*USDA*)
- f. Rural Rental Housing (*USDA Rural Development*)
- g. Section 515 housing for low, very low and moderate-income households.
- h. Section 514/516 Farm Labor Housing for migrant and seasonal farm workers
- i. Section 521 housing

- j. Erosion risk for communities (costal and non-coastal) and other vulnerable sites (*USGS*)
- k. Access to banking services (*Treasury*)
- l. Transportation access: availability of transportation, transportation to desired destination, frequency of service interruptions
- m. Transportation access: walkability, traffic density, vehicle ownership
- n. Transportation affordability: transportation cost burden, i.e. transportation cost as a percent of income including cost of vehicle ownership/maintenance and transit costs
- o. Number or percentage of manufactured or mobile homes (HUD)
- p. Age of housing infrastructure (US Census, ACS, HUD)

**Other important indicators for which national data are needed:**

- n. Access to tap water
- o. Water shut-offs
- p. Water access: number of people relying on bottled water
- q. Adequacy Sanitation infrastructure (sewage)
- r. Quality of water infrastructure: number of failing septic systems
- s. Quality of infrastructure: prevalence of lead water service lines
- t. Flood control/drainage infrastructure

**9. Indigenous and Tribal Land**

- a. For land connected to federally-recognized Tribes
  - i. Is the land trust land?
  - ii. Is the land in a Tribal service area or statistical area?
  - iii. Is the land in a reservation area?
  - iv. Is the land in an area with recognized treaty or other off-reservation rights?
  - v. Is the land in an area that is ancestrally significant, but where Tribal members do not have recognized rights to it?
- b. For land connected to state recognized Tribes
  - i. Is the land within the territory of a tribe?
  - ii. Is the land ancestral land for the Tribe, but where Tribal members do not have recognized rights to it?
  - iii. Is the land in a state designated boundary or statistical area for a tribe?
- c. For land connected to Native Hawaiians
  - i. Is the land within areas of significance for Native Hawaiians?
- d. For land connected to unrecognized Tribes
  - i. Is the land within an area of significance for an Indigenous people who is not recognized as a Tribal Nation or Native Hawaiian by the U.S. or any state?
- e. For land connected to urban Indigenous communities

- i. Are there a significant number of Indigenous persons living within a particular urban area?

**Additional data sources:**

**1. Air pollution**

- a. Longitudinal Electric Generating Units Database (1995-2016); Air Markets Program Data; Air Data; eGRID; National emissions inventory : <https://osf.io/b8zae/>; <https://ampd.epa.gov/ampd/>; <https://www.epa.gov/outdoor-air-quality-data>; <https://www.epa.gov/egrid>; <https://www.epa.gov/air-emissions-inventories>
- b. National Air Toxics Assessment: National Air Toxics Assessment: <https://www.epa.gov/national-air-toxics-assessment/2014-nata-assessment-results>

**2. Climate Change Vulnerability**

- i. US EPA Climate Indicators site: <https://www.epa.gov/climate-indicators>

**3. Housing**

- a. Location affordability index; Public housing developments: <https://hudgishud.opendata.arcgis.com/datasets/location-affordability-index-v-3>; <https://hudgis-hud.opendata.arcgis.com/datasets/public-housing-developments>
- b. Percent Housing Units Built Before 1950; Deteriorated Paint Index: <https://enviroatlas.epa.gov/enviroatlas/interactivemap/>; <https://hudgis-hud.opendata.arcgis.com/datasets/deteriorated-paint-index-by-tract>

**4. Wages, employment, investment**

- a. Quarterly Census of Employment and Wages: <https://enviroatlas.epa.gov/enviroatlas/interactivemap/>; <https://www.bls.gov/cew/downloadable-data-files.htm>
- b. EPA EJ Grants are available as a point layer from EPA API: <https://catalog.data.gov/dataset/us-epa-ej-grants>

**5. Proximity to hazards**

- a. Blood Lead Levels in Children Aged 1–5 Years — United States, 1999–2010: <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6213a3.htm>

**6. Childcare, health care (access, disease prevalence)**

- a. Childcare Centers: <https://hifld-geoplatform.opendata.arcgis.com/datasets/child-care-centers>
- b. CDC PLACES Data (previously 500 Cities); Uninsured; FQHCs, Hospitals, Dialysis sites, etc.:

- c. <https://www.cdc.gov/places/index.html>
  - d. Environmental Public Health Tracking Network (EPHTN): <https://ephtracking.cdc.gov/DataExplorer/>
  - e. EPA EnviroAtlas, Respiratory risk hazard index: <https://enviroatlas.epa.gov/enviroatlas/interactivemap/>
  - f. CDC Social Vulnerability Index (SVI): <https://healthdata.gov/dataset/cdc-social-vulnerability-index-svi>
7. **“Natural” environmental hazards (wildfires, flooding, precipitation, heat)**
- a. USDA Forest Service Burn Probability  
Layer: <https://www.fs.usda.gov/rds/archive/Catalog/RDS-2015-0047-3>
  - b. USGS Historic Wildfire  
Boundaries: [https://wfdss.usgs.gov/wfdss/wfdss\\_data\\_downloads.shtml](https://wfdss.usgs.gov/wfdss/wfdss_data_downloads.shtml)
  - c. USGS Historic Wildfire Boundaries, Monitoring Trends in Burn Severity (MTBS): <https://www.mtbs.gov/viewer/index.html>
  - d. UCS Killer  
Heat: <https://ucsusa.maps.arcgis.com/apps/MapSeries/index.html?appid=e4e9082a1ec343c794d27f3e12dd006d>
  - e. NOAA Storm Surge Probability Layer, SLOSH MOMs  
Model: <https://www.nhc.noaa.gov/nationalsurge/#tech>
  - f. Areas at risk of chronic inundation, UCS When Rising Seas Hit Home:  
<https://ucsusa.maps.arcgis.com/apps/MapSeries/index.html?appid=64b2cbd03a3d4b87aaddaf65f6b33332>
  - g. NOAA Coastal Flood Exposure  
Mapper: <https://coast.noaa.gov/arcgis/rest/services/FloodExposureMapper>
  - h. FEMA National Flood Hazard Layer, FEMA  
NFHL: <https://catalog.data.gov/dataset/national-flood-hazard-layer-nfhl>; <https://hazards.fema.gov/gis/nfhl/rest/services>
  - i. Precipitation totals and climatological anomalies (i.e., deviation from 30-year means), Advanced Hydrologic Prediction Service (AHPS): <https://water.weather.gov/ahps/>
  - j. Flood impacts on properties such as National Flood Insurance Program (NFIP) number of claims and policies and other disaster mitigation data at the scale of buildings or individual policies: <https://www.fema.gov/about/openfema/data-sets>
8. **Transportation**
- a. BTS National Transit Map, LEHD data on workplace locations; vehicle ownership: [https://ops.fhwa.dot.gov/freight/freight\\_analysis/perform\\_meas/index.htm#data](https://ops.fhwa.dot.gov/freight/freight_analysis/perform_meas/index.htm#data), <https://www.transit.dot.gov/ntd/data-product/safety-security-time-series-data>;
  - b. National Multimodal Freight Network, ATRI Truck volume data: <https://www.transportation.gov/freight/INMFNTables>, <https://truckingresearch.org/>



- c. Transportation costs: <https://www.hudexchange.info/programs/location-affordability-index/>

#### 9. Demographic/SES

- a. Redlining: <https://dsl.richmond.edu/panorama/redlining/#loc=5/39.1/-94.58>
- b. Measures of segregation, 2020 USA Diversity Index (% chance that two people in a given geography will have different races): <https://ucsusa.maps.arcgis.com/home/item.html?id=010f7ddc958d442d8c1583281cf416a5>
- c. Gerrymandering: <http://www.cornellpolicyreview.com/rigging-elections-spatial-statistics-analysis-political-unintentional-gerrymandering/>

#### 10. COVID Related

- a. Population mobility during COVID-19, Google Mobility Reports: <https://www.google.com/covid19/mobility/>
- b. COVID-19 cases, COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU): <https://www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>

#### 11. Infrastructure

- a. Green Space, Normalized Difference Vegetation Index (NDVI): <https://modis.gsfc.nasa.gov/data/dataproduct/mod13.php>
- b. Imperviousness/impervious surfaces, Urban Imperviousness: <https://www.mrlc.gov/data?f%5B0%5D=category%3Aurban%20imperviousness>

#### 12. Other Existing Tools

- a. Mapping for Environmental Justice – University of California Berkeley <https://mappingforej.berkeley.edu/>

## RECOMMENDATIONS: EXECUTIVE ORDER 12898 REVISIONS

*Revision to: Federal Register Presidential Documents, Vol. 59, No. 32, Wednesday, February 16, 1994 - Title 3— The President Executive Order 12898 of February 11, 1994*

These are the recommendations as to Part I – Policy:

### PART I - FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN POPULATIONS OF COLOR, TRIBAL AND INDIGENOUS POPULATIONS, AND LOW- INCOME POPULATIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 101. Policy.** Historically disadvantaged communities across the United States have experienced disproportionate harm from environmental contaminants and face disproportionate risks from climate change. The inequitable and discriminatory treatment of communities of color, low-income communities, indigenous persons or members of Tribal nations, and people with disabilities - including the legacy of de jure segregation and other forms of discrimination - has resulted in disparities in health status and life expectancies. Historically, the Federal Government has taken actions that have perpetuated, institutionalized, or defended injustices that resulted in inequality in exposure to hazardous substances and unequal access to clean water, clean air, healthy food, safe housing, transportation, and other environmental benefits. The human toll of inequality is shown in disproportionately high rates of asthma among Black Americans, disproportionately high rates of lead poisoning in children of color, life expectancy among American Indians and Alaska Natives more than five years below the national average, and other disparities that are unacceptable. In 2020, disparities in morbidity and mortality related to COVID and information on the relationship between exposure to air pollution and the effects of COVID, as well as evident forms of systemic racism, reinforced the need for a renewed commitment to root out the vestiges of these actions and to secure an equitable and sustainable future for all. Toward this end, the United States must ensure that environmental justice is fully considered in decisions made by the Federal Government that impact the environment in the places where people live, learn, worship, work, and play. This means not only repairing past and current harm and preventing future injustices, but also rooting out and dismantling systemic racism and other forms of institutionalized bias in our laws, policies, and practices.

In order to advance environmental justice, the Federal Government must recognize and acknowledge the role that past policies and practices, both intentional and unintentional, have had in land use across the country and in shaping current environmental and health conditions. The Federal Government must be committed to taking decisive action, through its policies and practices and together with state, local and private partners to dismantle the

institutions and practices that inequitably place disproportionately human health, environmental, climate-related and other cumulative burdens on already disadvantaged communities, and to partner in building healthy, culturally vibrant, sustainable and resilient communities for all. And in our democracy, the Federal Government must also be transparent and accountable for its actions and benefit from the meaningful participation of the most impacted communities.

As was intended when Executive Order 12898 was first issued, this Order is designed to focus Federal attention on environmental and human health conditions in communities of color, Tribal and indigenous communities, low-income communities, and among people with disabilities to address discrimination in Federal programs substantially affecting human health and the environment, to advance justice, and to ensure opportunities for meaningful participation in, matters relating to human health or the environment. Two decades after Executive Order 12898 was issued, the Federal Government must renew its commitment not only to identifying but also addressing the legacy of discrimination and continuing inequalities. Executive Order 13985 made clear that “the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.” This Order now adds that affirmatively advancing equity, civil rights, racial justice, equal opportunity, and environmental justice is the responsibility of the whole of our Government. As the country faces converging economic, health, and climate crises that have exposed and exacerbated inequities, a historic movement for justice has highlighted some of the unbearable human cost of systemic racism. All children must have the chance to live, play, learn, and grow in safe, healthful, climate-resilient communities, protected from the harms of pollution, and this Order pledges to adopt policies and practices to ensure that no one in this country will be more likely to suffer adverse health effects, face greater risks, or have their life cut short simply because of their race, color, national origin, membership in a Tribe, economic status, or disability.

These are the recommendations as to Part II – Definitions:

## PART II - DEFINITIONS

**Sec. 201.** *For purposes of this Order.* (a) The term “**community of color**” means a geographically distinct area in which the population of any of the following categories of individuals, individually or in combination, is higher than the average population of that category for the State in which the community is located:

- (i) Black;
- (ii) African American;
- (iii) Asian;

- (iv) Pacific Islander;
- (v) Other Non-White race;
- (vi) Hispanic;
- (vii) Latino;
- (viii) Indigenous or members of a Tribe; and
- (ix) Linguistically isolated.

(b) The term “**environmental justice**” means the just treatment and meaningful involvement of all people regardless of race, color, national origin, or income, or ability, with respect to the development, implementation, enforcement, and evaluation of laws, regulations, programs, policies, practices, and activities, that affect human health and the environment.

(c) The term “**environmental justice community**” means a geographic location with significant representation of persons of color, low-income persons, indigenous persons, or members of Tribal nations, where such persons experience, or are at risk of experiencing, higher or more adverse human health or environmental outcomes.

(d) The term “**Federal agency**” means any executive department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include:

- (i) the Government Accountability Office;
- (ii) the Federal Election Commission;
- (iii) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;
- (iv) courts martial and military commissions; and
- (v) military authority exercised in the field in time of war or in occupied territory.

(e) The term “**Indian Tribe**” has the meaning give the term “Indian tribe” in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(f) The term “**Interagency Council**” means the White House Environmental Justice Interagency Council as that body defined in Executive Order 14008.

(g) The term “**just treatment**” means the conduct of a program, policy, practice or activity by a Federal agency in a manner that ensures that no group of individuals (including racial, ethnic, or socioeconomic groups) experience a disproportionate burden of adverse human health or environmental outcomes resulting from such program, policy, practice, or activity, as determined through consultation with, and with the meaningful participation of, individuals from the communities affected by a program, policy, practice, or activity of a Federal agency, and to ensure that each person enjoys, at a minimum:

(i) the full degree of protection from environmental and health hazards, especially where disproportionate human health and environmental impacts are demonstrably greater;

(ii) equitable access to any Federal agency action, including decision-making processes, actions, resources, and benefits, to build and ensure healthy, culturally vibrant, sustainable, and resilient environments for all people to live, learn, work, worship, recreate, and practice their cultures;

(iii) elimination of systemic racism and other structural barriers to achieving healthy, culturally vibrant, sustainable, and resilient communities for all people, which contribute to disproportionate human health and environmental impacts on the basis of race, color, national origin, income, and disability; and

(iv) improvement in human health and environmental outcomes in communities disproportionately impacted by environmental and health hazards, including the improvement of environmental outcomes that protect cultural practices, sacred spaces, burial sites, the maintenance and restoration of cultural heritage, and the cultural bases of human health.

(h) The term “**low-income community**” means any census block group in which 30 percent or more of the population are individuals with an annual household income equal to, or less than, the greater of:

(i) an amount equal to 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development; or

(ii) 200 percent of the Federal poverty line.

(i) The term “**meaningful participation**” means that potentially affected populations have an opportunity to participate in decisions that will affect their health or environment, that the population’s contributions can influence the agency’s decisions, that the viewpoints of all participants involved will be considered in the decision-making process, and that the agency will seek out and facilitate the involvement of the population potentially affected,



including consultation with Tribal and indigenous communities and by providing culturally appropriate information, access for people with disabilities, and language access for persons with Limited English Proficiency (LEP), considering issue of access raised by location, transportation, and other factors affecting participation, and by making available technical assistance to build community-based capacity for participating.

(j) The term “**policies that have tribal implications**” means regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(k) The term “**publish**” means to make publicly available in a form that is:

(i) generally accessible in culturally appropriate forms and including on the internet and in public libraries; and

(ii) accessible for individuals who are limited in English proficiency, and individuals with disabilities.

(l) The term “**Tribal and indigenous community**” means a population of people who are members of:

(i) a federally recognized Indian Tribe;

(ii) a State-recognized Indian Tribe;

(iii) an Alaska Native or Native Hawaiian community or organization; and

(iv) any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

(m) The term “**indigenous persons or members of Tribal nations**” means persons who are members of Tribal and indigenous communities.

These are the recommendations as to Part III – Federal Agency Responsibilities and Implementation:

## PART III - FEDERAL AGENCY RESPONSIBILITIES AND IMPLEMENTATION

**Sec. 301. Agency Responsibilities.** To the maximum extent permitted by law each Federal agency must make achieving environmental justice part of its mission by identifying and addressing disproportionate adverse human health or environmental effects of its programs,

policies, practices and activities on populations and communities of color, Tribal and indigenous communities, low-income communities, and people with disabilities in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. (a) Achieving environmental justice as part of an agency's mission requires developing, implementing, enforcing, and evaluating laws, regulations, and policies, including those related to permitting and the reissuance of permits, that affect human health and the environment to ensure that each person enjoys:

(i) the full degree of protection from environmental and health hazards, advanced through identifying, characterizing, and addressing disproportionate human health and environmental impacts and full enforcement of civil rights and environmental laws;

(ii) equitable access to decision-making processes, actions, resources, and benefits to build and ensure healthy, culturally vibrant, sustainable, and resilient environments for all people to live, learn, work, worship, play and practice their cultures;

(iii) elimination of systemic barriers to achieving healthy, culturally vibrant, sustainable, and resilient communities for all people and redress of historical inequities and policies, including those related to systemic racism, and contribute to disproportionate human health and environmental impacts; and

(iv) improvement in human health and environmental outcomes in their communities.

(b) Agencies must ensure meaningful participation in agency programs, policies, practices, and activities, and other decision-making processes, and clear, timely, and broad communication of environmental justice updates to programs, policies, practices, and activities, and, to the maximum extent practicable, ensure states, localities, and other recipients of federal assistance also ensure meaningful participation and abide to the same standards of communication.

**Sec. 302. *Conduct of Programs.*** Each Federal agency must:

(a) conduct each program, policy, practice and activity of the Federal agency that adversely affects, or has the potential to adversely affect, human health or the environment in a manner that ensures that each such program, policy, practice, activity, and other decision-making processes, does not have the effect of excluding any individual from participating in, denying any individual the benefits of or subjecting any individual to discrimination or disparate impact under such program, policy, practice, or activity of the Federal agency because of race, color, national origin, income level, membership in a Tribal or indigenous community, or disability, and builds healthy, culturally vibrant, sustainable, and resilient communities;

(b) as required by Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act and agency regulations pursuant to these laws, ensure that all programs or activities receiving Federal Financial assistance that affect human

health or the environment must not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin;

(c) as required by the National Environmental Policy Act (NEPA) and other Federal laws, analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on communities of color, Tribal and indigenous communities, low-income communities, and people with disabilities; and ensure to the maximum extent practicable that mitigation measures outlined or analyzed in an environmental assessment, environmental impact statement, or record of decision address significant and adverse environmental effects of proposed Federal actions on communities of color, Tribal and indigenous communities, low-income communities, and people with disabilities;

(d) as required by the National Environmental Policy Act (NEPA) and other Federal laws, ensure opportunities for meaningful participation in decision making and adequate access to public information relating to human health or environmental planning, regulations, and enforcement; and

(e) as required by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, “establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationship with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes.”

**Sec. 303. *Responsibilities of the Interagency Council.*** Section 220(d) of Executive Order 14008 (Tackling the Climate Crisis at Home and Abroad) is hereby amended (a) to require that strategy developed by the Interagency Council must include concrete and measurable actions to:

(i) ensure consideration of persistent violations by applicants in permitting decisions,

(ii) reduce, prevent and eliminate emissions and releases of pollution in environmental justice communities; and

(iii) strengthen environmental and civil rights protection and enforcement in environmental justice communities

(b) To require that within one (1) year of the effective date of this Order, and every five years thereafter, the Interagency Council:

(i) review the consideration of impacts on environmental justice communities pursuant to the National Environmental Policy Act (NEPA) and report to the President with, and publish, recommendations on legislative, regulatory, or policy options for advancing environmental justice through the review process pursuant to NEPA;

(ii) review enforcement of civil rights compliance by programs or activities receiving Federal Financial assistance that affect human health or the environment and report to the President with, and publish, recommendations on legislative, regulatory, or policy options for advancing environmental justice through enforcement of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act and agency regulations pursuant to these laws. This review must include consideration of the effectiveness of the delegation of authority under Executive Order 12250 to the Attorney General for the consistent and effective implementation of various laws prohibiting discriminatory practices and recommendations on legislative, regulatory, or policy options to improve the coordination and effectiveness of various laws prohibiting discriminatory practices by programs or activities receiving Federal financial assistance that affect human health or the environment; and

(iii) review decisions of the Environmental Appeals Board (EAB) and report to the President, with, and publish, recommendations on legislative, regulatory, or policy options to ensure that EAB decisions consider environmental justice in decisions to the maximum extent practicable; and

(vi) develop a scorecard to evaluate Federal agency actions pursuant to this Executive Order and report to the President with, and publish, recommendations for the creation, content, and publication of the scorecard.

(c) To establish and implement multi-agency collaborations consisting of two or more Federal agencies in coordination with state, Tribal, and local governments, additionally, multiple environmental justice community-based stakeholders to support holistic, place-based, and community-driven programmatic initiatives. The Interagency Council must provide guidance on how multiple agencies will design and implement such initiatives based on a systematic set of policies, programs, staff, resources and tools to create favorable conditions for building and ensure healthy, culturally vibrant, sustainable, and resilient communities through such holistic, place-based, and community-driven programmatic initiatives to include maximizing the use of Justice 40 resources, where practicable. The Interagency Council will consider, and incorporate lessons learned from past collaborative efforts in the design and implementation of these initiatives.

**Sec. 304. *Development of Agency Strategic Plans.*** Except as provided in of this Order, not later than one (1) year after the effective date of this Order and every two (2) years thereafter, each Federal agency must develop and publish an agency-wide environmental justice strategic plan. In developing the environmental justice strategic plan, each Federal agency must provide opportunities for meaningful participation, notice, and opportunity for public comment, including meaningful participation in the scope and design of the strategic plan.

**Sec. 305. *Contents of Agency Strategic Plans.*** Each environmental justice strategic plan developed and updated by a Federal agency must contain:

- (a) an assessment that identifies programs, planning and public participation processes, policies, practices, including spending, funding and investments, and activities of the Federal agency, related to human health or the environment that have a disproportionate and adverse human health or environmental effect on environmental justice communities;
- (b) legislative, regulatory, and policy strategies, as well as strategies to effect change in practices, to address disproportionate and adverse human health or environmental effects on environmental justice communities;
- (c) an assessment of legal authorities relevant to the Federal agency to advance environmental justice; and
- (d) strategies to accomplish the following objectives:
  - (i) reduce, prevent, and eliminate pollution, legacy pollution, and cumulative impacts in environmental justice communities and to ensure that all persons have the full degree of protection from environmental and health hazards;
  - (ii) fully implement and enforce Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, and agency regulations pursuant to these laws;
  - (iii) fully implement the National Environmental Policy Act (NEPA) of 1969, and the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
  - (iv) enforce all health and environmental laws and regulations to ensure that all persons have the same degree of protection from environmental and health effects,
  - (v) address the lack of infrastructure and deteriorated infrastructure, the vestiges of discriminatory land use, and the effects of commercial transportation on environmental justice communities;
  - (vi) ensure meaningful participation and due process in the development, implementation, and enforcement of Federal laws;
  - (vii) improve direct guidance and technical assistance to environmental justice communities with respect to the communication of science, regulations, and policy related to Federal agency action on environmental justice issues;
  - (viii) advance scientifically informed scenario planning, including the capacity to create worst case scenarios tied to chemical policy, energy, and defense, and industrial policy;



(ix) improve cooperation, collaboration, and participatory decision-making with State, Tribal, and local governments to address pollution and public health burdens in environmental justice communities, and build and ensure healthy, culturally viable, sustainable, and resilient communities;

(x) improve consultation, collaboration, and participatory decision-making with federally-recognized Tribes, including consultative meetings that engage the recognition and protection of Tribal ecological knowledge, expanded funding for Tribal Historic Preservation Offices to the demands of environmental justice on and off Indian reservations, the meaning of sacred sites (E.O. 13007) and places of cultural heritage and significance, the elimination of unfunded mandates (E.O. 12875), the potential for co-management relationships on public lands, treaty rights, funding for feasibility studies, grants that are multi-year and that offer stability, consistency, and long term staff support; and

(xi) improve Federal research and data collection efforts related to:

(a) the health and environmental justice communities, including through the increased use of community-based science and recognition of Tribal ecological knowledge;

(b) climate change; and

(c) the inequitable distribution of burdens and benefits of the management and use of natural resources, including water, minerals, or land;

(e) plans to coordinate with states, county, and other units of government, including a clear statement describing how each Federal agency can support the development, implementation, and evaluation of environmental justice strategies for those units of government. Federal agency strategic plans must directly address what courses of action, including in connection with federal funding, will be taken to address environmental justice issues at state, county, or local levels of government;

(f) the identification of resources, including staffing and funding, to support implementation of the Federal agency's environmental justice strategic plan;

(g) timetables to implement strategies included in the plan;

(h) metrics to evaluate performance of the plan; and

(i) in the initial plan, not later than one (1) year after the effective date of this Order, a plan to convene an environmental justice advisory committee pursuant to the Federal Advisory Committee Act or an equivalent body to provide ongoing expertise, input and review of agency strategic plans.

**Sec. 306. *Reports to the Interagency Council.*** Each Federal Agency must submit to the Interagency Council:

(a) a written Report on Implementation of the Strategic Plan within one (1) year of the publication of each strategic plan. The Report must assess progress in implementing the agency-wide environmental justice strategic plan and include a comparison of strategies used to address environmental justice issue and outcomes across regions, an assessment of barriers to implementing the environmental justice strategic plan, and recommendations for addressing those barriers. Each Federal agency must ensure the opportunity for meaningful participation in the evaluation process; and

(b) additional periodic reports in writing to the Interagency Council as requested by the Interagency Council.

**Sec. 307. *Reports to the President.*** Within fourteen (14) months of the date of this Order, the Interagency Council shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this Order, and includes the final environmental justice strategies described in Sec 305 of this Order.

These are the recommendations as to Part IV – Research, Data Collection, and Analysis:

#### PART IV - RESEARCH, DATA COLLECTION, AND ANALYSIS.

**Sec. 401. *Human Health and Environmental Research and Analysis.*** Each Federal agency, to the maximum extent permitted by applicable law, must:

(a) in conducting environmental, public access, or human health research, include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as populations of color, members of Tribal and indigenous communities, low-income populations, people with disabilities, and workers who may be exposed to substantial environmental hazards;

(b) identify multiple and cumulative exposures, including potentially exacerbated risks and impacts due to current and future climate impacts; and

(c) actively encourage and solicit community-based science and Tribal ecological knowledge, and provide communities of color, Tribal and indigenous communities, low-income communities, and people with disabilities the opportunity for meaningful participation on the development and design of research strategies undertaken pursuant to this Order, recognizing that for some environmental justice communities, cultural practices are connected to health outcomes and can be disrupted by environmental effects/outcomes/hazards.

**Sec. 402. *Human Health and Environmental Data Collection and Analysis.*** To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a) (a) each Federal agency, to the maximum extent possible and consistent with the highest standard of ethics, must collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, tribal membership, or income, including to the maximum extent practicable and consistent with the highest standards of ethics, disaggregated by ethnicity and subpopulations. To the extent practical and appropriate, Federal agencies must use this information to determine whether their programs, policies, and activities have disproportionate adverse human health or environmental effects on populations of color, Tribal and indigenous populations, and low-income populations.

(b) Each Federal agency, whenever practicable and appropriate, must collect, maintain and analyze information on the race, national origin, tribal membership, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, including any designation of such areas as a land trust, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information must be made available to the public, unless prohibited by law.

(c) Each Federal agency, whenever practicable and appropriate, must collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible information for areas surrounding Federal facilities that are:

(i) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001–11050 as mandated in Executive Order No. 12856; and

(ii) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information must be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, to the maximum extent practicable, must share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and Tribal governments.

**Sec. 403. *Environmental and Climate Justice Mapping and Screening Tool.*** The Chair of the Council on Environmental Quality, in coordination with the Administrator of EPA, must make available to the public an environmental and climate justice screening tool (such as EJ Screen or the geospatial Climate and Economic Justice Screening Tool created pursuant to Executive Order 14008) that includes, at a minimum, the following features:

- (i) nationally consistent data;
- (ii) environmental data;
- (iii) demographic data, including data relating to race, ethnicity, income, and workforce participation
- (iv) data on redlining and other indicia of structural racism and other inequities;
- (v) health data;
- (vi) capacity to produce maps and reports by geographic area;
- (vii) data on national parks and other federally protected natural, historic, and cultural sites;
- (viii) an index of cumulative impacts that provides the capacity to compare the relative vulnerabilities of communities to environmental impact and climate change; and
- (ix) a capacity to inform scientifically informed scenario planning, including the capacity to create worst case scenarios tied to chemical policy.

These are the recommendations as to Part V – Subsistence Consumption of and Cultural Practices Reliant on Biota, Including Fish and Wildlife:

## PART V - SUBSISTENCE CONSUMPTION OF AND CULTURAL PRACTICES RELIANT ON BIOTA, INCLUDING FISH AND WILDLIFE

**Sec. 501. *Consumption Patterns and Cultural Practices.*** In order to assist in identifying the need for ensuring protection of communities with different patterns of subsistence consumption of biota, including fish, and wildlife, and cultural practices reliant on biota, Federal agencies, to the maximum extent practicable and appropriate and consistent with the highest standards of ethics, must collect, maintain, analyze, and consider information on subsistence consumption patterns and cultural practices of environmental justice communities. Federal agencies must communicate to the public the risks of subsistence consumption and culture practices. The design of such communications must provide information on healthy alternatives and must not imply, without meaningful public participation or Tribal consultation, that mitigation or restoration efforts to address the adverse environmental effect are unnecessary.

**Sec. 502. *Guidance.*** Federal agencies, to the maximum extent practicable, must work in a coordinated manner to publish and revise guidance reflecting the latest scientific information

available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

These are the recommendations as to Part VI – Public Participation and Access to Information:

## PART VI - PUBLIC PARTICIPATION AND ACCESS TO INFORMATION.

**Sec. 601.** *The public may submit recommendations.* The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. (a) Each Federal and state agency shall convey such recommendations to the Interagency Council.

(b) Each Federal and state agency, consistent with Executive Order No.13166, must provide translation and interpretation of public documents, notices, and at any hearings relating to an action of the Federal agency as appropriate for the affected population, specifically in any case in which a population with LEP may be disproportionately affected by that action.

(c) Each Federal and state agency must work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Interagency Council must hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Interagency Council must prepare, for public review, a summary of the comments and recommendations discussed at the public meetings.

These are the recommendations as to Part VII – General Provisions:

## PART VII - GENERAL PROVISIONS.

**Sec. 701.** *Responsibility for Agency Implementation.* The head of each Federal and State agency must be responsible for ensuring compliance with this Order. Each Federal agency must conduct internal reviews and take such other steps as may be necessary to monitor compliance with this Order.

**Sec. 702.** *Executive Order No. 12250.* This Executive Order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein, will limit the effect or mandate of Executive Order No. 12250.



**Sec. 703.** *Executive Order No. 12875.* This Executive Order is not intended to limit the effect or mandate of Executive Order No. 12875.

**Sec. 704.** *Executive Order No. 13175.* Consultation and Coordination with Indian Tribal Governments sets action items for ‘regular and meaningful consultation and collaboration’ with federally recognized Indian tribes.

**Sec. 704.** *Executive Order 13985.* This Executive Order is intended to supplement but not supersede Executive Order 13985.

**Sec. 705.** *Executive Order 14008.* This Executive Order is intended to supplement but not supersede Executive Order 14008.

**Sec. 706.** *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this Order on the grounds that all or some of the petitioning agency’s programs or activities should not be subject to the requirements of this Order.

**Sec. 707.** *Native American Programs pertaining to federally recognized Indian Tribes.* Each Federal agency responsibility set forth under this Order must apply equally to Native American programs pertaining to federally recognized Indian Tribes. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, must coordinate steps to be taken pursuant to this Order that address Federally recognized Indian Tribes. Such steps must clarify how this Order will operate within the domain of Indian Tribes’ inherent sovereignty and their government-to-government relationship with the U.S. federal government.

**Sec. 708.** *Federal agencies will determine procedures.* Federal agency must address health and environmental risks affecting Indigenous peoples not included in Sec 707, including Native Hawaiians, Indigenous peoples of islands and territories, members of state-recognized and unrecognized Indian Tribes, and indigenous persons living in urban centers. Indigenous peoples must not suffer adverse health and environmental outcomes or additional barriers to participation in programs, practices, policies, and decisions owing to their not being federally recognized Indian Tribes or to their not residing on reservations.

**Sec. 709.** *Costs.* Unless otherwise provided by law, Federal agencies must assume the financial costs of complying with this Order.

**Sec. 710.** *General.* Federal agencies must implement this Order consistent with, and to the extent permitted by, existing law.

**Sec. 711.** *Judicial Review.* This Order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust

responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This Order must not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this Order.