

# Adopted Minutes of the Environmental Justice (EJ) Council

April 4, 2022

2:00-6:30PM

Virtual meeting via ZOOM Platform

## Environmental Justice Council members present:

Maria Batayola

Aurora Martin

Raeshawna Ware (joined late)

Faaluania Pritchard

Rosalinda Guillen

NiRae Petty

Maria Blancas

Esther Min

Honorable Patrick DePoe, Vice Chair, Makah Tribe

Honorable Jarred-Michael Erickson, Councilmember, Confederated Tribes of the Colville Reservation

Honorable Misty Napeahi, Vice Chair, Tulalip Tribe

Dawn Vyvyan on behalf of the Honorable Sylvia Miller, Vice Chairwoman, Puyallup Tribe

Running Grass

Nichole Banegas

Todd Mitchell

David Mendoza

## Ex-Officio Liaisons present:

David Bayne, Department of Health

Laura Blackmore, Puget Sound Partnership

Millie Piazza, Department of Ecology

Earl Key (on behalf of Allison Camden), Department of Transportation

Jennifer Grove (on behalf of Michael Furze), Department of Commerce

Tom Bugert, Department of Natural Resources

Kelly McLain, Department of Agriculture

## Guests and other participants:

Senator Rebecca Saldaña

Rob Dengel, Department of Ecology

Luke Martland, Department of Ecology

Caroline Mellor, Department of Ecology

Claire Boyte-White, Department of Ecology

## Environmental Justice Council staff present:

Sierra Rotakhina, Environmental Justice Council Manager

Rowena Pineda, Environmental Justice Advisor

Theo Cielos, Community Engagement Coordinator

**Meeting Facilitator:**

LaKesha Kimbrough

I. Welcome and Introductions

Sierra Rotakhina, EJ Council staff, opened the meeting and introduced the meeting facilitator LaKesha Kimbrough.

LaKesha Kimbrough called the public meeting to order at 2:15pm and read from a prepared statement (on file). She detailed the operating procedure for the meeting including noting that the meeting is being recorded. Recording of the meeting was paused during Public Comment.

Prior to the introduction of the Environmental Justice Council members, Senator Rebecca Saldaña made opening remarks. She shared:

“I'm here today because this is a dream come true for me. And it is a historical moment. And I wanted to make sure I was able to witness and to give thanks to each and every one of you for taking time, for bringing your wisdom, for bringing your bodies to this really critical work. It is with our work together that we are going to create history for Washington State.

It's really important to acknowledge that we have done harm. We have done harm to the people that call this place home and to this land. We also have an opportunity to demonstrate that State Governments can do better, that we can be a true partnership in creating a different world that is better for our people and for our land.

It's because of all of your work that we are coming together from every part of the state, that our children and our grandchildren will one day talk about this moment and the work that you are beginning together.

I just want to acknowledge this is a great responsibility. But I'm hopeful, I believe in you, and I believe that the work you will do will make a difference. Thank you so much for letting me be here with you today.”

LaKesha Kimbrough and Sierra Rotakhina facilitated the introductions of Environmental Council members and staff.

The Council took a break at 2:57pm and reconvened at 3:05pm.

## II. Approval of Agenda

LaKesha Kimbrough asked the Council Members if they wanted to make any changes to the agenda.

Motion: [Approve April 4, 2022 agenda.](#)

Motion/Second: Council Member Lua Pritchard/Council Member Maria Batayola. [Approved unanimously.](#)

## III. Today's Agreements/Meeting Norms

LaKesha Kimbrough facilitated a discussion of meeting norms. The EJ Council decided to use the following:

- Embrace and use wonder and curiosity
- Suspend judgment of self and others
- Honor your lived experiences and those of others, speaking your truth and allowing others to do the same
- Lean into bravery, courage, vulnerability, and discomfort
- Try it on
- Remember we may not reach resolution or closure
- Share space and time
- Seek clarification, resist assumptions
- Participate as fully as you feel comfortable/are able
- Listen deeply
- Keep our purpose at the forefront of our minds
- None of us are perfect, we come from different schooling of life, people make mistakes, receive and understand that we are not perfect (we are beautifully imperfect)
- Move toward action, even if action is exploratory
- Keep it simple
- To seek clarification
- Assume positive and good intent
- Don't always have to reinvent the wheel, lean on other EJ groups and examples of actions as needed
- Keep our eyes on systemic change to be our best possible ancestors

Motion: [Approve today's meeting norms.](#)

**Motion/Second:** Council Member Lua Pritchard/Council Member Maria Batayola. [Approved unanimously.](#)

#### IV. HEAL Act Update

[LaKesha Kimbrough](#) introduced EJ Council staff to provide an update on HEAL Act implementation.

[Sierra Rotakhina](#) provided announcements before beginning the HEAL presentation:

##### 1) Council on Environmental Quality (CEQ) Mapping Tool

The Council on Environmental Quality (CEQ) within the Executive Office of the President has created a Justice Screening map for federal agencies to use when directing the required 40 percent of certain Federal investments to communities most impacted by environmental injustices. The tool includes many indicators, such as income, to identify EJ communities (similar in concept to the Environmental Health Disparities map). CEQ developed a draft version of the tool and they are taking public comments on the tool through April 25, 2022. [Federal Register :: Climate and Economic Justice Screening Tool Beta Version](#). The tool does not use race or ethnicity as indicators to identify EJ communities. EJ Council staff and many state agency staff have significant concerns with this “race-neutral” approach to addressing environmental racism. The State Office of Equity is writing a comment letter outlining those concerns, and state agencies will have the option to sign on to that letter or write their own.

#### Discussion:

The Council discussed if there was a way for the Council, as a body, to engage in this letter and decided that, with a comment deadline of April 25, there is not sufficient time for the Council to review the letter and have a transparent decision-making process about whether to sign on to the letter. Several Council Members did emphasize the importance of this issue. Some Members also raised the point that engagement in federal decision making is important, and the Council needs to develop a process for weighing-in on federal issues.

[Council Member Esther Min](#) shared a link to a story-map she created, which compares the Washington Environmental Health Disparities Map with the CEQ’s beta version of the CEJST:

<https://storymaps.arcgis.com/stories/2fa34bcc4a7443e380b0eccc0a41c2c9>

Dawn Vyvyan noted the importance of having time to bring decisions back to the Puyallup Tribe before signing on to anything. Other Council members also noted the importance of having time to bring decisions back to their communities.

The Council decided, that due to the deadline for this specific issue, for general awareness Council staff would share the draft letter with the full Council, as well as the link to the federal portal where people can provide comments on the beta tool. Then each Council member can individually decide if they want to submit comments on behalf of themselves or any of the organizations they work with.

## 2) Community Participation Grants Budget Proviso

During the 2022 legislative session the budget that passed included a budget proviso requiring the Department of Health to grant funds to a statewide community based environmental justice organization. That organization then establishes a community participation fund to grant funds to community-based organizations serving vulnerable populations in highly impacted communities in rural and urban area. The goal is to support access, improve understanding, and encourage participation in EJ council deliberations and HEAL implementation. \$100,000 is allocated this fiscal year (which ends June 30) and \$400,000 will be allocated next year (July 2022-June 2023). The Department of Health has noted that allocating funding before the end of this fiscal year will be extremely challenging and recognizes that it is important to have a transparent, inclusive process.

Sierra Rotakhina and Rowena Pineda, EJ Council staff, provided an update on HEAL implementation, with a focus on the community engagement guide that state agencies are drafting. Presentation on file here: <https://waportal.org/sites/default/files/documents/EJCouncil/April 4 2022 EJCouncil MeetingMaterials Updated.pdf>

### Discussion:

Council members had questions about why the State Board of Health, Fish and Wildlife, and Recreation were not named in the HEAL Act especially given their impact on environmental justice. In addition, Council members asked if agencies could opt-out of HEAL. Staff confirmed that the HEAL Act doesn't say anything about an agency opting out of HEAL after they have opted in. It is

staff understanding that agencies opting-in have the flexibility to opt out, but staff will have to confirm this with the Attorney General's Office.

Another question from the Council related to how it will hold agencies accountable. Staff shared that there are a few mechanisms built into the HEAL Act itself that hold agencies accountable; such as state agencies being required to report to the Council every September on the progress that they've made on deliverables named in statute, and developing metrics for measuring how successful the agencies have been in implementing them. In addition, the HEAL Act creates a required dashboard on the Office of Financial Management's website where agencies will post how well they are doing in implementing the HEAL Act. The Council can also explore other ways to hold agencies accountable, including mechanisms for how make accountability matter.

A further clarifying question was asked by the Council regarding the accountability of agencies who are in a listen and learn capacity. Staff shared that agencies that are in a listen and learn capacity are really interested in doing this work and doing it right. They would want guidance and accountability from the Council. However, they didn't get any funding to do this work because of the way the Legislative process works. The agencies named in the HEAL Act had fiscal notes and secured funding to hire staff and to start implementing the HEAL Act. The other agencies not named didn't get any funding to do the work. Listen and learn agencies may look into doing decision packages which is the process for requesting funding from the legislature.

Tamara Fife, Tribal Relations Director for the Department of Health, shared that the Tribal Liaisons Work Group is working on a Tribal engagement guidance section for the community engagement plan. Tamara is serving in co-leadership role with Asa Washines with the Attorney General's Office.

Tamara shared that the Tribal Liaisons are at each state agency per RCW 43.376. In accordance with the Centennial Accord/Millennial Accord, each agency has to have a liaison that reports directly to the agency to do government-to-government work.

The Tribal Liaisons Work Group will be inviting the Tribal Representatives on the Council to a briefing to provide information about the work group, and to seek guidance on the Tribal Engagement Guide.

## Discussion:

Vice Chairman DePoe, Council Member, shared his hope that working with Tamara and the other Tribal Liaisons will help to better define boundaries pertaining to the role of Tribal representatives on the EJ Council. He mentioned that environmental justice doesn't often intersect with Tribal issues; however there is a government-to-government process that is in place. There may be a need to understand how they are the same and how they can be different in certain situations. Tamara affirmed that the Tribal Liaisons Work Group is talking about inherent rights and treaty rights. Its members are looking forward to having a conversation with EJ Council Tribal representatives.

Council members were curious about the timeline for the Tribal Engagement Guide section. Tamara shared that the Tribal Liaisons Work Group is looking to have a draft for review by the EJ Council Tribal Representatives in the next month to six weeks.

The Council took a break at 4:10pm, and reconvened at 4:20pm.

## **V. Start Discussion of what guiding documents Council wants (e.g. Bylaws or Other Guiding Documents, Agreements, Meeting Norms)**

Sierra Rotakhina took a few minutes to plant the seed that the Environmental Justice Council needs guiding documents, bylaws, a charter, or some way to guide how the Council will make decisions. She requested Council members to email her directly with the kind of guiding documents that the Council is interested in having so staff can start putting resources together for the next meeting.

## Discussion:

Council members encouraged staff to look at examples of comparative documents from other states, jurisdictions, countries, etc. They are interested in examples of protocols and/or procedures for running meetings and reaching decisions; including achieving consensus, using non-bureaucratic ways that get to the core of what people are trying to say, and recognizing the diversity of insights and guidance that Council members bring. Council members are also interested in examples of communication and decision-making protocols, and clear guidance to staff on the scope of their responsibilities.

Ex-Officio Liaison from the Department of Ecology, Millie Piazza, shared on chat that Oregon has convened an EJ Task Force since 2007 and shared a link that might have helpful documents:

<https://www.oregon.gov/ODA/AboutUs/Pages/EnvironmentalJustice.aspx>.

## **VI. Climate Commitment Act Update**

LaKesha Kimbrough invited Department of Ecology staff to provide an update on implementation of the Climate Commitment Act. Presentation on file here:

[https://waportal.org/sites/default/files/documents/EJ\\_Council/April\\_4](https://waportal.org/sites/default/files/documents/EJ_Council/April_4)

[2022\\_EJCouncil\\_MeetingMaterials\\_Updated.pdf](#)

### 1) Rulemaking for the Cap and Invest Program

Luke Martland, Department of Ecology, provided an overview of the rulemaking process that the Department of Ecology is currently engaged in—in relation to the Cap and Invest Program. He noted that the program will go into effect at the beginning of 2023 which necessitated that the rulemaking process be initiated prior to the EJ Council being seated. There are three main rules that Ecology has been developing to help implement the Cap and Invest Program.

1. The technical rule concerning how businesses will report completed initiatives.
2. The formal rule language pertaining to EITEs (Emissions Intensive Trade Exposed Industries) was proposed in December and it is anticipated that it will be adopted in June.
3. The Cap and Invest Rule, or Rule 446, is halfway through the process. The Department of Ecology conducted listening sessions in November, December, and January. The Department of Ecology is in the process of developing the final rule language which is anticipated to be issued in mid-May.

There will likely be future rulemaking processes, either to fix a problem that arises or to address something that will be learned as it takes shape. For future rulemaking processes Ecology will follow these steps: informal outreach, public process, and engaging with the EJ Council.



## Discussion:

Council members expressed serious concern and disappointment about the disconnect and misalignment between the EJ Council work and the commencement of Climate Commitment Act (CCA) rulemaking. It was voiced that the deadline for rulemaking does not provide adequate time to get input from vulnerable community members, including those that various Council members represent. Council Member Rosalinda Guillen shared that the rulemaking process has been traditionally harsh for farmworkers, Latinos, and other people of color. It is difficult to participate in the process because of lack of resources, especially if meetings are held in Olympia. Furthermore, the speediness of the process is astounding and discouraging, and continues to perpetuate the false emergency that Black, Indigenous, and People of Color (BIPOC) communities encounter in Eurocentrically-styled decision-making. Council Member Maria Batayola shared that it is hard to undo and amend rules. Both Council Member Batayola and Council Member Running-Grass encouraged creative brainstorming around the deadline and how to augment the process to make sure the voices of communities and the EJ Council are heard. Other Council members agreed that there should be a conversation about the deadline. Council Member Aurora Martin shared that the spirit of HEAL is equitable governance, and with something as meaningful as the HEAL Act and CCA, the rulemaking deadline is unfortunate.

Ecology staff shared that there are many ways that the EJ Council can participate in the implementation of the Cap and Invest beyond rulemaking including providing advice to the Legislature on how funding should be made. The EJ Council can also weigh in on petitions for allowances brought forth by industries. It is also important to note that the EJ Council has responsibility for reviewing all aspects of program details and functionality of CCA including evaluating EJ and health goals of the program in addition to the funding.

Council members asked EJC staff to provide an analysis of how rules that have been decided will impact overburdened communities. In addition, Council members asked to have a description of the EJ Council's role and scope of responsibility in relation to CCA. Council Member Martin recommended that if there are materials that the EJ Council need to review they should be shared prior to the next meeting in May.

## 2) Reduction of Air Pollution

Luke Martland transitioned to Caroline Mellor and Rob Dengel, Department of Ecology, who talked about Ecology's effort to reduce air pollution in overburdened communities. This work happens in coordination with partners including seven local air agencies across the state which are responsible for air permitting within their jurisdictions, Tribes, state agencies including the Department of Health, and federal agencies such as the Environmental Protection Agency (EPA). Caroline outlined different parts of the initiative including identifying overburdened communities, placing air monitoring systems in those communities, establishing air quality targets specifically for these areas, identifying and notifying the largest sources of the emissions, and a regular review of the air quality data. Once communities have been identified, Ecology will work with the communities as well as the EJ Council to develop emission regulation, potential standards, and emission reduction mechanisms to address the criteria for air pollution in these communities. Ecology is focused on addressing six criteria air pollutants: particulate matter, ozone, sulfur dioxide, nitrogen dioxide and lead. It is likely that new regulation will be involved.

Ecology is currently finishing up an informal public process to inform the creation of criteria used to identify overburdened communities. It has convened listening sessions and released a survey to get input. The survey deadline has been extended to Thursday, April 7<sup>th</sup>. The draft criteria will be released in June and shared with the public to determine if they are reflective of the priorities identified in the listening sessions and the survey. In the fall, Ecology will start placing expanded monitoring systems in communities. In 2023, emission control strategies for specific overburdened communities will be identified and informed by community members. Ecology seeks to engage the EJ Council in this process.

### Discussion:

Council Member Batayola asked why aircraft emissions is not one of the criteria for air pollution. Ecology staff said they will look into this. Council Member Mendoza shared that he believes there may be federal preemption preventing regulation of aviation fuels.

Council Member Guillen asked, “when you say ‘potential for input in ongoing discussion’ what is the authority of the EJ Council to impact the decision?”

## VII. Public Comment Period

Sierra Rotakhina started with an opening statement. There were three public comments:

### Darlene Schanfeld

My name is Darlene Shanfeld. I live on the North Olympia Peninsula of Washington State. Let me know if I am speaking too quickly. I want to get this topic on your radar. It is one I work with at the local level, at the state level, at the national level. And it has to do -- it is an EJ issue. It has to do with the spreading of highly toxic hazardous sewage waste, effluent and solids after they have gone through a treatment plan. And they have pathogens as well as the toxins. They are spread on land, they are spread on food crops, on forests, ballparks, recreational lands, etc. They move through the air and they also run off in the water. And it is a circulating system that goes up the toxins move up into the food system. And it is also very harmful to the workers that work in the farm fields and have to work in this toxic sewage, where crops are grown. Also spread on grazing lands. Gets into the chickens and the pork and the cows. I would like to get this on your radar to talk about these are also sold as commercial composts, and often these composts are donated to community gardens and in areas where there are poor communities trying to set up these gardens. So I would very much like to talk to you in more depth, if I could get ahold of a few of you, and go more deeply into this really needs to be on the EJ radar and discussions and considerations around this issue. Thank you.

### Ginger Wireman

Hi. I am Ginger Wireman. I work on ecology on the Hanford clean-up. I work with Millie on the EJ stuff for the agency. Also live in Richland, Washington. And I was wondering, I found out about the meeting from Millie, and I am wondering where all it was advertised. You don't have to answer that. But want to encourage the Council to reach out through Front and Centered to make sure all of the other partners and TNC and Sierra Club and everybody else are trying to share out to local and regional Facebook groups. And I know it is really tough to find sometimes these small groups,

because they may not actually have a non-profit status, and you have to know the right person to spread the word. So I would just encourage you to maybe make a list and have the list posted somewhere so that folks can look at who is getting notices and see who is missing and then try to add the people who are missing from the conversation. I think Citizens Climate Lobby might be another good organization to share information through. Thank you. And I am really excited about this. This is a great that this is convening.

Kenny Coble ([kcoble@cityoftacoma.org](mailto:kcoble@cityoftacoma.org))

Hi, Council. I am very, very happy that y'all exist. As someone who has worked and cared about Environmental Justice since I was a wee babe, just very, very happy this is here. And thank you and thanks for having me. I want to talk about two things. One I am really interested in the community engagement plan that y'all are working on. My title at the city of Tacoma is Community Engagement Coordinator. I get to work in that field. I don't know if it would be helpful to have -- I am not sure how the committees work or any of the projects work. If there are any space for outside friends to help with it, I'd be happy to jump on and want to let you know we have a coalition of agencies in Pierce County that are working on an equitable engagement plan that we'll share at our agencies. I have a feeling that's similar to what y'all are working on. And would definitely love to learn from you. And then my advocacy point is: I'd love to see Pierce County be a big part of this group. We are one of the most diverse counties in the state and have a lot of people passionate here about this work. If we can be involved, we'd love to. I can put my name and e-mail in the chat if that's helpful if anyone wanted to reach out. I think that Environmental Justice pairs really beautifully with participatory budgeting and want to put that in your ears and eyes and mouths. And if there's any way that community members could help advocate to see any budget that comes through the EJ Council be done in a democratic way, in ways that co-create with our community, I would just want to say that I am a cheerleader for that and we'll join alongside any other cheerleaders here. So again, really grateful for this. I love all of you already. And want to say thank you for having me speak today. Thanks y'all.

LaKesha Kimbrough went back to questions/discussion on the CCA given that there aren't additional public comments.

Took a break at 5:45 and reconvened at 5:55pm

## VIII. 2022 Environmental Justice Council Meeting Schedule

The Council discussed the May and June proposed Council meeting dates and landed on the following dates:

- May 25, 2:00pm to 6:30pm
- June 22, 10:00am to 3:00pm

## IX. Creating Subcommittees

Sierra Rotakhina brought up the possibility of the EJ Council convening subcommittees and giving staff directions on how to proceed. The Council may also choose to table it for a later discussion. The Council discussed the following three possible subcommittees: 1) a subcommittee focusing on the climate commitment act, 2) a subcommittee focusing on community engagement; and 3) a subcommittee focusing on developing guidance on environmental justice assessments.

### Discussion:

Council members agree that having subcommittees is a good idea. However, there were questions regarding the scope of work of the subcommittees. Council Member Mendoza shared that in his view subcommittees is where work gets done and they inform the full body in making final decisions.

Regarding community engagement, Council Member Min noted that the subcommittee can be a space to vision what a true community engagement plan from bottom up can look like instead of reacting to a draft community engagement plan that has already been written.

There were questions and discussion on how the Council will provide input to the community engagement process guide especially given the July 1<sup>st</sup> deadline. Sierra Rotakhina noted that EJ Council members can provide input during the EJ Council meetings as one way. Council members can review, make comments, and send the comments to EJ Council staff to be synthesized and collated. However, substantive input should be discussed during public meetings. Recognizing the deadline of July 1<sup>st</sup> for the community engagement plans, Sierra Rotakhina shared that agencies are not looking at July as an end point but as the beginning—it is one of many drafts. The state

agencies have been dealing with balancing the tension of not wanting to write a document without community and EJ Council guidance yet having to meet the statutory deadline. By having something on paper is one way to engage in a meaningful interaction with the EJ Council without being extractive of members' time.

Council Member Batayola shared that she agrees with having subcommittees. She also wanted the Council to have time to get to know and understand each other's ways of approaching and defining environmental equity. She noted that this is an invaluable conversation to have and to create a larger vision of the work of the EJ Council.

Council Member Min recommended for staff to engage in one-on-one or two-on-one conversations with EJ Council members between now and the May meeting. The purpose of the meetings is to get more details on the vision and scope of work for subcommittees that can be shared during the May meeting.

## X. Check-out and Farewell

LaKesha Kimbrough adjourned the meeting at 6:30 p.m.

During the virtual meeting, approximately 91 members of the public joined and participated. The Council thanks all those that took time to join, listen in, and share their personal experiences and perspectives during the meeting.