



# ENVIRONMENTAL JUSTICE INITIATIVE

CHAIR RAÚL M. GRIJALVA AND REPRESENTATIVE A. DONALD MCEACHIN

## *Environmental Justice for All Act: Addressing Past and Future Injustices*

All people have the right to pure air, clean water, and an environment that enriches life. For too many, these rights are still unrealized, and that injustice creates a pattern of continuous suffering for environmental justice communities.

Across the nation, our air and water are being polluted with impunity, at great consequence to our health and environment. Communities that have borne the brunt of this pollution are now on the front lines of climate change, often getting hit first and worst. Too often, our government has turned a blind eye—more so in some communities than in others.

To address this crisis, Chairman Grijalva of the House Committee on Natural Resources partnered with Representative McEachin for the last year and a half to work on a comprehensive environmental justice bill – but equally important – a process that is inclusive, transparent, community-led and community-driven. This process included consistent engagement with a working group of key leaders within the environmental justice movement. They helped shape both the policy and a process in keeping with the Chairman’s vision of involving the most impacted communities on the front-end of the policymaking process.

In late June of 2019, the Chairman and Rep. McEachin held a first-of-its-kind Congressional Convening on Environmental Justice in the U.S. Capitol. Hundreds of environmental justice stakeholders from across the country joined with policymakers to lay out a vision for addressing environmental justice concerns at the federal level. At this event the two also unveiled the first product of the Environmental Justice initiative, a draft statement of policy principles that was informed by input from the EJ Working Group.

The members then elicited input and feedback from the community on the draft statement of policy principles using a platform called Popvox. From this feedback Chairman Grijalva and Representative McEachin then generated the first draft of the Environmental Justice for All Act. But the inputting process did not end there.

Once again—using Popvox— The House Committee on Natural Resources publicly released the draft language for more input. Environmental justice stakeholders from across the country were able to offer line by line feedback. Over 350 public comments were submitted.

Now, thanks to the efforts of community members on the ground, Chairman Grijalva of the House Committee on Natural Resources’ and Representative McEachin will introduce the final version of the Environmental Justice for All Act. This report outlines how the *Environmental Justice for All Act* will correct present and future environmental injustices in the United States. Each chapter will illustrate past injustices, and how certain sections of the bill could have prevented, addressed, or will resolve the issue so all Americans can enjoy the right to pure air, clean water, and a thriving life.

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- I. Sec. 2- States that it is the policy of Congress that federal agencies should seek to achieve environmental justice and recognizes the right of all people to clean air, safe and affordable drinking water, and the sustainable preservation of the natural environment.

The **Flint Water Crisis** gained national attention in April 2014, when the Flint community’s drinking water supply was switched from the Detroit city system to the Flint river. Soon after the switch, Flint residents noticed that their water was dark-colored and had a foul odor. Many residents reported new health issues, including skin lesions and hair loss. Children are particularly sensitive to the effects of lead, and some 9,000 children in Flint were exposed to the contaminated water. Lead exposure in children can result in impaired cognition, behavioral disorders, hearing problems, and delayed puberty.

Melissa Mays, a Flint resident, told CNN the following about her sons’ experiences with Flint water: “The have such a compromised immune system. They want to play basketball, and I’m afraid to let them because of how weak their bones are... I’m watching them slip in school where they had excelled. They’re struggling in areas that they’ve never had problems with, and it’s infuriating because there’s nothing to do to help them<sup>1</sup>.”

Through water testing by the Environmental Protection Agency (EPA) and Virginia Tech in 2015, it was determined that lead and other heavy metals had leached into the drinking water source. Lead levels were well above the action level (15 ppb) for lead set by the U.S. Environmental Protection Agency. Many attribute the lead contamination to aging water infrastructure in Flint. In fact, a 2014 briefing report by the Michigan Department of Environmental Quality (MDEQ) highlighted leaking valves and aging cast iron pipes as possible causes for water contamination. To make matters worse, an outbreak of Legionnaire’s disease – a severe form of pneumonia – killed 12 people and sickened at least 87 in Flint in 2014 and 2015<sup>2</sup>.

The Flint City Council voted in March 2015 to stop using Flint river water and reconnect with Detroit, however a state-appointed emergency manager overruled the vote, citing cost concerns. Yet, in addition to the health impacts of Flint’s contaminated water, Flint residents pay the highest water rates in America. According to a survey conducted by the public interest group Food and Water Watch<sup>3</sup>, Flint residents pay on average \$864 a year for water service, almost double the national average. Many residents refuse to pay for the contaminated water supply, resulting in huge debts owed to the city of Flint and rampant water shut-off notices.

Flint residents and activist coalitions have filed dozens of suits regarding the Flint water crisis’ health and economic impacts on the Flint community. Notably, a 2017 settlement required the City of Flint to find and remove Flint’s lead and galvanized steel water service lines by 2020. However, residents whose waterlines have been replaced still refuse to drink tap water due to a deep distrust of local and state officials<sup>4</sup>. In February 2017, a report<sup>5</sup> was released by the Michigan Civil Rights Commission describing the water crisis as an example of “deeply embedded institutional, systemic and historical racism”.

Sec. 2 of the *Environmental Justice for All Act* puts federal agencies on notice to achieve environmental justice and provide for clean air, safe and affordable drinking water.

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<sup>1</sup> Berlinger, J. (Jan 21, 2016). Voices of Flint: How residents are coping. CNN News.

<sup>2</sup> Hersher, R. (Feb 5, 2018). Lethal Pneumonia Outbreak Caused By Low Chlorine in Flint Water. NPR.

<sup>3</sup> Food & Water Watch. (Feb 2016). The state of public water in the United States.

<sup>4</sup> Bosman, J. (Oct. 8, 2016). After water fiasco, trust of officials is in short supply in Flint. New York Times.

<sup>5</sup> Michigan Civil Rights Commission. (Feb 17, 2017). The Flint Water Crisis: Systemic racism through the lens of Flint. Report of the Michigan Civil Rights Commission.

## II. Sec. 4,5, and 6- Strengthens the Civil Rights Act to ensure that citizens can enforce their rights against environmental discrimination.

Communities of color, low-income communities, Tribal and indigenous communities, rural communities, and other underserved populations are disproportionately burdened by environmental hazards in the United States. Too often, landfills, waste sites, damaging resource extraction activities, and other harmful projects are placed in these communities and operated in a manner that causes disproportionate environmental harm and risks to human health. These disproportionate impacts—which include intentional, implicit, unconscious, systemic, and structural discrimination—are illegal under Title VI of the Civil Rights Act of 1964. Unfortunately, in the *Alexander v. Sandoval* decision, the Supreme Court overturned decades of precedent in order to prohibit private citizens, residents, and organizations from seeking access to justice through courts to enforce their Title VI rights in the face of discrimination. Environmental justice legislation must strengthen Title VI protections to ensure that citizens can use this important mechanism to seek legal remedy when faced with discrimination.

In 2012, the rural town of Uniontown, Alabama filed a complaint against the Alabama Department of Environmental Management (ADEM) about the **Arrowhead landfill**, arguing that state officials had violated the Civil Rights Act of 1964 by unlawfully granting a permit for a facility that adversely and disparately impacts African Americans<sup>6</sup>. The EPA rejected the complaint in 2018, claiming that there was insufficient evidence to prove that Alabama authorities breached the Civil Rights Act by allowing the landfill to operate near Uniontown. Shortly after, ADEM rescinded its civil rights complaint policy, leaving no mechanism for reporting environmental injustices.

Claudia Wack, legal representative for Uniontown residents, expressed her disappointment with the EPA decision: “For the folks in Uniontown who have really been spending years trying to vindicate their environmental civil rights, it’s a pretty confusing decision. In terms of national concern, if EPA is not going to be able to acknowledge them in this case, we’re pretty dubious that they are going to reach that finding for any civil rights complaints anywhere in the nation.”

Uniontown is 90% black and had a median income of \$14,000. The landfill holds millions of tons of coal ash and solid waste and covers an area twice the size of New York City’s Central Park. It is placed next to a historic black cemetery and accepts waste from 33 states<sup>7</sup>. In 2008, a coal plant in Kingston, Tennessee – around 330 miles away from Uniontown – was flooded. Post-flood cleanup involved transferring four million tons of coal ash by train to the Arrowhead landfill. Coal ash contains several toxins, including mercury, selenium, and arsenic. Given the landfill’s proximity to many Uniontown homes, residents began experiencing foul odors, respiratory issues, nausea, and vomiting.

Ben Eaton, a long-time resident of Uniontown said “The protection we’ve got from the government is little to none. I can’t help but feel it’s because the population is mainly black and poor. This was forced on us. If this was a white, wealthy community, this would’ve never happened.”

Section 4, 5, and 6 of the *Environmental Justice for All Act* amend and strengthen Title VI of the Civil Rights Act of 1964 to prohibit discrimination based on disparate impacts and overturn the Supreme Court decision in *Alexander v. Sandoval* to permit private citizens, residents, and organizations to seek legal remedy when faced with discrimination.

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<sup>6</sup> Equal Justice Initiative. (Oct. 22, 2018). Environmental injustice in Alabama’s black belt.

<sup>7</sup> Milman, O. (Apr. 15, 2019). ‘We’re not a dump’- poor Alabama towns struggle under the stench of toxic landfills. The Guardian.

III. Sec. 7- Ensures that permitting decisions fully reflect on-the-ground realities and cumulative impacts.

Currently, federal and state governments often regulate pollution at the individual project level. As a result, permitting decisions under the Clean Air Act, the Clean Water Act and many other laws do not sufficiently contemplate an area's cumulative pollution levels, resulting in dangerous environmental and health impacts. Congress must require that federal and state decision-making consider proposed projects' impacts in the full context in which they would be constructed or carried out.

Sec.7 of the *Environmental Justice for All Act* requires consideration of cumulative impacts in permitting decisions under the Clean Water Act and the Clean Air Act and ensures that permits will not be issued if the project cannot demonstrate a reasonable certainty of no harm to human health.

Southeast Los Angeles, California is **an air toxics hot spot** due to a clustering of polluting facilities in the area and the presence of a major goods-movement corridor contributing mobile pollution<sup>8</sup>. The area is surrounded by I-10 to the North, I-105 to the South, I-405 to the West, and Alameda Corridor to the East. Low median income is a major barrier to accessing healthcare, green space, and healthy foods, further exacerbating vulnerability to air pollution. Many of the polluters in Southeast L.A. are individually regulated or not regulated at all, resulting in negative cumulative health impacts and a lower quality of life for the area's predominantly low-income residents of color. A Health Equity Scorecard compiled by the Community Health Council demonstrates that Southeast L.A. has the highest overall rates of disease in the county from preventable conditions such as lung cancer<sup>9</sup>.

A piece published by Scope, a grassroots organization in Los Angeles, describes the experience of long-time resident Olivia Barbour: "When Olivia Barbour steps out of her home in South Los Angeles, she inhales a flurry of fumes from the heavy trucks passing along Imperial Highway on their daily routes, commuter traffic off the I-110 and I-105, and low flying airplanes on their way to LAX. She knows the air quality in her neighborhood isn't good for her health. As an asthma sufferer, she relies on respirators in multiple rooms of her home to cope with her symptoms. Living with not one, but multiple sources of air pollution is not out of the ordinary here, where nine percent of South LA residents live within 500 feet of a truck route, eight percent live within 500 feet of a manufacturing facility, and at least 51 active oil wells still operate in residential neighborhoods."

A 2010 report highlighted the discrepancy between Los Angeles communities; the South side had one of the highest rates of asthma-related emergency room visits, while the West side had the lowest rate<sup>10</sup>. This discrepancy is a result of redlining, which limited housing options for communities of color during the early 20<sup>th</sup> century. Racially unrestricted neighborhoods were located near areas zoned for polluting industrial facilities, while the West side was zoned for residential use<sup>11</sup>.

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<sup>8</sup> National Environmental Justice Advisory Council Cumulative Risks/Impacts Work Group. (Dec. 2004). Ensuring Risk Reduction in Communities with Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts.

<sup>9</sup> Park, A. et al. (Dec 2008). South Los Angeles Health Equity Scorecard. Community Health Council, Inc.

<sup>10</sup> Los Angeles County Department of Public Health and the California Endowment. (Jun 2013). Health Atlas for the City of Los Angeles.

<sup>11</sup> Kurashige, S. (2010). The shifting grounds of race: Black and Japanese Americans in the making of multiethnic Los Angeles. Princeton University Press.

#### IV. Sec. 8, and 9- Codifies and bolsters Executive Order 12898 on Environmental Justice which.

The 1994 Executive Order directed each federal agency to identify and address the “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations” to the greatest extent practicable and permitted by law. The Executive Order must be strengthened and codified into law so that the current and future administrations cannot weaken or rescind it.

Executive Order 12898 brought legitimacy and attention to the environmental justice movement, directing agencies to adopt an environmental justice strategy and implement it. To date, not every agency has fulfilled the Order’s mandates. An executive order may be repealed by a future president. Codifying Executive Order 12898 would prevent future repeal and would force the Environmental Protection Agency (EPA) to better incorporate environmental justice concerns into the policies, programs, and practices.

On the 20<sup>th</sup> anniversary of the Order, environmental justice leader Robert Bullard said “The Executive Order after twenty years and three U.S. presidents has never been fully implemented... The movement is still under-funded after decades of proven work... After years of hard work, struggle, and some victories along the way, the quest for environmental justice for all communities has yet to be achieved. The vast majority of environmental justice leaders two decades ago preferred to have environmental justice codified in law. However, that did not happen.<sup>12</sup>”

Sixteen Federal agencies reestablished their commitment to Executive Order 12898 in 2011 by signing the Memorandum of Understanding (MOU). The agencies agreed to develop and periodically update environmental justice strategic plans and issue annual progress reports on the implementation of their plans. The GAO reviewed Federal agencies’ environmental justice actions, strategic plans, and progress reports in 2019 and found that fourteen of the sixteen agencies developed plans and only two agencies issued annual progress reports. Federal efforts on environmental justice, according to the GAO, need better planning, coordination, and methods to assess progress.

The *Environmental Justice for All Act* ensures that Federal agencies are committed to environmental justice by codifying Executive Order 12898. Section 8 of the bill establishes an Interagency Working Group on Environmental Justice Compliance and Enforcement, and Section 9 requires that Federal agencies consider and incorporate environmental justice into their actions and responsibilities.

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<sup>12</sup> Bullard, R. (Feb. 9, 2014). New report tracks environmental justice movement over five decades. NRDC.

## Sec.8- Directs federal agencies to develop and enact comprehensive agency-wide environmental justice strategies and implementation plans.

All federal agencies must be required to develop effective environmental justice and health equity strategies that identify and address any disproportionately adverse environmental effects of their programs and practices on communities of color, low-income communities, Tribal and indigenous communities, rural communities, and other underserved populations. Incentives and enforcement measures must be robust in order to ensure that agencies properly manage their environmental justice and health equity responsibilities.

Per Executive Order 12898, “each federal agency shall develop an agency-wide environmental justice strategy that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” As a result, several agencies have published Environmental Justice Strategies, Implementation Plans, and Progress Reports. Though some agencies have adopted multi-year environmental justice strategic plans (e.g. EPA’s EJ 2020 Action Agenda, USDA’s 2016-2020 Environmental Justice Strategic Plan), several agencies have been operating based on outdated strategies<sup>13</sup>. For instance, the Department of Defense last updated its environmental justice strategy on March 24, 1995.

Thoughtfully planned and carefully implemented environmental justice strategies can increase access to clean air and water and improve overall quality of life. For instance, careful infrastructure planning can help address inequalities related to **public transit**. Most public transportation systems destabilize urban core communities and fail to adequately address the needs of people of color, the poor, working, elderly, or disabled<sup>14</sup>. This inequity, a result of historic racism and economic injustice, is embedded in our modern transit systems. Nashville, Tennessee’s transit system, for instance, serves only 1.8% of Nashville’s population. While the population is 67% white and 27% African American, majority of public transit users are non-white<sup>15</sup>. Higher dependence on inadequate public transit service among low-income people of color exacerbates racial and economic isolation.

The Department of Transportation (DOT), tasked with improving “the quality of life for all American people and communities”, is well situated to resolve transportation-related inequities. Per the request of the Interagency Working Group on Environmental Justice, DOT released an updated EJ strategy in 2016. The updated strategy focuses on including communities in transportation decisions, institutionalizing “best practices” across DOT programs, and sharpening enforcement tools. DOT released annual environmental justice implementation reports until 2015 but has not released an implementation report since updating its strategy.

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<sup>13</sup> U.S. Environmental Protection Agency. (n.d.). Federal Agency EJ Strategies & Annual Implementation Progress Reports.

<sup>14</sup> Bullard, R. (2005). All transit is not created equal. Race, Poverty & the Environment.

<sup>15</sup> Secours, M. (Dec. 6, 2017). Think public transportation isn’t a social justice issue? Think again. HuffPost.



## Sec. 9- Establish an Interagency Working Group on Environmental Justice Compliance and Enforcement.

An Environmental Justice Compliance and Enforcement Working Group should advise and assist federal agencies in identifying and addressing environmental justice issues, providing direct guidance, technical assistance, and accessible data to local communities and environmental justice organizations, and engage with state, tribal, and local governments to address pollution and public health burdens in front-line and fence-line communities.

Executive Order 12898 (1994) established an Interagency Working Group on Environmental Justice comprised of agency heads and government officials designated by the President and chaired by the administrator of the U.S. Environmental Protection Agency. The Chairperson is responsible for compiling and publishing environmental justice strategies and annual implementation progress reports from covered agencies. The primary role of the working group is to facilitate interagency coordination for research, data collection, analysis, and project development<sup>16</sup>. The Working Group is also required to develop ‘listening sessions’ for federally recognized Tribes and other members of the public. In 2014, the following focus areas were established for Working Group activities:

- Public participation
- Regional engagement
- Title VI of the Civil Rights Act of 1964
- National Environmental Policy Act
- Native Americans/Indigenous Peoples
- Rural communities’ engagement
- Impacts from climate change
- Impacts from commercial transportation (goods movement)
- Strategy and implementation progress reports

The responsibilities of the working group can be expanded to include more compliance monitoring.

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<sup>16</sup> U.S. Environmental Protection Agency. (Nov. 18, 2014). Charter for Interagency Working Group on Environmental Justice.

- V. Sec. 11, 12 and 13 - Ensures more equitable access to parks, outdoor spaces, and public recreation opportunities for communities of color, low-income communities, Tribal and indigenous communities, rural communities, and other underserved populations.

Proximity to parks and outdoor spaces plays a role in promoting physical activity. For instance, adults living within half a mile of a park exercise five times a week more than adults who reside further away from parks<sup>17</sup>. In low-income and minority communities, access to parks and outdoor spaces is disparate.

People of color visit **U.S. National Parks** far less than their white counterparts. Data collected by the National Park Service (NPS) Visitor Services Project (VSP) show that people of color are a very small fraction of total visitors. Hispanics and Asian Americans comprised less than 5% of visitors surveyed, and less than 2% of visitors were African Americans. Scholars have identified three factors that could constrain visitation among people of color: (1) limited socioeconomic resources, (2) cultural factors and norms, and (3) racial discrimination<sup>18</sup>. Intergenerational trauma may also play a role; while visitors often see national parks as places of serenity and adventure, the African-American experience with the outdoors has historically been punctuated by lynchings, flights from slavery, and other types of trauma. In fact, the NPS followed Jim Crow laws, segregating park areas through World War II. As described by African-American National Park ranger Shelton Johnson, “when you come out of a history of segregation you don’t willy-nilly think that you can just go to a place.”



Photographs: Shenandoah National Park, 1941

Jon Jarvis, former director of the National Park Service, stressed the importance of diversifying the Parks: “We know that visitation does not reflect the diversity of the nation. And that’s a concern... [multicultural, mostly urban millennials] will assume all seats of power and responsibilities for the nation. So, connecting to that generation is essential to the Park Service’s ability to thrive in our second century.”

Sec. 11, 12 and 13 of the Environmental Justice for All Act creates a grant program to ensure more equitable access to parks and recreational opportunities and prioritizes projects and recreational opportunities that benefit urban neighborhoods and underserved communities, and modifies the every kid out door act.

<sup>17</sup> Cohen, D.A., McKenzie, T.L., Sehgal, A., Williamson, S., Golinelli, D. & Lurie, N. 2007. Contribution of public parks to physical activity. *American Journal of Public Health*. 97(3):509–514.

<sup>18</sup> Scott, D. and K. Lee. (2018). People of color and their constraints to National Parks visitation. *The George Wright Forum*: 35(1).

VI. Sec. 14 and 20- Strengthens the National Environmental Policy Act to promote environmental justice, healthy equity, and environmental quality.

The National Environmental Policy Act (NEPA) requires federal agencies to analyze the potential environmental consequences of major federal actions and consider public input before any major actions are taken. When used effectively, NEPA can help prevent a disproportionate share of polluting projects from being sited in overburdened communities. The existing NEPA process should be strengthened to expand opportunities for public involvement in the federal decision-making process by increasing the visibility and accessibility of the public hearing process and other opportunities for input. Federal agencies should be required to increase public comment periods, conduct public hearings, and translate information about proposed projects into languages other than English when major polluting projects are being contemplated in overburdened communities.

The **Dakota Access Pipeline (DAPL)**, a 1,172-mile long oil pipeline, cuts through North Dakota, South Dakota, and Iowa before ending at a river port in Illinois. The project was proposed in 2014 and met immediate and strong opposition from the Standing Rock Sioux Tribe. In December 2015, the U.S. Army Corps of Engineers published an environmental assessment determining that the project would have no significant impact. In response, the Standing Rock Sioux Tribe participated in the NEPA process by submitting three sets of technical and legal comments raising objections and seeking better analysis of spill risks and the Tribe's treaty rights<sup>19</sup>.

Additionally, as a sovereign nation, the Tribe passed a 2015 resolution declaring that the Pipeline would destroy cultural resources and threaten the very survival of the Tribe. Further, the Pipeline violates Article II of the Fort Laramie Treaty, which guarantees the "undisturbed use and occupation" of the reservation lands surrounding the pipeline<sup>20</sup>. According to a statement by the Indigenous Environmental Network, the pipeline operates within miles of the Standing Rock Sioux Tribe's primary drinking water source, "without proper consultation or free, prior and informed consent<sup>21</sup>."

Construction of the pipeline continued through a federal court trial between the Standing Rock Sioux Tribe and the United States Army Corps of Engineers. Less than 24 hours after the legal team for the Sioux Tribe submitted documents claiming that the pipeline would pass through and destroy Native burial sites and sacred places, the Dakota Access company began construction on those very sites. For many, such egregious actions were a painful reminder of colonial land grabs, forced displacement, and violence against Native communities. Cody Hall, protester and spokesperson for Red Warrior Camp said "To be here on the front lines and to see the desecration of our sacred sites literally erased from the record books is damaging enough to one's soul and existence. This is history in the making that is so tragic that they are trying to erase us from the books. We say enough is enough."

In late 2016, indigenous and environmental activists and pipeline protestors rejoiced when the Obama administration denied a key permit for DAPL. This victory was short-lived; a few months later, the decision was reversed by the Trump administration and construction of the pipeline resumed.

DAPL poses several threats to the environmentally-sensitive northern plains, local wildlife, the climate, and the Standing Rock Sioux Tribe. New power lines, maintenance, and the resulting habitat destruction put several species at risk, including the nine local threatened and endangered species identified by the

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<sup>19</sup> Earthjustice. (Oct. 9, 2019). The Standing Rock Sioux Tribe's litigation on the Dakota Access Pipeline.

<sup>20</sup> Smithsonian National Museum of the American Indian. (2019). Treaties still matter: the Dakota Access Pipeline.

<sup>21</sup> Begay, J. and N. Smith. (Jun. 2, 2017). Dakota Access Pipeline is Officially Operational. Indigenous Environmental Network.

U.S. Fish and Wildlife Service in a May 2016 environmental assessment<sup>22</sup>. The Standing Rock Sioux Tribe has been living with the constant threat of an oil spill, which would contaminate its only water source and damage sacred lands.

Section 14 and 20 of the *Environmental Justice for All Act* require Federal agencies to provide early and meaningful community involvement opportunities under NEPA when proposing an action affecting an environmental justice community. These sections also ensure robust Tribal representation throughout the NEPA process for an activity that could impact an Indian Tribe, including off-reservation lands and sacred sites.

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<sup>22</sup> U.S. Fish and Wildlife Service. (May 2016). Dakota Access Pipeline Project: Environmental Assessment.

VII. Sec. 15 - Requires environmental justice training for EPA, DOI, and NOAA employees.

A federal training program should ensure that agency staff are best prepared to incorporate environmental justice concepts into their work. Such trainings should focus on educating officials and staff about the disproportionate impacts faced by environmental justice communities and stress the need to minimize harm to these populations.

The U.S. Environmental Protection Agency (EPA) launched an environmental justice training program in March 2019. The national webinar series will be developed in collaboration with state partners, with the goal of building the capacity of states to integrate environmental justice into decision-making processes. The five webinars – open to those with access to necessary technology – focus on the following topics:

- Identifying and prioritizing environmentally impacted and vulnerable communities;
- Enhanced community involvement in the regulatory process;
- Using comprehensive area-wide planning approaches to promote equitable development;
- Application of environmental justice to state environmental impact assessments; and
- Environmental justice considerations for rural water infrastructure.

The environmental justice training program is optional, and federal employees are not required to attend environmental justice training.

Section 15 of the *Environmental Justice for All Act* requires that each employee of the Environmental Protection Agency is offered an opportunity to participate in an environmental justice training program.

VIII. Sec.18- Codifies into law the National Environmental Justice Advisory Council and provide the staffing and resources to sufficiently fulfill its responsibility and duties.

The Advisory Council should be composed of members with knowledge or experience relating to environmental conditions in communities of color, low-income communities, Tribal and indigenous communities, rural communities, and other underserved populations.

The National Environmental Justice Advisory Council (NEJAC) was established in 1993 and is made up of 26 members representing academia, community groups, industry and business, non-government and environmental organizations, state and local governments, and indigenous groups. NEJAC is tasked with providing advice and recommendations about EPA efforts to:

- Integrate environmental justice considerations into Agency programs, policies, and activities;
- Improve the environment or public health in communities disproportionately burdened by environmental harms and risks;
- Address environmental justice by ensuring meaningful involvement in EPA decision-making, building capacity in disproportionately burdened communities, and promoting collaborative problem-solving for issues involving environmental justice;
- Strengthen its partnerships with other governmental agencies, such as other Federal agencies and State, Tribal, or local governments, regarding environmental justice issues; and
- Enhance research and assessment approaches related to environmental justice.

In fiscal year 2019, NEJAC's key priority is responding to requests for advice and recommendations regarding Superfund remediation and redevelopment for EJ communities. Per the Council charter, the group has an estimated annual operating cost of \$315,000, and the EPA's Office of Environmental Justice and Office of Enforcement and Compliance Assurance are responsible for providing financial and administrative support. The Trump Administration has cut all funding for the Office of Environmental Justice. NEJAC has never been Congressionally authorized and is thus susceptible to being discontinued by future Administrations.

Section 18 of the *Environmental Justice for All Act* establishes a National Environmental Justice Advisory Council to provide independent advice and recommendations to the Environmental Protection Agency with respect to issues related to environmental justice.

IX. Sec. 16, and 22- Help Environmental justice health equity and civil rights organizations build capacity through community grants.

Robust federal community grants should be available to help environmental justice, health equity, and civil rights groups, as well as states, Tribes, and universities, to identify and implement culturally and linguistically appropriate projects to address environmental and public health issues and support projects that benefit the community. Grants should also help provide scientific and technical assistance so that underserved communities have a detailed understanding of the potential environmental and public health threats they face when federal, state, and local decisions are being made. This includes decisions about whether to permit a dangerous activity or where to site a hazardous project.

Federal funding for environmental justice research is administered through the Environmental Protection Agency (EPA)'s Environmental Justice Small Grants program. This program began in 1994 and has since awarded more than \$26 million to over 1,400 community-based organizations addressing environmental justice issues. The program provides support for projects up to \$30,000, though this figure varies annually depending on the availability of funds. The EPA also administers an Environmental Justice Collaborative Problem-Solving (CPS) Cooperative Agreement Program, aimed at building collaborative partnerships to help understand and address local environmental and public health concerns. Grant amounts for environmental justice work and research are significantly lower than other EPA grant programs. For instance, the pollution prevention grant program awards grants in the range of \$40,000-\$500,000.

Several states provide funding for environmental justice work. For instance, the California Environmental Protection Agency (CalEPA) administers an Environmental Justice Small Grants Program, awarding up to \$50,000 for eligible non-profit community organizations or federally recognized Tribal governments addressing environmental justice issues. New York's Department of Environmental Conservation provides funding for environmental justice projects through its Community Impact Grants and Environmental Justice Capacity Building Grants.

Section 16 and 22 of the *Environmental Justice for All Act* authorize annual grants to support research, education, outreach, development, and implementation of projects to address environmental and public health issues in environmental justice communities.

- X. Sec. 17, and 21- Ensures that government entities communicate to environmental justice communities their rights and current safeguards available to them.

This includes community outreach and informational training sessions to inform the public about the tools and laws in place to address disparate impacts and environmental discrimination.

In 2001 and 2002, the drinking water in **Little Hocking, Ohio** was being contaminated by perfluorooctanoate (PFOA) from DuPont's Teflon manufacturing facility across the state border in neighboring West Virginia<sup>23</sup>. The health effects of PFOA are not well-studied, but preliminary tests on rodents demonstrate that small amounts of exposure can result in cancer, liver damage, and cholesterol.

Soon, community interests were being pitted against industry and regulatory agencies. Since industry had the resources and technical expertise to conduct and publish research about the chemical, PFOA producers had access to information about potential toxic effects. Industry-sponsored research also included information about potential local environmental contamination, though none of this information was disclosed to the community. On the other hand, the Little Hocking community lacked the political power to influence regulatory decisions and didn't have the technical capacity to generate independent information.

DuPont settled 3,500 lawsuits in 2017 for \$670 million. The company's records demonstrate that they were aware of Little Hocking's water contamination since 1984. Bob Griffin, a community member and civil engineer provided the following comment at an EPA Public Science Advisory Panel meeting: "our community has been exposed to this chemical for more than 50 years. Although DuPont knew our water was contaminated in 1984, we were not informed until January of 2002. In the interim, we were unwittingly exposed to this chemical and perhaps related chemicals. Since January 2002, we have learned that it is not only in our water, but it also contaminates our soil and the air that we breathe. Further, we know that this chemical is 'persistent' – for thousands of years."

In addition to individual lawsuits, the EPA settled the largest environmental administrative penalty in agency history. The settlement package required DuPont to pay \$10.25 million in civil penalties and perform Supplemental Environmental Projects (SEP) worth \$6.25 million. The first SEP, valued at \$5 million, was a project designed to investigate the potential of nine of DuPont's fluorotelomer-based products to breakdown to form PFOA. The second DuPont spent \$1.25 million to implement the Microscale and Green Chemistry Project at schools in Wood County, West Virginia.

Section 17 of the *Environmental Justice for All Act* establishes a basic training program to increase the capacity of residents of environmental justice communities to identify and address disproportionately high and adverse human health or environmental effects. Section 21 of the bill requires that supplemental environmental justice projects are developed through consultation and meaningful participation with environmental justice communities.

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<sup>23</sup> Emmett, E.A. & C. Desai. (2010). Community first communication: Reversing information disparities to achieve environmental justice. *Environmental Justice* 3, no. 3.



XI. Sec. 23, 24 and 27- Provides grants to research and design safer alternatives to chemicals found in cosmetic products and requires labels warning of harmful chemicals.

Women, communities of color, and children are disproportionately harmed by the toxic chemicals found in cosmetic and personal care products. Yet, these products remain largely unregulated and untested.

On average, women are exposed to nearly two hundred chemicals a day through personal care products and black women have been found with higher levels of endocrine disrupting chemicals.<sup>24</sup> Many of these chemicals, such as formaldehyde, lead, and PFAS, are known to cause cancer and disrupt the endocrine and nervous systems. According to the Environmental Working Group, more than 40 nations have stricter cosmetic safety regulations than the United States which has banned only nine chemicals for safety reasons.<sup>25</sup> It is crucial that the United States further research and disclose ingredients in cosmetic, personal, and children's products and improve access to products that do not contain harmful chemicals.

Johnson & Johnson was ordered to pay \$4.7 billion in 2018 to 22 women and their families after failing to warn consumers about cancer risks associated with baby powder.<sup>26</sup> For nearly 40 years, Johnson & Johnson covered up evidence of asbestos, which causes several types of cancer, in its' talcum-based products. Six of the women involved in the lawsuit died as a result of cancer.

Section 23, 24, and 27 of the *Environmental Justice for All Act* increase protections against the chemicals used in personal care products. The bill requires that ingredients in menstrual products and cosmetic products for professional use be listed. The bill also provides grants for research into the design of safer alternatives to chemicals in cosmetics, cleaning, toy, and baby products. The *Environmental Justice for All Act* is crucial for protecting human health and safeguarding communities.

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<sup>24</sup> Lauren Zanolli. (2019). Pretty hurts: are chemicals in beauty products making us ill? The Guardian.

<sup>25</sup> Scott Faber. (2019). On Cosmetics Safety, U.S. Trails More Than 40 Nations. Environmental Working Group.

<sup>26</sup> Tiffany Hsu. (2018) Johnson & Johnson Told to Pay \$4.7 Billion in Baby Powder Lawsuit. New York Times.

## XII. Sec. 28, and 29 - Supports a fair and just transition to a clean energy economy for all communities and workers.

As our economy and energy supply transition away from greenhouse gas-intensive industries that put workers, communities, and the environment in harm's way, we must help communities and workers transition to new, safer industries. A just transition ensures that workers are offered the necessary resources, training, and benefits to work in new fields. This includes programs designed to promote economic development in communities affected by downturns in fossil fuel extraction.

The **Powder River Basin (PRB)** of Montana and Wyoming sources 40% of the coal used by the U.S. power generation sector<sup>27</sup>. The area has been called the 'energy capital' of the U.S. due to its rich abundance of coal reserves. Many communities in the PRB region are heavily dependent on coal-related tax revenues for government services such as roads and bridges, schools, and fire departments. However, market demand for coal and oil is declining due to emerging technology and increased awareness of the effects of carbon emissions on climate change. Air pollution from PRB's plants is linked to more than 2,500 deaths every year<sup>28</sup>. Further, experts have calculated the social cost of carbon from these plants to be above \$28 billion.

Coal-dependent communities in the PRB region have been affected by the U.S. energy sector's transition away from fossil fuels. The closure of several major mining operations has caused massive layoffs and devastated local communities. For instance, the closure of Belle Ayr and Eagle Butte mines in July 2019 left around 600 miners (of the roughly 13,000 people directly employed by the industry) without jobs with no notice<sup>29</sup>. Two months after the layoffs, only 25% of workers had found jobs. This transition has spurred public conversations about the states' energy and economic futures, with many community leaders stressing the need for economic diversification.

Stacey Moeller, a mine shovel operator at Caballo mine in Wyoming emphasized her desire to find job opportunities beyond coal: "We're bright diverse people, and we're not opposed to change. It's just those jobs aren't here yet."

A teacher in Gillette, Wyoming, stresses the importance of education in preparing for an economic transition: "We have so many kids who are like 'I don't need school, I'll just drop out, I don't need my diploma.' To me, education is the key to downturn-proofing Gillette."

Section 28 and 29 of the *Environmental Justice for All Act* establish a Federal Energy Transition Economic Development Assistance Fund using revenues from new fees on the oil, gas, and coal industries to support communities and workers as they transition away from greenhouse-gas dependent economies.

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<sup>27</sup> Feaster, S. and Cates, K. (Mar 2019). Powder River Basin Coal Industry Is in Long-Term Decline. Institute for Energy Economics and Financial Analysis.

<sup>28</sup> WildEarth Guardians. (n.d.). Powder River Basin.

<sup>29</sup> Institute for Energy Economics and Financial Analysis. (Aug. 12, 2019). IEEFA U.S.: Powder River Basin mines may reopen, but the bad news is far from over.