

# Environmental Justice Council

## June 22, 2023 Meeting Materials

### Table of Contents

<b>Agenda - Español .....</b>	<b>1</b>
<b>Agenda - English .....</b>	<b>5</b>
<b>May 24, 2023 Meeting Notes.....</b>	<b>9</b>
<b>Continue Discussion and Possible Council Action on CCA Linkage Program Needing an Environmental Justice Assessment .....</b>	<b>19</b>
Memo.....	19
<b>Discuss Guidance on HEAL Act Budgeting and Funding Requirements .....</b>	<b>21</b>
Memo.....	21
<b>Update and Discussion: Community Engagement Committee Projects.....</b>	<b>25</b>
Memo: Draft Community Engagement Value and Guidance .....	25
Draft Community Engagement Values and Guidance .....	26
Memo: Discussion on Vulnerable Populations and Overburdened Communities .....	38
<b>Continue Discussion on Environmental Justice Assessments.....</b>	<b>41</b>
Memo.....	41
<b>Public Comments .....</b>	<b>43</b>

# Consejo de Justicia Ambiental

Jueves 22 de junio de 2023

De 3:30 p. m a 6:30 p. m.

Para unirse al seminario web, haga clic en el siguiente enlace:

<https://us02web.zoom.us/j/81747864781>

O únase por teléfono: +1 253 215 8782 (EE. UU.)

Id. del seminario web: 817 4786 4781

Encuentre su número local: <https://us02web.zoom.us/u/kd6MggTvTL>

## Objetivos de la reunión:

1. Decidir si el ECJ (por su sigla en inglés, Consejo de Justicia Ambiental) recomendará al Depto. de Ecología que lleve a cabo una evaluación de justicia ambiental antes de obtener la asociación del programa de la CCA (por su sigla en inglés, Ley de Compromiso Ambiental) de Washington con los programas de Quebec y California.
2. Obtener ideas para las pautas sobre cómo integrar la Ley HEAL (por su sigla en inglés, Ley de Medio Ambiente Sano para Todos) en las decisiones presupuestarias y de financiación de las agencias de HEAL.
3. Debatir sobre los valores y las pautas de la participación comunitaria mejorada (si el tiempo lo permite, seguir debatiendo sobre el proceso de identificación de poblaciones vulnerables y comunidades sobrecargadas).
4. Conversar sobre el proceso de evaluación de justicia ambiental, que se ha actualizado desde la reunión del Consejo de mayo.
5. Planificar el retiro del Consejo del 24 de agosto.

## Orden del día

Lo invitamos a participar a las 3:20 p. m. a una presentación sobre cómo activar los subtítulos y cómo acceder al canal de interpretación en español.

De 3:30 p. m. a 3:35 p. m.	I. Bienvenida y pasaje de lista para verificar que haya cuórum	Copresidenta Maria Batayola El honorable Jarred-Michael Erickson Miembros del Consejo
De 3:35 p. m. a 3:40 p. m.	II. Aprobación del orden del día por parte del Consejo III. Aprobación de las notas de la reunión del 24 de mayo de 2023 por parte del Consejo	Miembro del Consejo Aurora Martin Miembros del Consejo
De 3:40 p. m. a 3:50 p. m.	IV. Comentarios públicos	Miembro del Consejo Rosalinda Guillen
De 3:50 p. m. a 4:20 p. m.	V. Seguir los debates y, posiblemente, toma de una medida por parte del Consejo respecto a la necesidad de una evaluación de justicia ambiental para el programa de asociación de la CCA  Objetivo: Decidir si el Consejo recomendará al Departamento de Ecología que lleve a cabo una evaluación de justicia ambiental antes de obtener la asociación del programa de la CCA de Washington con los programas de California y Quebec.	Copresidenta Maria Batayola Miembro del Consejo David Mendoza y Comité de la Ley de Compromiso Ambiental Miembros del Consejo

Receso de 5 minutos		
De 4:25 p. m. a 4:50 p. m.	<p>VI. Pautas para el debate de los requisitos presupuestarios y de financiación de la Ley HEAL</p> <p>Objetivo: Recibir ideas para las pautas sobre cómo integrar la Ley HEAL en las decisiones presupuestarias y de financiación de las agencias de HEAL.</p>	<p>El honorable Jarred-Michael Erickson</p> <p>Rowena Pineda, miembro del equipo del Consejo</p> <p>Sierra Rotakhina, miembro del equipo del Consejo</p> <p>Miembros del Consejo</p>
De 4:50 p. m. a 5:40 p. m.	<p>VII. Actualización y debate: Proyectos del Comité de Participación Comunitaria</p> <p>a) Breve actualización sobre el Fondo de Participación Comunitaria de la Ley HEAL</p> <p>b) Debate sobre los valores y las pautas de la participación comunitaria</p> <p>c) Debate sobre la identificación de poblaciones vulnerables y comunidades sobrecargadas</p> <p>Objetivos: Debatir sobre los valores y las pautas de la participación comunitaria mejorada (si el tiempo lo permite, seguir debatiendo sobre el proceso de identificación de poblaciones vulnerables y comunidades sobrecargadas).</p>	<p>Miembro del Consejo Rosalinda Guillen</p> <p>Miembro del Consejo Aurora Martin</p> <p>Miembro del Consejo Nirae Petty y Comité de Participación Comunitaria</p> <p>Miembros del Consejo</p>
Receso de 5 minutos		
De 5:45 p. m. a 5:55 p. m.	VIII. Comentarios públicos	<p>Miembro del Consejo Rosalinda Guillen</p>

De 5:55 p. m. a 6:15 p. m.	IX. Seguir el debate sobre las evaluaciones de justicia ambiental  Objetivo: Conversar sobre el proceso de evaluación de justicia ambiental, que se ha actualizado desde la reunión del Consejo de mayo.	Miembro del Consejo Aurora Martin  Rowena Pineda, miembro del equipo del Consejo Comité de Evaluación de Justicia Ambiental Miembros del Consejo
De 6:15 p. m. a 6:25 p. m.	X. Actualización del Comité Ejecutivo  a) Planificación del retiro  Objetivo: Planificar el retiro del Consejo del 24 de agosto.	Copresidenta Maria Batayola  Comité Ejecutivo Miembros del Consejo
De 6:25 p. m. a 6:30 p. m.	XI. Agradecimientos y cierre	El honorable Jarred-Michael Erickson  Copresidenta Maria Batayola

Información importante:

- El Consejo puede cambiar los asuntos del orden del día el mismo día de la reunión.
- El número de contacto de emergencia durante la reunión es 360-584-4398.
- Si desea solicitar este documento en un idioma o formato alternativos, envíe un correo electrónico a Sierra Rotakhina en cualquier idioma a [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) o llame al 360-584-4398.

# Environmental Justice Council

Thursday, June 22, 2023

3:30pm – 6:30pm

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81747864781>

Or Join by phone: +1 253 215 8782 US

Webinar ID: 817 4786 4781

International numbers available: <https://us02web.zoom.us/j/81747864781>

## Meeting Goals:

1. Decide if Council will advise Department of Ecology to conduct an Environmental Justice Assessment before pursuing Washington CCA Cap and Invest Program linkage to California and Quebec programs
2. Obtain ideas for guidance on how to integrate HEAL Act into HEAL Agencies' budgeting and funding decisions
3. Discuss enhanced Community Engagement Values and Guidance (if time allows, continue to discuss the process for identifying Vulnerable Populations and Overburdened Communities)
4. Discuss Environmental Justice Assessment process updated since the May Council meeting
5. Plan the August 24<sup>th</sup> Council retreat

## Agenda

Please join us at 3:20 PM for a presentation on how to turn on closed captions and join the Spanish interpretation channel.

3:30 PM – 3:35 PM	I. Welcome and Roll Call for Quorum	Co-Chair Maria Batayola  The Honorable Jarred-Michael Erickson  Council Members
3:35 PM – 3:40 PM	II. Approval of Agenda by Council  III. Approval of May 24, 2023 Meeting notes by Council ( <a href="#">page 9</a> )	Council Member Aurora Martin  Council Members
3:40 PM – 3:50 PM	IV. Public Comment ( <a href="#">page 43</a> )	Council Member Rosalinda Guillen
3:50 PM – 4:20 PM	V. Continue Discussion and Possible Council Action on CCA Linkage Program Needing an Environmental Justice Assessment ( <a href="#">page 19</a> )  Goal: Decide if the Council will advise Department of Ecology to conduct an Environmental Justice Assessment before pursuing Washington CCA Cap and Invest Program linkage to California and Quebec programs	Co-Chair Maria Batayola Council Member David Mendoza and Climate Commitment Act Committee Council Members
5 Minute Break		
4:25 PM – 4:50 PM	VI. Discuss Guidance on HEAL Act Budgeting and Funding Requirements ( <a href="#">page 21</a> )  Goal: Obtain ideas for guidance on how to integrate HEAL Act into HEAL Agencies’ Budgeting and Funding decisions	The Honorable Jarred-Michael Erickson  Rowena Pineda, Council Staff  Sierra Rotakhina, Council Staff  Council Members

4:50 PM – 5:40 PM	<p>VII. Update and Discussion: Community Engagement Committee Projects (<a href="#">page 25</a>)</p> <p>a) Brief update on the Environmental Justice Community Participation Fund</p> <p>b) Discuss Community Engagement Values and Guidance</p> <p>c) If time allows, discuss Identifying Vulnerable Populations and Overburdened Communities</p> <p>Goals: Discuss enhanced Community Engagement Values and Guidance (If time allows, continue to discuss the process for identifying Vulnerable Populations and Overburdened Communities)</p>	<p>Council Member Rosalinda Guillen</p> <p>Council Member Aurora Martin</p> <p>Council Member Nirae Petty and Community Engagement Committee</p> <p>Council Members</p>
5 Minute Break		
5:45 PM – 5:55 PM	<p>VIII. Public Comment (<a href="#">page 43</a>)</p>	<p>Council Member Rosalinda Guillen</p>
5:55 PM – 6:15 PM	<p>IX. Continue Discussion on Environmental Justice Assessments (<a href="#">page 41</a>)</p> <p>Goal: Discuss Environmental Justice Assessment process updated since the May Council meeting</p>	<p>Council Member Aurora Martin</p> <p>Rowena Pineda, Council Staff</p> <p>Environmental Justice Assessment Committee</p> <p>Council Members</p>
6:15 PM – 6:25 PM	<p>X. Executive Committee Update</p> <p>a) Get input on Retreat Plan</p> <p>Goal: Plan the August 24<sup>th</sup> Council retreat</p>	<p>Co-Chair Maria Batayola</p> <p>Executive Committee</p> <p>Council Members</p>

6:25 PM – 6:30 PM

XI. Appreciations and Adjournment

The Honorable Jarred-  
Michael Erickson

Co-Chair Maria Batayola

Important Information:

- The Council may move agenda items around on the day of the meeting.
- Emergency contact number during the meeting is 360-584-4398.
- To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398.

# Draft Minutes of the Environmental Justice Council

May 24, 2023

## Virtual ZOOM Platform

Due to limited staff capacity, Environmental Justice Council (Council) staff are working to streamline the Council meeting notes. The notes now include only very high-level points and the final decisions made along with voting records. The full meeting recordings can be found on the Council's website: [Environmental Justice Council Meetings | WaPortal.org](https://www.wa.gov/EnvironmentalJusticeCouncilMeetings). However, it is important that meeting notes are useful to the Council Members and the public. Please share feedback with Council staff on how we can make these notes most useful to you by emailing [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or by calling 360-584-4398.

### Council Members present:

- Council Member Maria Batayola
- Council Member Maria Blancas
- The Honorable Jarred-Michael Erickson
- Council Member Running-Grass
- Council Member Rosalinda Guillen (joined: 4:10)
- Council Member Aurora Martin
- Council Member Esther Min
- Council Member Todd Mitchell
- AJ Dotzauer on behalf of the Honorable Misty Napeahi
- Council Member Nirae Petty
- The Honorable Annette Bryan on behalf of the Honorable Sylvia Miller
- Council Member Faaluaina Pritchard
- Council Member Raeshawna Ware

### Council Members absent:

- Council Member Nichole Banegas
- Council Member David Mendoza

### Agency Ex Officio Members present:

- Laura Blackmore, Puget Sound Partnership
- Eliseo (EJ) Juárez, Department of Natural Resources
- Kerri Woehler on behalf of Ahmer Nizam, Department of Transportation

- Jennifer Grove on behalf of Michael Furze, Department of Commerce
- Nicole Johnson, Department of Agriculture
- Millie Piazza, Department of Ecology
- Lauren Jenks, Department of Health

#### Council staff:

- Jonathan Chen
- Angie Ellis
- Rowena Pineda
- Sauncha Romey
- Amina Al-Tarouti
- Sierra Rotakhina

#### Guests and other participants:

- Forrest Watkins, Department of Commerce
- Courtney Cecale, Department of Commerce

### I. Welcome and Roll Call for Quorum

Council Co-Chair Maria Batayola called the meeting to order at 4:00pm.

### II. Approval of Agenda by Council

Councilmember Esther Min called for an adoption of the agenda.

Motion: The Council adopts the agenda.

Motion: Member Min

The motion passed.

### III. Approval of March 22, 2023 Meeting Notes by Council

Councilmember Esther Min called for an adoption of the March 22, 2023 meeting notes.

Motion: The Council adopts the March 22, 2023 meeting notes.

Motion: Member Min

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

The motion passed.

#### IV. Election of Executive Committee Tribal Representative and Election of Interim Co-Chair

Members present in the March meeting supported the Honorable Jarred-Michael Erickson in stepping into the Executive Committee Tribal Representative and the vacant Co-Chair position on an interim basis until the Governor has filled the vacant Tribal Representative seat on the Council. At the March meeting, the Council did not pass a motion about this because they wanted the Tribal Representatives not present to have a chance to weigh-in first.

The Council discussed and adopted the following motion:

**Motion:** The Environmental Justice Council appoints the Honorable Jarred-Michael Erickson as the interim Executive Committee Tribal Representative and the interim Co-Chair to serve in these roles until the Governor has appointed the fourth Tribal Representative to the Council, at which time full elections will be held. The Council also directs the Governance Committee to explore if the bylaws need any additions in anticipation of vacancies in leadership positions or other similar scenarios in the future.

A: Yes, I approve.

B: Yes, with reservations.

C: Not voting until we have further discussions.

D: I don't approve, but I won't block.

E: I block, have serious concerns.

F: I stand aside, recuse myself.

Nichole Banegas	Absent
Co-Chair Maria Batayola	A
Maria Blancas	A
The Honorable Jarred-Michael Erickson	F

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

Running-Grass	A
Rosalinda Guillen	A
Aurora Martin	A
David Mendoza	absent
Esther Min	A
Todd Mitchell	A
AJ Dotzauer on behalf of The Honorable Misty Napeahi	A
Nirae Petty	A
Faaluaina Pritchard	A
Honorable Annette Bryan on behalf of the Honorable Sylvia Millier	absent
Raeshawna Ware	A

## V. Executive Committee Update

Co-Chair Batayola shared the link to a [draft Council 2023 workplan](#) in the chat for council Discussion. Co-Chair Batayola brought up scheduling a retreat and inviting Senator Saldaña and Senator Nguyen come to discuss the original vision for HEAL, what did not get in HEAL Act, and information about the 2024 legislative session budget process and timeline to inform the Council’s process.

Ex Officio Member Millie Piazza, Ecology, noted that the draft 2023 workplan combines “overburdened communities' guidance” with “air quality monitoring” and these should be two separate projects.

Ex Officio Member Laura Blackmore, Puget Sound Partnership, noted a need for more time to talk about HEAL deliverables due in July. Councilmember Min suggested holding June meeting in response.

The Council discussed the best time to have a retreat as well as the possible need for a June meeting. Councilmember Maria Blancas noted that the Council Members are busy and all on different committees and that she would prioritize a retreat over another meeting so we can come together.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

Jonathan Chen, Council Staff, shared that a written update memo on Horse Heaven project is included on page 24 of the meeting packet. Council Member Aurora Martin noted that she wants to have a discussion about EFSEC and other agencies not subject to HEAL but voluntarily being involved. Jonathan noted that the public comment period for the wind farm ended in February. He is in discussion with Amy Moon, EFSEC, to see what kind of feedback/guidance the Council can provide after a public comment period ends.

## VI. Public Comment

Public comment was opened by Council Member Rosalinda Guillen sharing a few words of thanks to the public and community.

John Lovie, Whidbey Island Water Systems Association, and would like to highlight rural Washington's lack of access to safe drinking water as an environmental health disparity and an environmental justice concern. 13% of Americans (a greater proportion in Washington) served by private wells or Group B water systems are not protected by the Safe Drinking Water Act. John Lovie noted that PFAS contamination of wells is a problem. The groundwater is excluded from the Clean Water Act and CAFOs are regulated by the Department of Agriculture. Many rural Washingtonian private well owners can't afford treatment systems that are in urban areas so forced to drink water not meeting safe standards or to buy bottled water.

Brandi Hyatt shared public comment noting that AFFF fire suppressant PFAS chemical foam has traveled off base and into communities ground water. For years they have been unknowingly consuming PFAS chemical linked to serious health issues. The lack of support and resources to live in our homes and communities is vast and they need further testing to understand extend of impacted ground water, free well testing, whole home safe water (not just bottled water or point of use filtration system), safe water for gardening and agriculture, safe water for our pets and livestock, blood testing, spaces to allow the community to take part in the conversation (example: restoration advisory board), qualified doctors who can guide us through PFAS exposures, qualified veterinarians, and transparency with army and agencies making decisions about our health and

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

safety. This isn't a full list, however even these items are yet to be addressed. If EJ is your business, there can't be a better space than East Selah and our PFAS nightmare for you to take action.

Brock Howell, Executive Director of Snohomish County Transportation Coalition, which advocates for connecting people and communities with safe and equitable transportation. The 2023-2025 biennium is critical to success of HEAL Act. How agencies allocate funds will set a precedent for future biennium. CCA funds are required to go directly to vulnerable populations within overburdened communities. Brock Howell read from and summarized portions of the Climate Commitment Act outlining the required investments into overburdened communities and noted that WSDOT is applying the 35% requirement at the agency level, not at the program or grant level. Noted agencies don't seem invested in ensuring that their investments are having needed benefits for overburdened communities and vulnerable populations. The EJ Council plays a role in making it clear how agencies meet the CCA requirements, and I encourage you to do so.

## VII. Input and Feedback on Draft HEAL Agency Environmental Justice (EJ) Assessment Process

Forrest Watkins, Department of Commerce, presented slides regarding the draft EJ Assessment process.

Councilmember Running-Grass noted that the template is lacking without the companion guidance document. Forrest noted that the agency subcommittee met yesterday to start the process of building the guidance document out. Next steps in the coming weeks are to build a version that will be useable by agencies. Councilmember Running-Grass asked, given that this process revolves around trust, what is it the agencies want communities to know about assessment process? When is first time the public is informed that a significant action is being considered or in queue to be performed?

Councilmember Martin shared some questions in chat:

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

A. Was thinking that an additional option of "do not proceed" would be included, so was wondering where that option or caution be?

B. I was unable to participate as much as I would like to, so just worry that the community engagement or input in the early design is necessary beyond the few EJC reps on it, so were there other steps for community engagement in this initial phase?

Councilmember Blancas wants to make sure we make room to have discussion regarding EJ Assessments. Council Member Martin noted the public comments previously heard means it's a far more complex situation. There needs to be serious investment and ambassadors beyond the EJ Council. Forrest noted they appreciate the comments. Ex Officio Member Piazza, in chat, noted the need to have some clarity on how we can expand these conversations - to hear the rest of Council Members questions and discuss those questions? Also curious about a larger conversation about how this could align with federal EJ work.

The Council moved to a conversation about a proposed motion related specifically to an EJ assessment for Cap and Invest program linkage to other jurisdictions' programs. Jonathan provided some background information noting that the Climate Commitment Act (CCA) Committee of the Council wants to put forward motion asking the Department of Ecology to do an EJ assessment on if and when to link markets:

Draft Motion: RCW 70A.65.060(3) requires the Department of Ecology to conduct an environmental justice (EJ) assessment on the decision to link carbon markets with Quebec and California to inform its decision if and when to implement the linkage. Given that the law is unclear on when in the process Ecology needs to conduct that assessment, I move that the Environmental Justice Council (EJC) request that the Department of Ecology 1) conduct an EJ assessment prior to making a decision on if and when to link markets with other jurisdictions, 2) open public comment after the EJ assessment is finalized and made publicly available, and 3) present the results of items 1 and 2 to the EJC for review and development of its policy recommendation on linkage. The EJC requests Ecology to respond in writing to this motion providing an estimated timeline to complete

the actions in this motion and describing any barriers in meeting these requests the agency may face.

The Council began discussing potential amendments to the motion, including adding reference to a “cumulative impact analysis.” Several Councilmembers noted that they needed more time to process and discuss this before they would be ready to entertain a vote on this proposed motion.

### VIII. Identifying Questions on Vulnerable Populations and Overburdened Communities from the EJ Council, HEAL Agencies, and Legislators

Councilmember Martin provided some background and passed it to Rowena Pineda and Sierra Rotakhina, Council Staff, to facilitate a discussion.

Rowena asked the Council to discuss this question: What are contexts where a process to identify overburdened communities may be best suited and when may a list of overburdened communities may be best suited?

Councilmember Min's concern is with engaging community without coordination is there could be a lot of fatigue. We also want to make sure we don't leave any communities out by creating one list. Councilmember Ware states that by doing an evaluation on how they are measuring can help identify communities that do not need to be on the list. Chair-Batayola wants us to remember to also look at impacts downstream and not just immediately impacted community. Chair Erickson states from a tribal perspective this is data driven work and a lot of tribes don't share their data so how do we do accurate analysis? Councilmember Martin shared in chat: When using the [Environmental Health Disparities] EHD Map, Front and Centered believes that agencies should use communities ranked as 7 and above on the EHD Map as a starting point. There is no definitive threshold that has been standardized for defining an overburdened community using the EHD Map. Instead, the only directives related to overburdened communities and the EHD Map include utilizing the definition of “highly impacted communities” as defined through CETA. The Department of Health [DOH] has provided guidance to use a threshold of 9 for the purposes of CETA.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

Nevertheless, overburdened communities is a more expansive definition and is not limited to DOH guidance, and so the threshold utilized should reflect the desire to include more communities than solely “highly impacted.” And of course, I defer to Tribes on their additional perspective and believe that Tribal lands should also be included as overburdened communities, as is required by the HEAL Act, other state law, and federal orders.

## IX. Legislative and Budget Updates and Limited Discussion on HEAL Agency Budgeting and Funding HEAL Requirements

The Council did not have time for this update. Council staff will record their presentation and post it on the Council website.

## X. Public Comment

Arvia Morris, volunteer with Climate Rail Alliance, shared a statement from Climate Rail Alliance and Physicians for Social Responsibility: Disappointed the legislature appropriated \$50 Million of CCA funds to ultra-high speed rail projects in the transportation budget with anticipated ongoing appropriations through 2029. In contrast, there are no appropriations beyond 2023 for existing passenger rail program (Amtrak Cascades) or development Amtrak east/west. We believe long timeline for ultra-high speed rail (2050 before functioning system) makes it an inappropriate use of CCA funds that are meant to help meet 2030, 2040, and 2050 emissions reduction goals.

Now speaking for myself and my partner, we are concerned that Ecology is moving rapidly to the link WA cap and invest program with the programs in California and Quebec. This linkage would greatly reduce funds available from auctions which would reduce available funding for greenhouse gas emissions goals and EJ outcomes. Linkage is required by statute to meet EJ criteria, and we hope you will be able to review linkage program and give input before any linkage decisions are made.

John Worthington, shared they have commented on local comprehensive plans across the state and noted that everyone is using the wrong emissions pie chart from the Department of Ecology

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@doh.wa.gov](mailto:envjustice@doh.wa.gov) or 360-584-4398.

and that nobody wants to use shipping emissions. People are worried about recreational driving, and nobody is looking at shipping emissions to bring us our stuff.

Brock Howell, Snohomish County Transportation Commission, spoke to the last agenda item and recommended that the agencies start with the statutory construction of the HEAL Act and the CCA which makes clear that is a yes and proposition (overburdened communities is the geography vulnerable populations are the people). Three basic categories that are supposed to be looked at (those who meet a 9 or a 10 on the EHD map, Indian Country as well as hunting and gathering and fishing grounds, and any other geographic area where vulnerable populations face combined multiple environmental harms and health impacts. This allows you on a project by project basis to be more considerate of what is happening locally. On the vulnerable populations side there are four main populations outlined in statute.

## XI. Appreciations and Adjournment

Co-Chair Batayola wrapped up and the Council adjourned the meeting at 6:47pm

# Environmental Justice Council

**Date:** June 22, 2023

**To:** Environmental Justice Council Members

**From:** Sierra Rotakhina, Environmental Justice Council Manager

**Subject:** Climate Commitment Act (CCA) Cap and Invest Linkage Program Needing an Environmental Justice Assessment

## Background and Summary:

At the May 24, 2023 Environmental Justice Council (Council) meeting, the Council began discussing that the Climate Commitment Act requires the Department of Ecology to conduct Environmental Justice (EJ) Assessments including when considering linking the Washington Cap and Invest Program to a program in another jurisdiction, RCW 70A.65.060(3) states:

The department shall consider opportunities to implement the program in a manner that allows linking the state's program with those of other jurisdictions. The department must evaluate whether such linkage will provide for a more cost-effective means for covered entities to meet their compliance obligations in Washington while recognizing the social characteristics of the state's economy, communities, and industries. **The department is authorized to enter into a linkage agreement with another jurisdiction after conducting an environmental justice assessment and after formal notice and opportunity for a public hearing, and when consistent with the requirements of RCW 70A.65.210.** [Emphasis added]

Several Members of the Council's CCA Committee have raised concerns that if Ecology conducts the required environmental justice assessment too late in the process of deciding whether or not to link, adverse EJ Impacts identified in the EJ assessment would not have time to influence the decision.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

The Council discussed the proposed motion below but decided that they needed more time to discuss this motion before voting. There is time on today's agenda for the Council to continue this dialogue.

### Recommended Action:

Staff recommend that the Council discuss, amend if necessary, and adopt the following motion (underlined amendments added during Council discussion at the May Council meeting):

RCW 70A.65.060(3) requires the Department of Ecology to conduct an environmental justice (EJ) assessment on the decision to link carbon markets with Quebec and California to inform its decision if and when to implement the linkage. Given that the law is unclear on when in the process Ecology needs to conduct that assessment, the Environmental Justice Council (Council) requests that the Department of Ecology 1) conduct an EJ assessment/cumulative impact analysis prior to making a decision on if and when to link markets with other jurisdictions, 2) open public comment after the EJ assessment is finalized and made publicly available, and 3) present the results of items 1 and 2 to the Council for review and development of its policy recommendation on linkage. The Council requests Ecology to respond in writing to this motion providing an estimated timeline to complete the actions in this motion and describing any barriers in meeting these requests the agency may face.

### Staff Contact:

Jonathan Chen, Climate Justice Advisor, [Jonathan.Chen@ejc.wa.gov](mailto:Jonathan.Chen@ejc.wa.gov), (564) 669-3837

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

# Environmental Justice Council

Date: June 22, 2023

To: Environmental Justice Council Members

From: Rowena Pineda, Environmental Justice Advisor; Sierra Rotakhina, Council Manager

Subject: Discuss Guidance on HEAL Act Budgeting and Funding Requirements

## Background:

The Environmental Justice Council (Council) received a staff briefing on the HEAL budgeting and funding requirements at its March 22, 2023 Council meeting and began early discussion of this topic. The main points of that briefing are summarized below.

Council staff recently reached out to Council Members to ask for volunteers to begin working with staff to develop draft budgeting and funding guidance to bring to the full Council for discussion. That group of volunteer Council Members will begin meeting this month. Today the full Council will have an opportunity to begin generating ideas for Council guidance on how to integrate the HEAL Act into HEAL Agencies' budgeting and funding decisions.

## Summary of HEAL Act Budgeting and Funding Requirements for HEAL Agencies and the Council

According to the HEAL Act ([RCW 70A.02.080](#)), each covered agency must incorporate environmental justice principles into its decision-making processes for budget development, making expenditures, and granting or withholding environmental benefits. Beginning July 1, 2023 covered agencies must:

- Focus applicable expenditures on creating environmental benefits that are experienced by overburdened communities and vulnerable populations, including reducing or eliminating environmental harms, creating community and population resilience, and improving the quality of life of overburdened communities and vulnerable populations;

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

- Create opportunities for overburdened communities and vulnerable populations to meaningfully participate in agency expenditure decisions;
- Clearly articulate environmental justice goals and performance metrics to communicate the basis for agency expenditures;
- Consider a broad scope of grants and contracting opportunities that effectuate environmental justice principles, including:
  - Community grants to monitor pollution;
  - Grants focused on building capacity and providing training for community scientists and other staff;
  - Making technical assistance available for communities that may be new to receiving agency grant funding; and
  - Education and work readiness youth programs focused on infrastructure or utility-related internships to develop career paths and leadership skills for youth; and
- Establish a goal directing 40 percent of grants and expenditures that create environmental benefits to vulnerable populations and overburdened communities.

It is important to note that this section of HEAL states that a covered agency may not take actions or make expenditures under this section that are inconsistent with or conflict with other statutes or with conditions or limitations on the agency’s appropriations.

By July 1, 2023, each covered agency must publish on its website the types of decision processes for budget development, making expenditures, and granting or withholding environmental benefits for which the agency will take the actions listed above.

[RCW 70A.02.110\(9\)\(b\)](#) gives the Environmental Justice Council (Council) the responsibility to “...work in an iterative fashion with the interagency work group to develop guidance for...budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW 70A.02.080...”

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

## Discussion:

We appreciate thoughts, questions, and guidance from the Council. Questions that have arisen include, but are not limited to:

1. [RCW 70A.02.080\(1\)](#) asks covered agencies to incorporate EJ principles into our decision-making processes. What principles would the Council recommend agencies use?
  - a. Note that the Council began discussing this question at your March 22, 2023 meeting. The Council did not adopt a position or guidance, but individual members brought up the following points:
    - i. Council Member David Mendoza suggested that agencies look to a combination of the EJ principles included on page 36 of the [2020 EJ Task Force Report](#) and the [Principles of Environmental Justice](#) adopted at the 1991 First National People of Color Environmental Leadership Summit. Ex Officio Member Eliseo (EJ) Juárez emphasized the value of the Task Force report. No Council Members present shared concerns with this suggestion.
    - ii. Ex Officio Member Millie Piazza suggested that the Council also think about budgeting and funding in the context of the Federal Justice 40 work, and that agencies identify opportunities to align what is done through HEAL with expectations at the federal level.
2. [RCW 70A.02.080\(2\)\(c\)](#) asks agencies to clearly articulate EJ goals and performance metrics to communicate the basis for agency expenditure decisions. Does the Council have suggestions for what those metrics could or should be? Or would the Council prefer that agencies present the goals and metrics they're considering and get Council input on them?
3. [RCW 70A.02.080\(2\)\(a\)](#) asks agencies to focus applicable expenditures on vulnerable populations and overburdened communities. What counts as applicable expenditures? Is this just grant program and contract fund or does the Council think it should also include salaries and benefits, general agency costs (lease, supplies, IT, HR, etc.), or professional development funds for individuals? Note: It may be outside of the scope of the Council's

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

work to provide guidance on this question as it may be a question about the legal interpretation of the law.

### Staff Contacts:

Rowena Pineda, Environmental Justice Advisor, [rowena.pineda@ejc.wa.gov](mailto:rowena.pineda@ejc.wa.gov), 360.584.4197

Sierra Rotakhina, Council Manager, [Sierra.Rotakhina@EJC.wa.gov](mailto:Sierra.Rotakhina@EJC.wa.gov), 360-584-4398

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

# Environmental Justice Council

**Date:** June 22, 2023

**To:** Environmental Justice Council Members

**From:** NiRae Petty, Co-Chair, Community Engagement Committee

**Subject:** Proposed Community Engagement Values and Guidance

## Background and Summary:

The Community Engagement Committee of the Environmental Justice Council (Council) developed draft community engagement values and community engagement guidance for HEAL agencies and for the Council which were initially introduced to the Council at its meeting in March. During that meeting, the Council indicated that the values and guidance were not ready for distribution and requested the Committee to continue working on them.

The revised language is on [page 26](#) of today's meeting packet, and the Council has time at today's meeting to discuss and make amendments. The committee will incorporate the changes and present a revised version for adoption at the Council meeting on July 27<sup>th</sup>. Please note that the committee intends for this document to be revisited and revised regularly to reflect what we learn from communities.

## Discussion:

To help with our discussion today, please consider the following questions:

1. Please share your initial reaction to the values and guidance presented.
2. Are the values and guidance reflective of how we want the Council and the HEAL agencies to engage with communities? Is there anything the committee missed that should be added?

## Staff Contact

Rowena Pineda, Environmental Justice Advisor, [rowena.pineda@ejc.wa.gov](mailto:rowena.pineda@ejc.wa.gov), 360.584.4197

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

## DRAFT Community Engagement Guidance and Values

Presented to the Environmental Justice Council on June 22, 2023

The Healthy Environment for All (HEAL) Act creates a coordinated approach to reducing environmental health disparities across Washington state. The HEAL Act established the Environmental Justice Council to provide guidance to state agencies on how to incorporate environmental justice into different facets of their work. The Community Engagement Committee was created by the Council to lead the discussion on community engagement with the agencies. The committee and the Council believe that authentic community engagement is the heart of environmental justice. As such the following values are foundational to community engagement (see appendix for more information on each value).

1. **Community-Centered** with a focus on those closest to the pain: Power, dialog, and knowledge production must be done with community as equal partners. The use of lived experience, story, participatory, qualitative, and arts-based methods that accurately convey community concerns must be prioritized as at least equal to western and quantitative methods for transformational change.
2. **Equity-Centered:** We work to make meaningful change with communities that have been historically oppressed, denied resources, and extracted from for the benefit of others. The goal is to eliminate racial hierarchies and advance collective liberation, where Black, Indigenous and People of Color, in particular, have the dignity, resources, power, and self-determination to fully thrive.
3. **Accessible:** Work should be done in locations where community is in partnership with community-based organizations and community leaders, in ways that utilize multiple ways of knowing, in ways that share power, and with results that are usable by community. Translation services and disability inclusion through accommodations should be provided.
4. **Authentic:** Community is the expert of their lived reality. Engagement with community should be authentic, ongoing and non-extractive, and value community knowledge through reciprocity.
5. **Accountable (Reciprocal Trust):** Government must acknowledge their past and current missteps and take action to create a better relationship currently and in the future through Truth and Reconciliation<sup>i</sup>. At the same time, government often distrusts community knowledge and work if it is not based on quantitative data (even if the numbers are not accurate or real). Authentic partnership with community can lead to data that is a more accurate representation of their truth.
6. **Intersectional:** We coalition build by doing intersectional work to make a more inclusive, equitable, and sustainable movement that explores the nuance of how identities such as gender, race, disability, sexuality, religion, citizenship, and more have led to disproportionate burdens from environmental inequities.

7. **Interconnectedness:** We are interwoven with all people of the world, the environment, and the living and non-living world. Only through working together and seeing the humanity of us all can we replace individualism that leads to extractive relationships with people and the environment towards reciprocal relationships to address inequities and climate change. [Staff note: This value has been added to the original list presented to the Council at its March 2023 meeting.]

Therefore, the Environmental Justice Council guidance is that outreach and community engagement shall:

1. Demonstrate respect and value for community cultural practices and expressions, ways of knowing, forms and sources of community leadership, and specific, local expertise. *(Reflective of Values #1: Community Centered and #4: Authentic)*
2. Center, acknowledge, trust, and amplify voices of marginalized, vulnerable communities experiencing unaddressed environmental health disparities. Remember that community is the pre-eminent expert in their reality. *(Reflective of Values #4: Authentic and #7: Interconnectedness)*
3. In planning and conducting community engagement, incorporate an understanding of the impacts of historical, contemporary and structural forms of racial and other oppressions. Incorporate this understanding into analytical methodologies agencies use when determining community impacts, mitigations, reparative benefits and the implementation of community engagement. The community engaged should be the primary beneficiary. *(Reflective of Values #3: Accessible, #4: Authentic, and #5: Accountable [Reciprocal Trust])*
4. When planning and conducting community engagement, utilize multiple forms of culturally responsive research including quantitative, qualitative, and community driven methodologies and approaches to collaborative, and applied research that center community cultural values, voice, and agency. Ask the right questions, do the research in a non-extractive and anti-racist way to avoid disengagement, analyze the data in a non-deficit way, and the data/end product should be usable by community. *(Reflective of Values #1: Community Centered, #5: Accountable [Reciprocal Trust], #6: Intersectional, and #7: Interconnectedness)*
5. Prioritize transparency in data collection by preserving raw data and creating opportunities for communities to re-analyze it. Recognize that publicly available data sometimes minimizes community-based data. Utilize community-based research methods including multiple qualitative and quantitative data sources to identify marginalized, vulnerable sub-populations within communities that might require unique approaches for engagement. *(Reflective of Values #1: Community Centered, #3: Accessible, and #6: Intersectional)*
6. In collaboration with communities, identify and use culturally and linguistically responsive and effective outreach and community engagement methods and materials. *(Reflective of Values #1: Community Centered, #3: Accessible, and #4: Authentic)*
7. Fully and concurrently utilize a wide variety of methods to conduct and engage communities in the ways and venues preferred by communities themselves. Make sure materials are accessible to community members without technology, prefer not to use

technology, or have low literacy. *(Reflective of Values #1: Community-Centered, #2: Equity-Centered, #3: Accessible, and #4: Authentic)*

8. Consider the impacts of community engagement on communities. Provide needed social supports such as funding for community-based resources that communities identify to help mitigate and process the trauma experienced from the engagement itself. Provide compensation to community members for their time and knowledge. *(Reflective of Values #1: Community-Centered, #2: Equity-Centered, and #3: Accessible)*
9. Provide a report on how the above guidance is incorporated in community engagement, and lessons learned. *(Reflective of Value #5: Accountable [Reciprocal Trust])*

DRAFT

## APPENDIX

### REFERENCES

The values and guidance are grounded in existing research and literature. The following are accompanying sources. *(Please note that this is a living document, and more will be added as we continue to grow our knowledge.)*

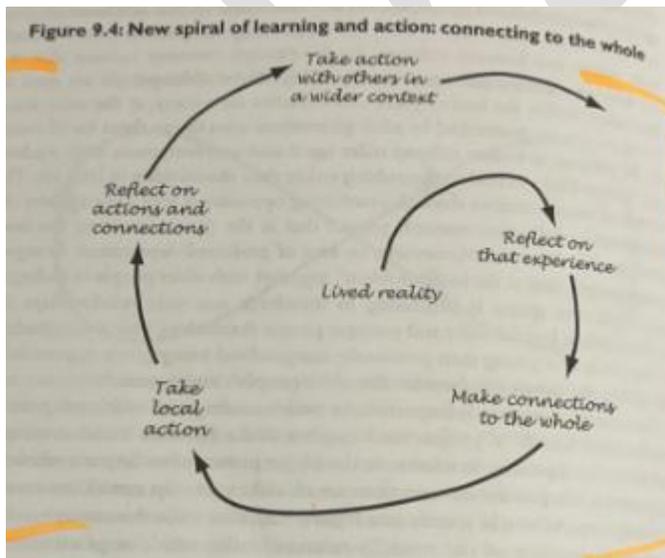
1. **Community-Centered** with a focus on those closest to the pain: Power, dialog, and knowledge production must be done with community as equal partners. The use of lived experience, story, participatory, qualitative, and arts-based methods that accurately convey community concerns must be prioritized as at least equal to western and quantitative methods for transformational change.

From Ledwith, M. & Springett, J., *Participatory Practice: Community-based Action for Transformative Change*

“Participation is a transformative concept, it is the antithesis of isolation, marginalization, exclusion, powerlessness, and alienation” (Ledwith & Springett, p. 57).

“Emotions have an energy that emerges from the inertia of apathy, releasing feeling from atrophy and generating action.” (p. 129)

“Our stories mark the beginning of the transformative process; they are the basis of our new stories. Little stories become collective narratives, and in an unfolding dialectic engagement between dominant narratives and counter narratives, the dance between theory and action questions what is in order to create what can be, and in so doing a radical transformation of the everyday unfolds.” (Ledwith & Springett, 2010, p. 125)



From Yosso, T. J. (2005). [\*Whose culture has capital? A critical race theory discussion of community cultural wealth\*](#). *Race ethnicity and education*, 8(1), 69-91.

“The centrality of experiential knowledge. CRT recognizes that the experiential knowledge of People of Color is legitimate, appropriate, and critical to understanding, analyzing and teaching about racial

subordination. CRT draws explicitly on the lived experiences of People of Color by including such methods as storytelling, family histories, biographies, scenarios, parables, cuentos, testimonios, chronicles and narratives” (Yosso, p. 74)

“Community cultural wealth is an array of knowledge, skills, abilities and contacts possessed and utilized by Communities of Color to survive and resist macro and micro-forms of oppression” (Yosso, p. 77)

78 T. J. Yosso

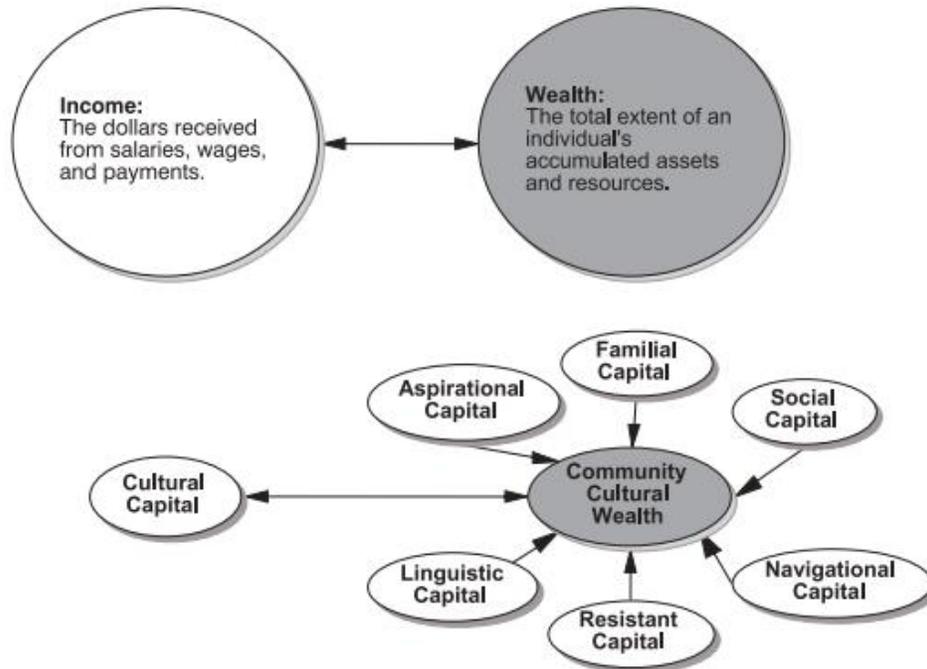


Figure 2. A model of community cultural wealth. Adapted from: Oliver & Shapiro, 1995

*Aspirational Capital:* Refers to the ability to maintain hopes and dreams for the future, even in the face of real and perceived barriers. This resiliency is evidenced in those who allow themselves and their children to dream of possibilities beyond their present circumstances, often without the objective means to attain those goals. (p. 77)

*Linguistic Capital:* Includes the intellectual and social skills attained through communication experiences in more than one language and/or style. Also includes storytelling tradition, oral histories, attention to detail, humor and ability to communicate via visual art, music or poetry. Skills such as cross-cultural awareness, “real world” literacy, and civic and familial responsibility. (78)

*Familial Capital:* Refers to those cultural knowledges nurtured among familia (kin) that carry a sense of community history, memory and cultural intuition. Community well-being and a more broad understanding of kinship. From these kinship ties, we learn the importance of maintaining a healthy connection to our community and its resources. Our kin also model lessons of caring, coping and providing, which inform our emotional, moral, educational and occupational consciousness. Pedagogies of the home that BIPOC bring with them. (p. 79)

*Social Capital:* Can be understood as networks of people and community resources. Networks reassure people emotionally that they are not alone in the process. Lifting as we climb, communities of Color gave the information and resources they gained through these institutions back to their social networks. (p. 80)

*Navigational Capital:* Refers to skills of maneuvering through social institutions which have often not been made with marginalized people in mind. Resilience is a set of inner resources, social competencies and cultural strategies that permit individuals to not only survive, recover, or even thrive after stressful events, but also to draw from the experience to enhance subsequent functioning. (p. 80)

*Resistant Capital:* Refers those knowledges and skills fostered through oppositional behavior that challenges inequality. Maintaining and passing on the multiple dimensions of community cultural wealth is also part of the knowledge base of resistant capital. Transformative resistant capital includes cultural knowledge of the structures of racism and motivation to transform such oppressive structures. (p. 81)

2. **Equity-Centered:** We work to make meaningful change with communities that have been historically oppressed, denied resources, and extracted from for the benefit of others. The goal is to eliminate racial hierarchies and advance collective liberation, where Black, Indigenous and People of Color, in particular, have the dignity, resources, power, and self-determination to fully thrive.

“Taking stock of differential historical and current access to rights, resources, representation, respect, and seeking to achieve equilibrium by coordination institutional resources around differential needs.” (White Privilege Conference)

“Racial Equity is a process of eliminating racial disparities and improving outcomes for everyone. It is the intentional and continual practice of changing policies, practices, systems, and structures by prioritizing measurable change in the lives of people of color.” (Race Forward)

“Racial Justice is a vision and transformation of society to eliminate racial hierarchies and advance collective liberation, where Black, Indigenous and People of Color, in particular, have the dignity, resources, power, and self-determination to fully thrive.” (Race Forward)

3. **Accessible:** Work should be done in locations where community is in partnership with community-based organizations and community leaders, in ways that utilize multiple ways of knowing, in ways that share power, and with results that are usable by community. Translation services and disability inclusion through accommodations should be provided.

From [Why Am I Always Being Researched?](#), a guidebook created by [Chicago Beyond](#).

THE CHALLENGE: Access to creating knowledge about communities and the programs that serve them is controlled by people outside those communities, who also often control the questions asked. Conversations about research often happen without community organizations or community at the table, or on an “invitation only” basis on others’ terms.

THE IMPLICATION: When a voice is missing from the table, the answers we get are insufficient. We may perpetuate bias, and fail to find out.

THE OPPORTUNITY: Design research to serve community purpose. Not participate in research that perpetuates the researcher as “brains” and community as “brawn” stereotype. (p. 20)

4. **Authentic:** Community is the expert of their lived reality. Engagement with community should be authentic, ongoing and non-extractive, and value community knowledge through reciprocity.

From *Ledwith, M. & Springett, J., Participatory Practice: Community-based Action for Transformative Change*

“The most trustworthy knowledge comes from personal experience rather than the pronouncement of authorities.” (Ledwith & Springett, 2010, p. 198)

From *Why Am I Always Being Researched?* (Validity)

THE CHALLENGE: Community organizations and members are often viewed as credible sources when talking about the community, but they are not viewed as voices with authority to sway those with power. The institutions, frameworks, methods and data sources seen as most authoritative and valid are often far from community reality.

THE IMPLICATION: When outside experts hold the authority to produce and interpret knowledge, we diminish the value of community voice. Without that community wisdom, we accept partial truths as the full picture.

THE OPPORTUNITY: Community can value the validity of your own voices at the table, especially on the questions, the inputs to answer the questions, and how participants experience the research. Researchers can Build relationship with the community organization and check for partial truths. (p. 22)

5. **Accountable (Reciprocal Trust):** Government must acknowledge their past and current missteps and take action to create a better relationship currently and in the future through Truth and Reconciliation<sup>ii</sup>. At the same time, government often distrusts community knowledge and work if it is not based on quantitative data (even if the numbers are not accurate or real). Authentic partnership with community can lead to data that is a more accurate representation of their truth.

From *Why Am I Always Being Researched?*

THE CHALLENGE: Often, funders and researchers choose whether or not to take responsibility and make changes when the way research is designed unintentionally creates harm or does not work, while the community organization and community bear the greatest risk. Community organizations have to prove their effectiveness and fidelity, while funders and researchers are exempt from the same scrutiny and vulnerability.

THE IMPLICATION: Without accountability, trust is limited, and the work cannot be as bold. Worse, communities can be harmed. (p. 25)

THE OPPORTUNITY: Build trust-based relationships with the other entities. Be accountable to understand the context. Own your role in missteps. Help identify and mitigate risks.

**DEFINITION** of *Truth and Reconciliation*

“Reconciliation is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country. In order for that to happen, there has to be awareness of the past, acknowledgement of the harm that has been inflicted, atonement for the

causes, and action to change behavior” (Canada’s TRC Report 2008).  
[https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

6. **Intersectional:** We coalition build by doing intersectional work to make a more inclusive, equitable, and sustainable movement that explores the nuance of how identities such as gender, race, disability, sexuality, religion, citizenship, and more have led to disproportionate burdens from environmental inequities.

From *Intersectional Environmentalist* by Leah Thomas

“IE aims to create space for a more complete and inclusive retelling of environmental or natural history, one that embraces all cultural contributes to sustainability and environmentalism...While ecofeminist focus primarily on how gender, sex, the patriarchy, and gender roles negatively impact the environment, IE creates space for all social injustices and marginalized groups within the discourse...Taking a closer look at historical events and movements helps shed light on the nuances of inequality that have long existed beneath the surface...We can treat the exploration of nuance as a way to pave the path for more inclusive movements” (p. 32-33)

7. **Interconnectedness:** We are interwoven with all people of the world, the environment, and the living and non-living world. Only through working together and seeing the humanity of us all can we replace individualism that leads to extractive relationships with people and the environment towards reciprocal relationships to address inequities and climate change.

*(Will be adding references for this value)*

## RESOURCES

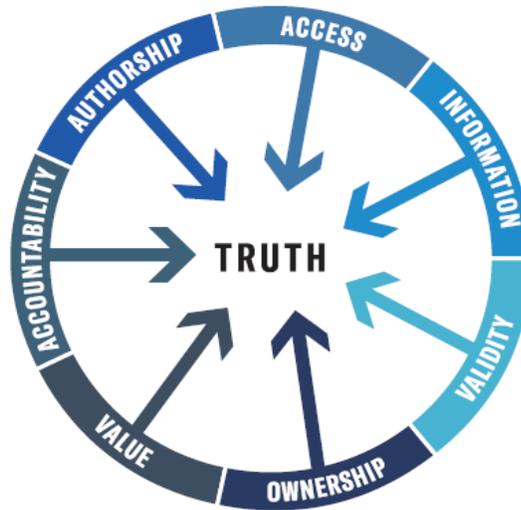
The following are resources to provide examples of productive community engagement and community engagement that harmed communities. Please note that this is a living document. We will continue to add resources in this section.

The following examples of productive community engagement incorporate the values and guidance developed by the Community Engagement Committee of the Environmental Justice Council.

- Chicago Beyond created the guidebook: *Why Am I Always Being Researched?* which can be found here: [Why Am I Always Being Researched? - Chicago Beyond](#). The following graphic from the guidebook contains questions that should be asked whether we’re working on a research project or conducting community engagement.

**The guide begins by naming seven inequities standing in the way of impact, each held in place by power dynamics.**

- 1. Access:** Could we be missing out on community wisdom because conversations about research are happening without community meaningfully present at the table?
- 2. Information:** Can we effectively partner to get to the full truth if information about research options, methods, inputs, costs, benefits, and risks are not shared?
- 3. Validity:** Could we be accepting partial truths as the full picture, because we are not valuing community organizations and community members as valid experts?
- 4. Ownership:** Are we getting incomplete answers by valuing research processes that take from, rather than build up, community ownership?
- 5. Value:** What value is generated, for whom, and at what cost?
- 6. Accountability:** Are we holding funders and researchers accountable if research designs create harm or do not work?
- 7. Authorship:** Whose voice is shaping the narrative and is the community fully represented?



Seven inequities held in place by power, seven opportunities for change.

CHICAGO BEYOND EQUITY SERIES 7

- The Tacoma Public Library did a feasibility study for its Eastside and Hilltop locations. The study is here: [TPL-Eastside-and-Hilltop-Libraries-Feasibility-Study-second-section.pdf \(tacomalibrary.org\)](https://www.tacomalibrary.org/TPL-Eastside-and-Hilltop-Libraries-Feasibility-Study-second-section.pdf).
- **Black Brilliance Research Project** led research to inform the City of Seattle's expanded participatory budgeting process. According to the executive summary, the research project involved over 100 researchers to answer the following questions: **What creates true community safety? What creates true community health? What do you need to thrive?** The researchers used their lived experience to collect, analyze, and report the data. The link to the full report is <https://www.blackbrilliance.com/>.

The following examples of harmful community engagement show what should be avoided.

- The Washington State Patrol (WSP) published this report: [Missing and Murdered Native American Women Legislative Report \(wa.gov\)](https://www.wa.gov/missing-and-murdered-native-american-women-legislative-report). The Urban Indian Health Institute (UIHI) published this report to re-evaluate the data presented in the former report: [UIHI-MMIWG-We-Demand-More-20190920\\_1.pdf](https://www.uihi.org/MIWG-We-Demand-More-20190920_1.pdf).

**The following are some questions to consider to prevent harm:**  
(Still need to complete this section)

## The HEAL Act and the Environmental Justice Council

Chapter 70A.02 RCW (the Healthy Environment for All [HEAL] Act) can be found here: [Chapter 70A.02 RCW: ENVIRONMENTAL JUSTICE \(wa.gov\)](#). The HEAL Act created the Environmental Justice Council (EJC) to advise covered agencies on incorporating environmental justice into agency activities. The Council consists of 16 members:

- Seven (7) community representatives, including one youth representative;
- Four (4) members representing Tribal communities;
- Two (2) members who are environmental justice practitioners;
- One (1) representative of a business that is regulated by a covered agency and whose ordinary business conditions are significantly affected by the actions of at least one other covered agency;
- One (1) representative who is a member or office of a union representing workers in the building and construction trades;
- One (1) representative at large.

The Council created different committees including the Community Engagement Committee.

The Council has the following powers and duties:

- To provide a forum for the public to:
  - (i) Provide written or oral testimony on their environmental justice concerns;
  - (ii) Assist the council in understanding environmental justice priorities across the state in order to develop council recommendations to agencies for issues to prioritize; and
  - (iii) Identify which agencies to contact with their specific environmental justice concerns and questions;
- The council shall work in an iterative fashion with the interagency work group to develop guidance for environmental justice implementation into covered agency strategic plans pursuant to RCW [70A.02.040](#), environmental justice assessments pursuant to RCW [70A.02.060](#), budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW [70A.02.080](#), and community engagement plans pursuant to RCW [70A.02.050](#);
- (ii) The council and interagency work group shall regularly update its guidance;
- In consultation with the interagency work group, the council:
  - (i) Shall provide guidance to covered agencies on developing environmental justice assessments pursuant to RCW [70A.02.060](#) for significant agency actions;
  - (ii) Shall make recommendations to covered agencies on which agency actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population and therefore should be considered significant agency actions that require an environmental justice assessment under RCW [70A.02.060](#);

- (iii) Shall make recommendations to covered agencies:
  - (A) On the identification and prioritization of overburdened communities under this chapter; and
  - (B) Related to the use by covered agencies of the environmental and health disparities map in agency efforts to identify and prioritize overburdened communities;
- (iv) May make recommendations to a covered agency on the timing and sequencing of a covered agencies' efforts to implement RCW [70A.02.040](#) through [70A.02.080](#); and
- (v) May make recommendations to the governor and the legislature regarding ways to improve agency compliance with the requirements of this chapter;
- By December 1, 2023, and biennially thereafter, and with consideration of the information shared on September 1st each year in covered agencies' annual updates to the council required under RCW [70A.02.090](#), the council must:
  - (i) Evaluate the progress of each agency in applying council guidance, and update guidance as needed; and
  - (ii) Communicate each covered agency's progress to the public, the governor, and the legislature. This communication is not required to be a report and may take the form of a presentation or other format that communicates the progress of the state and its agencies in meeting the state's environmental justice goals in compliance with chapter 314, Laws of 2021, and summarizing the work of the council pursuant to (a) through (d) of this subsection, and subsection (11) of this section; and
- To fulfill the responsibilities established for the council in RCW [70A.65.040](#).

By November 30, 2023, and in compliance with RCW [43.01.036](#), the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

- The council's recommendations to covered agencies on the identification of significant agency actions requiring an environmental justice assessment under subsection (9)(c)(ii) of this section;
- The summary of covered agency progress reports provided to the council under RCW [70A.02.090](#)(1), including the status of agency plans for performing environmental justice assessments required by RCW [70A.02.060](#); and
- Guidance for environmental justice implementation into covered agency strategic plans, environmental justice assessments, budgeting and funding criteria, and community engagement plans under subsection (9)(c)(i) of this section.

The council may:

- Review incorporation of environmental justice implementation plans into covered agency strategic plans pursuant to RCW [70A.02.040](#), environmental justice assessments pursuant to RCW [70A.02.060](#), budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW [70A.02.080](#), and community engagement plans pursuant to RCW [70A.02.050](#);

- Make recommendations for amendments to this chapter or other legislation to promote and achieve the environmental justice goals of the state;
- Review existing laws and make recommendations for amendments that will further environmental justice;
- Recommend to specific agencies that they create environmental justice-focused, agency-requested legislation;
- Provide requested assistance to state agencies other than covered agencies that wish to incorporate environmental justice principles into agency activities; and
- Recommend funding strategies and allocations to build capacity in vulnerable populations and overburdened communities to address environmental justice.

The role of the council is purely advisory and council decisions are not binding on an agency, individual, or organization.

All council meetings are subject to the open public meetings requirements of chapter [42.30](#) RCW and a public comment period must be provided at every meeting of the council.

## **GLOSSARY**

The state's DEI Glossary can be found here: [Diversity, Equity and Inclusion – Glossary of Equity \(wa.gov\)](https://www.wa.gov/DEI/Glossary).

---

<sup>i</sup> Truth and Reconciliation: “Reconciliation is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country. In order for that to happen, there has to be awareness of the past, acknowledgement of the harm that has been inflicted, atonement for the causes, and action to change behavior” (Canada’s TRC Report 2008).  
[https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

# Environmental Justice Council

Date: June 22, 2023

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager; Rowena Pineda, Environmental Justice Advisor

Subject: Identification of Overburdened Communities and Vulnerable Populations

## Background and Summary:

The Environmental Justice Council (Council) received a briefing on the Identification of Overburdened Communities and Vulnerable Populations at its May 24, 2023 Council meeting and began early discussion of this topic. The main points of that briefing are summarized below.

## Summary of HEAL Act Language on Overburdened Communities and Vulnerable Populations

Chapter 70A.02 RCW, the HEAL Act, seeks to reduce environmental and health disparities in Washington State and improve the health of Washington State residents. The identification of Overburdened Communities and Vulnerable Populations underlies the interconnected parts of the HEAL Act. There is no deadline in the HEAL Act or specific deliverable “due” for identification of overburdened communities. However, agencies will need to know how to identify overburdened communities and vulnerable populations to conduct Environmental Justice Assessments and analysis of environmental justice in budgeting and funding decisions by July 1, 2023.

HEAL defines Overburdened Communities and Vulnerable Populations as follows:

1. “Overburdened community” means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but not limited to, highly impacted communities as defined by in RCW [19.405.020](#).

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711

- “Highly impacted community” means a community designated by the department of health based on cumulative impact analysis in RCW [19.405.140](#) or a community located in census tracts that are fully or partially on “Indian country” as defined in 18 U.S.C. Sec. 1151.
2. “Vulnerable populations” means population groups that are more likely to be at higher risk for poor outcomes in response to environmental harms, due to: 1) adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and 2) sensitivity factors, such as low birth weight and higher rates of hospitalization.
- “Vulnerable populations” includes, but is not limited to:
    - Racial or ethnic minorities
    - Low-income populations
    - Populations disproportionately impacted by environmental harms; and
    - Populations of workers experiencing environmental harms.

### Discussion:

At today’s meeting, if time allows, the Council may continue to ask and discuss some of the hard questions about how to identify overburdened communities and vulnerable populations.

Council Members, Legislators, and state agency staff implementing the HEAL Act have asked many of these challenging questions in their discussions over the past year. Some of these questions are listed below as examples the Council could continue discussing today. Council Members and HEAL agency staff may have additional or higher priority questions they want to pose during the meeting as well.

### Discussion questions:

1. What are contexts where a process to identify overburdened communities may be best suited and when may a list of overburdened communities may be best suited?

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711

- a. Note: The Council began discussing this question at its May 2023 Council meeting. Many Members shared their thoughts, but the group did not come to consensus. This topic needs further Council discussion.
2. When should consistency in process or a list across agencies be most beneficial versus when should agencies have flexibility and adaptability to address their differing contexts?
3. As it relates to the process for identifying overburdened communities, what do we want to track? How do we want to track it? How should we measure success?
4. How do we use the available tools and datasets as part of a toolbox of resources to identify overburdened communities and vulnerable populations while also addressing the limitations of these tools and datasets?
5. Considering the Environmental Health Disparities Map as one possible tool to be used in this process, which rankings should be included (e.g., Census tracts ranked as 10? As 9? As 8? Etc.)
6. How do we define or put boundaries around a “community”?
7. Can there be a path for communities not identified by an agency to self-identify as overburdened? How do agencies have criteria or a process for self-identification that is low barrier/burden for communities and equitable?

## Staff Contact

Rowena Pineda, Environmental Justice Advisor, [rowena.pineda@ejc.wa.gov](mailto:rowena.pineda@ejc.wa.gov), 360.584.4197

# Environmental Justice Council

Date: June 22, 2023

To: Environmental Justice Council Members

From: Rowena Pineda, Council Environmental Justice Advisor

Subject: Update on Environmental Justice Assessment

## Background and Summary:

At the May 2023 meeting, a draft of the Environmental Justice (EJ) Assessment was shared with the Environmental Justice Council (Council). The Council was able to share feedback with agencies which were incorporated into the next version of the EJ Assessment. During that meeting, a timeline was also shared. I want to provide a brief update on the status of the EJ Assessment to date.

## Update:

The Interagency Workgroup's subgroup working on the EJ Assessment template created a simplified version of the EJ Assessment. This version is continuing to go through review and revisions and will likely be modified by each agency to fit the specific agency actions they are assessing. The Council's Environmental Justice Assessment Committee had an opportunity to review it and provide feedback. It has also been shared with the Tribal Liaisons' Workgroup which is composed of the Tribal Liaisons from the HEAL agencies. It will undergo legal review to ensure it meets what is required in statute. In addition to the EJ Assessment template, the agency subgroup working on it is creating an accompanying guidance document.

I want to note that the EJ Assessment is a work in progress. Its implementation at each agency will likely be phased with starts and stops based on the significant agency actions requiring EJ Assessments and what each agency is learning. As with many aspects of the HEAL Act, the EJ Assessment is iterative. Agencies will be learning as they implement and will be incorporating what they learn into the process.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

## Revised Timeline:

**July 2023:** Agencies begin implementation of the EJ Assessment while continuing to make changes to it to incorporate what is being learned.

**July – August 2023:** Agencies host workshops for EJ Council Members on the EJ Assessment Template to answer questions and get more input.

**September 2023:** Agencies report to the Council on lessons-learned from initial implementation of the EJ Assessment. The report will include the lessons-learned to this point and how they are being incorporated.

**First Quarter 2024:** Agencies incorporate revisions to the EJ Assessment template; present revised version to the full Council.

## Proposed Next Steps:

The EJ Assessment Committee of the Council will continue to engage in thought partnership with the Interagency Workgroup's subgroup working on the EJ Assessment. The Committee will also start to discuss possible guidance to agencies based on what we are learning. The Council will have an opportunity to provide input on guidance as they are developed.

## Questions for Discussion:

1. Does the Council have suggestions for agencies on the balance to strike between providing comprehensive information in the EJ Assessments and ensuring that these are short enough that community actually has time to read them?
2. As was mentioned above, the initial EJ Assessments will be works in progress. This will likely mean that some of the initial actions that need to move ahead this fall will not have the luxury of time to do an in-depth assessment. How can the Council help agencies improve over time?

## Staff Contact

Rowena Pineda, Environmental Justice Advisor, [rowena.pineda@ejc.wa.gov](mailto:rowena.pineda@ejc.wa.gov), 360.584.4197

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or 360-584-4398. TTY users can dial 711.

# Written Public Comments

**From:** George Danilov

**Sent:** Wednesday, June 7, 2023 3:55 PM

**To:** DOH HEAL Act <[HealAct@doh.wa.gov](mailto:HealAct@doh.wa.gov)> (forwarded to [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov))

**Subject:** Comments on WAC 246-272A

#### External Email

To the Council of Environmental Justice,

Concerning problems with on-site wastewater treatment regulation (WAC 246-272A).

Let me attract attention of the respectable Council that the Code was composed by executive administrators (WW Section of WADOH) and unreasonably limits the owners' right to manage their properties in the affordable and desirable manner by their choice and abilities, because the Code:

1. contains articles of commercial character coercing property owners to deal with a very limited number of Department-licensed contractors (WAC 246-272A-230.(1)), who are shielded from market competition.

This fact causes such a situation that every property owner, who wishes to live or work in her-his property, is forced to have a registered On-site Sewage System (OSS) with minimal price for installation and registration exceeding \$12,000. The licensed designers/contractors have a tendency to install excessive equipment (pumps, switches, valves, electronic controls, etc.), which remarkably reduces reliability of the system, but can make their work more profitable. In most cases they dismiss simpler, cheaper and more efficient solutions.

This article (230.(1)) gives unlimited power of final decision into the hands of one person in every county named in the Code "Health Officer". The real situation is that very frequently the property owners deal with people, who simply do not know (or neglect) the full spectrum of household waste treatment technologies, and there is no provision to contest these impromptu decisions since there is no a competent board of appeal.

Further, current practices are such that local Environmental administration files infraction suits against property owners without any concerns to present facts of environmental pollution to the court. Magistrates in local courts are biased in favor of the administration, because they simply don't understand the essence of the dispute. Such hearings are turned into a farce with 100 percent predictable end when no arguments are considered impartially and competently, and the property owners are deprived of an ability to find justice.

**This situation puts the owners with low income into a very vulnerable position.**

2. is filled from top to bottom with arbitrary requirements, which contradict scientific evidence presented in the “On-site Water Treatment System Manual” USEPA, EPA-625/R-00/008, February 2002.
3. is so turbid that average property owners simply don’t understand what is written there, since neither OSS technologies and systems are described properly and no good references to such description are given. It means the Code is composed for administration and **neglects people**.

My two-and-half year long attempt to discuss these issues with the WW Section manager Mr. Simmons gave no results. On the one hand Mr. Simmons agreed that making installation of OSSs more affordable can protect the environment better. On the other hand he refused to make any changes to the Code. From personal conversation with Mr. Simmons over Zoom I understood that he either have personal interests to keep the Code filled with arbitrary requirements working for the benefits of the department-licensed OSS contractors and against property owners, or simply does not know how to make the Code scientifically and socially balanced and following the spirit of Amendment 14.1 of the Constitution of the United States.

I sent a petition to the WADOH Board and also met a lack of desire to understand the point of matter and solve it in a scientifically based manner, since there were no scientists specializing in wastewater treatment present in the Board.

It became evident that only a third side specialist, free of any commercial interest in maintaining the Code as it is, can rewrite the Code in such a manner as is scientifically valid and intelligible to the average property owner and restore his-her rights.

I began composing remarks and corrections, which remove major defects of the Code, since I know very well that this is doable. You can find my corrections in the attached file, which were motivated by the two major incentives:

1. The Code shall emphasize that the role of Administration is to assist and work in cooperation with the property owners, helping and teaching them how to manage the household wastewater and garbage in the most efficient and safe manner. The Code shall not use the enforcement approach adopted now, which gives power into the hands of frequently poorly informed people, who, assuming basic competence, don’t properly know the full spectrum of the technologies since the Code fails to properly describe them.
2. The Code shall give description and requirements to all wastewater and garbage technologies, which can provide for the most efficient way of treatment and recycling of household water and organic waste. In its current state the Code just assumes that there are such technologies, but limits their use to just a few, omitting the most efficient ones.

My remarks are composed mostly using citations from the “On-site Water Treatment System Manual” USEPA, EPA-625/R-00/008, February 2002. The only point which cannot be found in the Manual is article WAC 246-272A-0200(2)(d)(iii), which describes the possibility of OSS construction in the flood zones. I included this article because the Code completely neglects the possibility that OSS blackwater tanks are exposed to flooding and erosion with the possibility of

opening a septic tank and washing untreated “blackwater” effluent, raw sewage, into a surface water.

Regrettably, I am remarkably pressed for time, especially now, when my farm work is at its peak, and cannot finish this appeal and complaint as well as I would like. Besides, I am pretty sure that Mr. Simmons and his team of OSS contractors will oppose any changes, since my suggestions remarkably simplify the Code and restore property owners’ rights, and thus limit their power to squeeze remarkable money from property owners. They don’t care that existing procedures with high installation prices pose a remarkable threat to the environment.

I believe in the wisdom and democracy of Washingtonians and hope the Counsel of Environmental Justice can hire independent scientists with an impartial approach to this type of regulations to correct the Code for the sake of the most vulnerable property owners and safety of the environment and advise the WW Section of DOH to make changes to the Code. I suggest my remarks be used to revise this section of the Code to make it reflect scientifically valid environmental reality.

Normal democratic procedures assume that legislation shall be composed by a body other than the executive body and contractors, who may benefit from it.

Thank you.

Yury Danilov.

Retired physicist and the owner of a property in Lewis County.

**From:**

Sent: Sunday, May 28, 2023 9:51 PM

**To:** DOH EPH OEPHS Environmental Justice <[envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov)>

**Subject:** Status of Community Engagement Plan for HEAL Act Implementation

External Email

May 28, 2023

Department of Health

Environmental Justice Council

Washington State

Dear Environmental Justice Council,

I hope this email finds you well. As a concerned mother and resident of Washington, I'm writing to inquire about the status of the community engagement program being implemented in accordance with the HEAL Act. I strongly believe in the importance of safeguarding our environment and ensuring equitable access to a healthy and sustainable future for current and future generations in Washington state, and everywhere.

As a mother, I'm deeply invested in the well-being of my child and future generations. I recognize that the HEAL Act, outlined in Chapter 70A.02 RCW, serves as a critical roadmap for integrating environmental justice into state agencies. It is my understanding that the Act requires seven state agencies, including the Environmental Justice Council, convened by the Department of Health, to develop and adopt community engagement plans by July 1, 2022, to address environmental disparities and uplift the voices of marginalized communities.

I am aware that the HEAL Act emphasizes close collaboration with the Environmental Justice Council, whose members are appointed by the Governor, to provide guidance on community engagement plans. However, I understand that the appointment and seating of the Environmental Justice Council faced some delays, causing the first meeting to be held on April 4, 2022, instead of the initially planned date of January 1, 2022. I'm grateful for the efforts made to establish this Council and the Interagency Work Group, which began drafting community engagement plans in January 2022 while awaiting the Council's full establishment.

In light of these developments, I am eager to learn about the progress made in developing and reviewing the community engagement plan under the HEAL Act. Specifically, I would greatly appreciate an update on the timelines for the review and adoption of the community engagement plan, considering the draft plans have not yet been reviewed by the Environmental Justice Council.

I commend the Department of Health for its commitment to fostering a strong partnership with the Environmental Justice Council in integrating equitable environmental justice into agency activities. Given the duty to the legislature and the people of Washington, I understand that the agency is adopting a provisional community engagement plan.

I'm particularly interested in understanding the steps that will be taken to coordinate this provisional plan with the Environmental Justice Council, incorporating their guidance and insights, as well as gathering input from communities across the state. Furthermore, as tribal consultation is a vital aspect of environmental justice, I am curious to know how the agency plans to ensure meaningful engagement with tribal communities in the process.

In addition, as someone deeply committed to fostering inclusive decision-making processes, I would like to know more about how the agency intends to incorporate public input and feedback into the final community engagement plan. Given the importance of amplifying the voices of communities disproportionately affected by environmental justices, I kindly request details regarding the community listening and feedback sessions that will be conducted, the timeline as updated, as well as the mechanisms in place for tribal consultation.

With the beginning of wildfire & wildfire smoke season upon us, I'm particularly concerned about the health impacts on vulnerable communities. Wildfire events have become increasingly frequent and severe in our state, posing a significant threat to air quality and public health. Therefore, I kindly request information on how the agency's community engagement plan under the HEAL Act addresses the specific challenges posed by wildfire smoke and how community members, especially those disproportionately affected, will be involved in mitigating and responding to these risks.

Finally, I appreciate that the community engagement plan is designed as a living document that will evolve over time. Understanding the importance of ongoing collaboration, I would like to know how the agency plans to partner with the Environmental Justice Council and Washington tribes and other communities in updating and refining the community engagement plan in the years to come.

Thank you for your attention to these inquiries and for the efforts made by the Department of Health, Environmental Justice Council, and Governor Inslee to implement the HEAL Act. Like most Washingtonians, I am dedicated to supporting initiatives that promote environmental justice and create healthier, safer, and more equitable communities for all.

Environmental Justice Council Meeting  
May 24, 2023

Received via Email

My name is Brandi Hyatt.

I live in East Selah near the Yakima Training Center Army installation, where AFFF fire suppressant foams, containing highly pervasive PFAS chemicals, traveled off base into the communities groundwater. For years we have unknowingly been consuming high amounts of PFAS chemicals linked to serious health impacts including cancer.

The necessity for water equity as private well owners is currently glaring. Our lack of support and resources to live safely in our homes and community are vast, including the need for:

- Further testing in order to fully understand the extent of the traveling contaminant.
- Retesting of wells in order to have accurate data to make informed decisions.
- Whole home safe water. Not just bottled water or a point of use filtration system
- Safe water for gardening and agriculture
- Safe water for pets and livestock
- Blood testing to monitor the extent of personal exposure
- Spaces that allow the community to take part in the conversation of what's happening to and around us, ie; a Restoration Advisory Board (RAB)
- Qualified Doctors that can guide us through PFAS exposure safely
- Qualified Veterinarians to support decisions with exposed livestock and pets.
- Transparency with the Army, and agencies making decisions about our health and safety

This is not a full list, as more needs and questions arise with every individual and home discovering their exposure. However, these items have yet to be addressed and the number of exposed lives grows. Please reference the attached notes from our Feb 2, Listening Session with State and local agencies for a more comprehensive understanding. I have also included a recent article from the Yakima Herald.

If environmental justice is your business, there can't be a better space than East Selah and our PFAS nightmare for you to take action. The PFAS toll continues to grow in our community. We have been called a "jurisdictional grey area" which is painfully accurate. The voice of the community continues to plead for support as local, state and Federal agencies look at each other with their shoulders shrugged.

How would you like to partner with us in order to facilitate water equity, and environmental justice in East Selah?

Sincerely,  
Brandi Hyatt and The East Selah Community

[https://www.yakimaherald.com/news/local/residents-with-contaminated-water-near-yakima-training-center-still-waiting-for-solutions/article\\_c5267e58-f4d6-11ed-be0b-dbb4423c83a2.html](https://www.yakimaherald.com/news/local/residents-with-contaminated-water-near-yakima-training-center-still-waiting-for-solutions/article_c5267e58-f4d6-11ed-be0b-dbb4423c83a2.html)

Environmental Justice Council Meeting  
May 24, 2023

Email Public Comment

I would like to highlight rural Washingtonians' lack of access to safe drinking water as an Environmental Health Disparity and an environmental justice concern.

As the Clean Water Act and Safe Drinking Water Act celebrate their 50th anniversaries, they are failing rural Americans.

The Safe Drinking Water Act web page states that "Over 92 percent of the population supplied by community water systems receives drinking water that meets all health-based standards all of the time." The Safe Drinking Water Act does not cover the 13% of Americans served by private wells, nor those on Group B water systems. In Washington, this leaves around 1.7 million primarily rural Washingtonians unprotected by the Safe Drinking Water Act.

The Washington Tracking Network clearly shows the environmental and other health disparities, social vulnerability indices, and other criteria that clearly define these rural communities as disadvantaged. And WTN does not yet take into account the disproportionate impacts on these communities of climate change and environmental mismanagement, such as sea level rise, landslides, wildfires, and excessive heat. Rural Washingtonians must also deal with the impacts on their groundwater of industrial agriculture, from declining aquifers to nitrate and pesticide contamination. And now PFAS is found contaminating their groundwater, in some cases from firefighting foam from their local fire station, where their friends and neighbors work to save lives and go home to drink the same water.

Just as private wells are excluded from the Safe Drinking Water Act, the groundwater on which they rely is excluded from the Clean Water Act. The CAFOs and dairies responsible for nitrates and more are inspected by the Washington State Department of Agriculture, not by the Department of Ecology, and enforcement is weak and inconsistent between regions. With PFAS, ecology can't pursue cleanup under the Model Toxics Control Act without a polluter to pay, the military sites refuse to recognize the State's cleanup limits, and private well owners and small water systems cannot afford the treatment systems that being installed in urban areas. Many rural Washingtonians continue to drink water that does not meet safe drinking water standards or are forced to buy bottled water.

Access to clean drinking water for rural Washingtonians is an Environmental Health Disparity and an environmental justice concern.

Thank you for the work you are doing and for hearing my comment today.

Respectfully submitted,

John Lovie



**John Lovie**

Director, Whidbey Island  
Water Systems Association

**Phone:** 732 236 9392

**Email:** [john.lovie@whidbey.com](mailto:john.lovie@whidbey.com)

PO Box 1561  
Freeland, WA 98249

[www.whidbeywatersystems.org](http://www.whidbeywatersystems.org)

# East Selah Community PFAS Listening Session

February 2, 2023



To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email [civil.rights@doh.wa.gov](mailto:civil.rights@doh.wa.gov).

**Publication Number**

**DOH 334-491 March 2023**

This document was created by DOH to support the East Selah community. The Feb. 2 East Selah Community PFAS Listening Session was a community-run event that DOH was invited to.

For more information or additional copies of this summary:

Environmental Public Health Division  
Office of Environmental Public Health Sciences  
Washington State Department of Health  
PO Box 47825  
Olympia, WA 98504-7825

360.236.3385  
1.877.485.7316 (toll-free)  
[doheheha@doh.wa.gov](mailto:doheheha@doh.wa.gov)

# Contents

Listening Session Overview.....	1
Guest Panel Representatives .....	2
Question 1: What questions do you have that are still unanswered? .....	3
Question 2: What would you like to work on together going forward? .....	4
Question 3: What else do you need us to know?.....	7
Actions Agencies Are Taking From Community Feedback .....	8
Questions and Answers .....	9



## Listening Session Overview

The East Selah Community Per- and Polyfluoralkyl Substance (PFAS) Listening Session was hosted by East Selah community member and advocate Brandi Hyatt. Brandi invited Yakima Health District (YHD), Washington State Department of Health (DOH), and Washington State Department of Ecology (ECY) to be on a guest panel. The Agency for Toxic Substances and Disease Registry (ATSDR) and Washington State Department of Agriculture (WSDA) were also invited but weren't able to attend.

Approximately 80 community members attended the meeting.

### The goals of the listening session were to:

- 1) Provide an opportunity to get to know local and state people working on PFAS issues at Yakima Training Center and other places in Washington.
- 2) Talk about concerns, ask questions, and learn more about efforts to address PFAS, including how we (state government, local health agencies, and the community) can work together.
- 3) Talk to the community about Washington's State Action Levels and ways to reduce PFAS exposure at home.

### The listening session questions were:

- 1) What questions do you have that are still unanswered?
- 2) What would you like to work on together going forward?
- 3) What else do you need us to know?

DOH also gave a short presentation on Washington's State Action Levels (SALs) for PFAS in drinking water.

## Guest Panel Representatives

### Yakima Health District (YHD):

- Jocelyn Castillo – Community Health Specialist, Yakima Health District
- Kait Wolterstorff – Environmental Health Specialist & Drinking Water Program Lead, Yakima Health District

Please contact Jazlin Perez ([Jazlin.perez@co.yakima.wa.us](mailto:Jazlin.perez@co.yakima.wa.us)) if you have questions for YHD.

### Washington State Department of Health (DOH):

- Barbara Morrissey ([Barbara.morrissey@doh.wa.gov](mailto:Barbara.morrissey@doh.wa.gov)) – Toxicologist, Washington State Department of Health
- Dorothy Tibbets ([Dorothy.tibbets@doh.wa.gov](mailto:Dorothy.tibbets@doh.wa.gov)) – Eastern Regional Manager, Office of Drinking Water, Washington State Department of Health
- Claire Nitsche ([Claire.nitsche@doh.wa.gov](mailto:Claire.nitsche@doh.wa.gov)) – Health Educator, Washington State Department of Health

### Washington State Department of Ecology (ECY):

- Greg Caron ([grca461@ecy.wa.gov](mailto:grca461@ecy.wa.gov)) – Hazardous Waste & Toxics Reduction Program Manager, Central Regional Office, Washington State Department of Ecology

## Question 1: What questions do you have that are still unanswered?

Meeting attendees shared 38 questions with the panel. Not all questions could be answered at the meeting. Questions that the panelists didn't have enough information or data to answer were written down so they could elevate those questions to the right people or agency.

Specific questions the invited agencies can improve their guidance on are:

- PFAS impacts on livestock and gardening.
- Safely eating vegetables from gardens watered with PFAS-contaminated water.
- PFAS impacts on pets.

See page 9 for a complete transcript of the question and answer session from the meeting.

## Question 2: What would you like to work on together going forward?

Meeting attendees shared that they want more support and resources going forward. Specifically, attendees asked for the following.

### 1. Better outreach and transparency.

Meeting attendees shared that they feel that state and local agency outreach has been better than the Army's, but it is still "too governmenty." They asked DOH, ECY, and YHD to take a better public relations approach to communication. Recommended outreach channels include:

- Social media channels (Facebook and Instagram are the most used).
- Email listservs.
- Direct mailers.

Attendees also said they felt like they don't know what efforts are going on. They asked DOH, ECY, and YHD to be more transparent about:

- Actions going on at the local, state, and federal level.
- Progress on existing PFAS projects.
- New testing technologies.
- New research about PFAS health impacts and livestock/gardening.
- What's going on at other PFAS sites/other areas.
- What other communities have done that they can replicate.
- Actionable information.
  - How to do reimbursements, gardening advice, actions the state takes (like actions the Attorney General's Office takes against the Army).
  - Make information accessible to people if they don't have accessibility or time to research it themselves.

One suggestion was that DOH, ECY, and YHD do an informal newsletter with updates on PFAS projects, research, and other updates.

## **2. More community participation.**

Meeting attendees shared they want more participation in the PFAS issue, including in its solution. Two meeting attendees shared they signed up for the Army's restoration advisory board in September but never heard anything after. They feel frustrated by this.

Suggestions for community participation include:

- More listening sessions.
- More access to talk to state and local agencies.
- More material distribution (digital and print).

## **3. More resources to test water.**

The cost of getting a water test is a barrier for many community members who want to test their water. Many community members want to re-test because the Army is not doing this. Some people who are on the edge of the Army's testing boundary also want to test.

## **4. More access to blood testing.**

Many community members shared that they want to get their blood tested, but don't know how to start the process. They want more access to blood testing. This includes information about how to ask their doctors for a blood test, information about what a blood test shows, and where to go to get a test done. Some community members have previously expressed interest in getting into a biomonitoring study.

A community member who has gone through the blood testing process shared their experience working with their doctor to address PFAS concerns. They received a referral to University of Washington (UW). The UW doctors were able to direct him to blood testing labs in Issaquah and Bonney Lake.

## **5. More connections with other impacted communities.**

Meeting attendees asked for help connecting with other impacted communities across the state. They shared that these connections are important because they can see what is going on in other areas and replicate what others have done.

DOH recommended connecting with Airway Heights and Whidbey Island. Those communities have been dealing with PFAS contamination for longer. Community members from Whidbey Island and Airway Heights were present at the meeting.

## **6. Finding a solution to the PFAS issue.**

Many community members understand that the body of scientific evidence about the environmental and human health impacts of PFAS is still growing. They also know that guidance, and a solution, requires data. Many people at the session said that if it would help bring about a solution, they are willing to share the following with YHD, DOH, and ECY:

- Eggs, milk, and meat from their livestock for testing.
- Garden vegetables for testing.
- Water results.

Several attendees also expressed interest in joining a biomonitoring study or health research study. They want to use their situation to help drive the science forward, and in turn help others.

## **7. More answers to knowledge gaps, particularly livestock and gardening questions.**

Many community members understand that there isn't enough information yet to connect the dots on how PFAS affect pets, livestock, and gardens. As mentioned above, many are happy to share their eggs, milk, and meat from their livestock with the for testing if it would help bridge the gaps. Several are also happy to share their garden vegetables.

The attendees expressed frustration that Washington State Department of Agriculture (WSDA) was not present at the meeting. They asked the agency panel representatives to encourage WSDA to attend future meetings.

DOH shared that the Agency for Toxic Substances and Disease Registry (ATSDR) was invited to the meeting, but that there was a typo in the email address when the invite went out. ATSDR representatives weren't able to make it because the invite got to them too late. Meeting attendees interest in having ATSDR at future listening sessions.

## Question 3: What else do you need us to know?

Meeting attendees shared the following thoughts and concerns with YHD, DOH, and ECY.

- 1. The listening session made meeting attendees feel “really listened to,” “like they matter,” and like YHD, DOH, and ECY “really value their experience.”**

The meeting attendees appreciated YHD, DOH, and ECY’s willingness to show up, give their time, be transparent, and really listen to what they had to say.

- 2. It “doesn’t feel like legislators care” about what’s going on with PFAS around Yakima Training Center.**

Four to five meeting attendees shared that they have reached out to their legislator and have had no response.

- 3. They are frustrated and “done” dealing with the Army.**

Many community members feel like the Army isn’t interested in helping.

- 4. A family threw out their entire garden due to concerns about it not being safe to eat.**

The lack of information and guidance on gardening is having a significant impact on some people’s ability to have enough food.

- 5. One community member wants to get irrigation water to be able to plant crops, care for livestock, and for their children to use over the summer.**

The PFAS situation has had a significant negative impact on quality of life.

- 6. It is important to people that they can help build strong communities.**

Meeting attendees shared that they want ways to help get themselves, and others, connected who are dealing with PFAS issues throughout the state.

## Actions Agencies Are Taking From Community Feedback

Based on community feedback, agency guests are working on the following actions:

1. Creating a blog/webpage where DOH, ECY, and YHD can post updates. This includes projects around Yakima Training Center and new health information.
2. Looking for ways to improve guidelines for livestock and gardening.
3. Working with clinical labs and health insurance companies to clarify and streamline PFAS blood testing.
4. Elevating community questions, stories, and concerns to agency partners, including research partners.
5. Looking at ways to improve social media outreach. This includes educational videos about PFAS.
6. Developing a procedure for providing point-of-use water filters to homes that have PFAS in their drinking water above the SALs but below the Army's action level of 70 parts per trillion (ppt).

## Questions and Answers

**Q: Is there conclusive evidence that PFAS causes health concerns? In my 70 years I have been exposed to paints, pesticides and such. Is there a real danger here?**

We have conclusive evidence that PFAS can cause a wide range of toxic effects in laboratory mice, rats, and monkeys. We do not have conclusive evidence that environmental exposure to PFAS causes adverse effects in people. Instead, scientists consider the strength and consistency of findings across animal research and health studies of exposed workers and communities. Taken all together, a number of federal and state health agencies, including the Washington State Board of Health, have concluded that there is sufficient evidence of harm to advise lowering PFAS exposure from drinking water.

The PFAS health advice is set well below minimal harm levels in animals and uses conservative assumptions to protect sensitive populations. Drinking water at the State Action Levels should not increase health risks for even the most sensitive populations.

The health outcomes with the most robust link to PFAS exposure in people – increased serum cholesterol and liver enzymes, reduced birth weight, and reduced immune response – have many possible causes. PFAS may be another contributing factor to these health measures.

**Q: Is there a time when private well owners will be required to test their water for PFAS?**

Yes. Group A public water systems (those that serve more than 25 people or 15 connections), are required by state rules to test for PFAS by 2025. Many have already tested. After that, Group A water systems must test every 3 years for PFAS, after 2025. If they have a detection on any of their tests, they will have to test more often.

Washington state does not currently require Group B water systems or private well owners to test for PFAS.

If you are digging a new drinking water well in an area known to have PFAS in the groundwater, it is a good idea to test for PFAS. Yakima Health District is looking at rules for new “startup” systems.

**Q: What are the plans for the under 70ppt in the state’s eyes?**

The state continues to advise people to take action when PFAS levels are above a SAL. Lowering PFAS in the water that you drink and cook with everyday over many years is the best way to reduce your exposure and any health risk from PFAS.

The Army has refused to offer wells at this site, below 70 ppt of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) combined, any long-term solutions (such as a whole home PFAS filter system). Until the Army lowers its action level to meet our SALs or the federal safety standard currently being set by the EPA, we are supporting YHD’s offer of home filters for families above the SALs.

**Q: How do we know if these chemicals are not in our pipes, hot water tanks, faucets, etc. in our house?**

If PFAS are in your water supply, they will be present throughout your home plumbing system. Generally, when a whole house filter is installed, the pipes are flushed prior to using the water for drinking and cooking.

If you are concerned, you could test the water at the tap after the flushing process.

**Q: Can you donate blood if you have PFOA and PFOS in your body?**

Yes, there are no restrictions for donating blood if you have PFAS in your drinking water or your body.

<https://www.redcrossblood.org/donate-blood/how-to-donate/eligibility-requirements.html>

**Q: Why is there a large difference between the state and federal action levels?**

Our PFAS SALs were set in 2021 by the State Board of Health. Our State Action Levels are different than the EPA’s 2016 lifetime health advisory (HAL) of 70 ppt because we had 4 more years of science and data to look at when setting our limits. EPA set their 2016 HAL of 70 ppt for PFOA and PFOS with less data.

This is a hot-changing topic with new studies being published every week. This let the state set lower levels and include 5 total PFAS chemicals – PFOA, PFOS, perfluorononanoic acid (PFNA), perfluorohexane sulfonate (PFHxS), and perfluorobutane sulfonic acid (PFBS) – instead of only 2 (PFOA and PFOS) like the EPA did. We were also able to include information to protect breastfeeding infants. Our modeling research was not available in 2016 when EPA set their limits.

We are now waiting for EPA to set new standards. When they do, they’ll also release the science behind their numbers, which will help us determine why there’s a difference between theirs and ours.

**Q: What are the effects of PFAS in children, pregnant women and breastfeeding women? Can it cause miscarriage and early puberty? Are there other developmental impacts?**

These are life stages that may be more sensitive to PFAS exposure.

- Children with higher PFAS exposure had a reduced immune response to childhood vaccinations in several studies. This raises concern that PFAS could make some vaccinations less effective, like tetanus and diphtheria.
- Higher maternal exposure to PFAS during pregnancy has also been linked to increased risk of high blood pressure problems during pregnancy and decreased birthweights for the baby. This raises the concern that PFAS pose a risk to pregnancy and may alter fetal and early life growth and development.

You also asked about miscarriage, early puberty, or other developmental impacts. The National Academies of Sciences (NASEM) released a report in August 2022 didn't list these issues as health problems that have sufficient or suggestive evidence at this time. The NASEM report is the most current science assessment of PFAS risks to human health. New studies are coming out every month, though. We (DOH) will keep you updated as we learn more.

Public health scientists look at health information on a community level. That means that we look to see if higher exposure to PFAS is associated with an increased rate of a disease or condition in a population of people. Individual people differ in how likely they are to any disease or medical condition. That's why we suggest that you talk to your doctor or other preferred health care provider about your specific health concerns and risks.

We have heard from you before that your doctors don't know much about PFAS. To help with that problem, DOH has a webpage of clinical resources for your doctor on our PFAS website. We also worked with two groups of doctors at University of Washington (UW) to set up support for your local doctors. Both groups of doctors have been educating themselves about PFAS and are trained to assess environmental exposures. One group specializes in medical care for pregnant women and children and the other clinic works with adults.

Your health care provider can access a PFAS consultation by calling 1-206-221-8671, or emailing [pehsu@uw.edu](mailto:pehsu@uw.edu) (email address link).

A community member at the meeting shared that they talked to their family doctor and asked for a referral to UW Medical Center. The UW doctors ordered the blood testing but the patients had to drive to Issaquah or Bonney Lake to get their blood sampled.

*After the meeting, DOH followed up with the UW doctors and with Quest Diagnostics to better understand the problems around getting a PFAS blood test. We (DOH) are making progress at making the process easier and will send an update to the community through Brandi when we have more information.*

**Q: Are you developing a home test to test water, like a swimming pool type test? Is there an easier/more cost efficient test?**

Nothing exists like that right now. Most water tests are costly and have to be sent to a lab. We have seen some cheaper home water test kits advertised. But they use a different testing method and a lab that Washington state does not accredit. There are new test products coming out, and we expect test costs will come down.

We have a list of accredited labs that can test your water, though we understand this is expensive. The reason we can recommend these labs is that we (ECY) have checked them out and accredited them ourselves to make sure they aren't scams. Some water tests out there are scams, so we (ECY) can only recommend the ones we have checked.

**Q: What is non-detect?**

Non-detect is a term that testing labs use when they looked for but did not find that PFAS chemical in your water.

Specifically, it means that you don't have PFAS above the lab's detection limit. For PFAS, most labs have detection limits between 1 – 4 ppt in drinking water.

The detection limit is the smallest amount of PFAS that the lab can "see" with the method they used. It should be included on your lab results page.

**Q: Do PFAS have a positive charge, negative charge or are they neutral? What about Zwitterions?**

PFAS is a very large family of chemicals. There are over 10,000 different types of PFAS, so there is a lot of variety. The PFAS measured by the Army and most commercial water tests are generally negatively charged when in water. This includes PFOA, PFOS, etc.

Zwitterions have both a negative and positive charge on the same chemical. We are not detecting Zwitterionic PFAS in your drinking water.

**Q: How many PFAS can we test for? How come some areas are collecting for 2 PFAS instead of 5? Or 7?**

We use two drinking water tests at DOH. One checks for 18 types of PFAS, and the other checks for 24 types of PFAS. Together they can check for 29 different PFAS.

The Army only publicly reports results for PFOA and PFOS, because those are the only PFAS that the Army takes action on. Their action level is based on a health advisory set in 2016 by EPA. In 2022, the EPA replaced those advisories with much stricter interim health advisories for PFOA and PFOS.

The state requires that water systems take action on 5 PFAS and report all test results. These are the 5 PFAS that we had detected in WA water and for which we had enough information to set state advice.

We use these 5 PFAS as indicators of PFAS impacted water. We rarely get a positive PFAS test result without one of the 5 PFAS we have in our State Action Levels in the mix. This means these 5 PFAS are a good measure of whether there are overall concerning levels in your water.

If your results are showing only 2 types of PFAS were tested for, there could be a reporting issue.

**Q: Has blood level testing been done/does DOH do it? What is the price of testing?**

DOH does not do blood testing. The Agency for Toxic Substances and Disease Registry (ATSDR) did an exposure assessment in Airway Heights a couple of years ago and they did collect blood samples. They compared blood levels and water levels. That report is online at:

<https://www.atsdr.cdc.gov/pfas/activities/assessments/sites/spokane-county-wa.html>

If you want a blood test, talk to your doctor. It's expensive (about \$500). There may also be other health screenings that are helpful.

**Q: How do we ask for blood testing?**

If you want a blood test, talk to your doctor. There are pros and cons to doing the test and you should discuss these with your doctor before making a decision. If your doctor needs to learn more about PFAS, they can consult with UW Medicine

Your doctor can order a serum PFAS test through Quest Diagnostics or Eurofins Sacramento. Currently it is not a simple process, however. Since the meeting, DOH has been working with both labs to make the process easier.

Also, your insurance may cover the cost of PFAS blood testing. We (DOH) surveyed Washington state insurance plans in December to see which ones cover PFAS blood testing. We don't have all results yet, and there are still a few carriers we haven't heard from, but so far most have reported they do cover the test. Barb Morrissey from DOH will publish the results online when she has them ready and will send it to Brandi to share. She has also gotten the right billing codes for doctors to use and will include/publish those. The results should be ready in about 6 weeks.

**Q: Does a lower SAL make PFAS contamination less a liability issue for polluters?**

No, a lower SAL means a stricter standard for clean-up level in Washington state. ECY adopted our State Action Levels as recommended clean-up values for groundwater.

**Q: If PFAS are everywhere, can we tell the difference between background levels and a polluting source?**

Generally, yes. It's clear when it's only background levels. Higher levels in drinking water indicate there's a source. It is going to take some sleuthing on what the source is in some places; could be firefighting foam, could be leaking septic tank, etc. – but there IS a source. Our federal and state clean-up laws have a "the polluter pays" structure. This is challenging because some polluting parties may not have known, such as a volunteer fire department who used the foam and didn't know it was toxic. Other states are pursuing suing the manufacturers of the PFAS since they did know they were bad. Washington state hasn't done that yet.

**Q: In addition to our house water being contaminated we have 40 acres of land in fourteen 2+ acre lots: how do we know if these lots are contaminated or not? Currently being irrigated for hay growing.**

PFAS testing is the only way to know if soil or water is contaminated at each property. Irrigating with PFAS contaminated groundwater can contaminate the soil. For those irrigating with surface water from an irrigation district, we are awaiting confirmation, but currently we do not believe any irrigation district surface water is contaminated.

For information about your situation and guidance on conducting PFAS testing, please contact Ecology's site manager, Kurt Walker. His email address is [kwat461@ecy.wa.gov](mailto:kwat461@ecy.wa.gov) (email address link) and his work phone number is (509) 454-4237.

**Q: The State recently issued an enforcement order against the Army because of not supporting people above State Action Levels. Why? Will this be effective? Has it been done elsewhere to any success?**

The order directs the Army to investigate and clean up all sites at the Yakima Training Center that haven't yet been fully cleaned up. The enforcement order will require the Army to adhere to state levels and federal cleanup levels. It also involves more access and transparency of information about the site. We (ECY) has been frustrated because Army is not providing us with the data they've been collecting. The Army is moving quickly but is not involving ECY and the public to the level required by state law. The enforcement order also includes multiple opportunities for public review and comment on the work being done.

We (ECY) are hoping for better cooperation after the order. If the Army ignores the order, the worst-case scenario is for both parties end up in court. ECY hopes to avoid that. In years past, Ecology had a cooperative relationship with the Army's cleanup program. ECY hopes the enforcement order helps return us to that cooperative relationship.

Everyone around Yakima Training Center should get a mailing from ECY soon telling them where to find the enforcement order and related documents. ECY is collecting community feedback and may revise the documents based on feedback. You can also look at ECY's news release from yesterday (February 1, 2023).

**Q: Have we found the edge of the contamination?**

We can't say for sure because the Army hasn't fully shared their data and analysis with us. Their 3<sup>rd</sup> phase of well testing reached out to near the Yakima River and the Army told ECY they didn't feel they needed to expand further. However, we haven't been able to see or analyze the data to know for sure. This also was a reason for the enforcement order. The Army did release some data recently and ECY has started looking at it. ECY will share what we learn with this group.

**Q: Is there anywhere we can share our water test results with you?**

We would be happy to receive any information, including test results, that can better help us understand the extent and degree of contamination. Please reach out to our site manager, Kurt Walker. His email address is [kwat461@ecy.wa.gov](mailto:kwat461@ecy.wa.gov) (email address link) and his work phone number is (509) 454-4237.

**Q: How can we find out what aquifer we are in?**

We are not aware of any detailed aquifer maps in this area, and the local geology and groundwater movement can be complicated. Please reach out to our site manager, Kurt Walker, for more information about what specific water bearing zones your well is drawing from. Kurt's email address is [kwat461@ecy.wa.gov](mailto:kwat461@ecy.wa.gov) (email address link) and his work phone number is (509) 454-4237.

**Q: When is this going to be fixed?**

Our immediate priority is to protect the public and support solutions that provide safe drinking water to everyone who needs it. Over the next 1-2 years, we expect the investigation and site characterization to be complete which will put us in a good position to determine the most appropriate cleanup actions. While it is difficult to estimate how long we will be working on this site, be assured Ecology is committed to working on this problem until the cleanup goals are achieved.

**Q: Has the Yakima River been tested & Rosa irrigation water?**

Not to our knowledge. ECY has not found any data or reports to indicate it's been tested.

ECY is studying PFAS contamination in some other water bodies in Washington, and recently published info about Lake Washington. ECY plans to test for PFAS in the Yakima River and irrigation water if the Army won't commit to doing so. We raised the need for surface water testing in a January meeting with the Army. But the Army has did not commit to testing at that meeting, or thus far.

**Q: Have other states been successful at compelling the military to clean up PFAS contamination?**

PFAS contamination is an emerging and widespread issue at hundreds of military sites throughout the nation. Other states have taken a similar approach to Washington's: develop state levels for PFAS cleanup and for drinking water and then making those levels part of state law and demanding the military follow state law. But this approach takes time and scientific expertise.

**Q: Can we make the army test again? Since Ecology is requiring testing, how can they get the Army to pay for a re-rest?**

The Army has indicated that they intend to test private wells again. However, they have not shared a timeframe or plan for doing so. We are unsure if the Army will pay homeowners for testing their water.

There are new DOH rules coming out that will require testing and retesting of PFAS for all Group-A public water systems in the state.

**Q: What plan is there for future new home development testing of undrilled wells?**

YHD has the duty to enforce the maximum contaminant levels defined by the Washington State Administrative Code. If there is an area of concern with a known contaminant, YHD may require testing to ensure the safety of drinking water.

**Q: What can you do for people who don't meet Army criteria for help but are above a State Action Level?**

YHD will be offering free point-of-use PFAS filters and filter replacements for up to 50 homes that are above the State Action Level but do not meet the Army's criteria. The goal is to remove PFAS from the main household tap, used for cooking and drinking, to reduce exposure while the Yakima Training Center works on a solution that follows the EPA's new guidelines coming out later this year.

**Q: When will Yakima Health start giving out filters for those under 70 ppt?**

We (YHD) anticipate distributing the filters during the month of March. We are working with ECY to identify eligible homes and will be contacting households directly to notify them of the project.

**Q: What about garden vegetables and fruit trees? Can we grow a garden safely?**

There's quite a lot of research on PFAS absorption into home-grown garden vegetables and fruit trees. But there is not enough information to connect the dots yet about what PFAS water levels are safe to garden with. There are some studies underway right now that may give us clearer info. We may be getting close to guidance. Because we don't have guidance, we cannot tell you what to do right now.

In the meantime, you can do the following to lower your exposure from gardening:

- Peel and wash root vegetables with clean water.
- Add clean compost to your garden. This can reduce the amount of PFAS your plants pick up from the soil.
- Consider filtering your garden irrigation water. Or, switch to an alternate water source for irrigation if you are able.

If you sell crops, contact WSDA for advice at [foodsafety@agr.wa.gov](mailto:foodsafety@agr.wa.gov) (email address link).

**Q: What is it going to take to get guidelines for livestock and gardening?**

The barrier to getting guidelines is data. It will take dedicated research from an agency, university, or institution to get guidelines on both livestock and gardening.

If you sell animal products, contact WSDA for advice at [foodsafety@agr.wa.gov](mailto:foodsafety@agr.wa.gov) (email address link).

**Q: Can I safely eat my eggs?**

Not necessarily. There is some information on laying hens and how much PFAS shows up in the eggs. At this point, we don't know what levels of PFAS in water are safe. We also don't have a way to testing the eggs yet. Chickens do clear PFAS from their bodies quickly, such as in a matter of days to weeks. If you are concerned, you can switch your chickens to clean water and wait for a few weeks until the PFAS have cleared before eating the eggs.

If you have questions about the information that is available, contact Barb Morrissey at [Barbara.morrissey@doh.wa.gov](mailto:Barbara.morrissey@doh.wa.gov) (email address link).

**Q: Will WSDA be testing agriculture wells?**

WSDA does not test agriculture wells. Growers are encouraged to test their surface and ground water if it is going to come into contact with produce crops covered by the Food Safety Modernization Act Produce Safety Rule before harvest.

**Q: You recommend adding compost to gardens. Is the compost being made from contaminated water?**

Not necessarily. However, companies are not required to test their compost for PFAS. You can call your compost brand and ask if they test for PFAS. Some companies have been voluntarily testing for PFAS.

There are detectable levels of PFAS in biosolids. There may be rules coming up about safe PFAS levels in biosolids, but we aren't sure right now what that looks like or when that will happen.

**Q: Who sets safety standards for eggs, beef, etc. for private use? This is for private use, not necessarily commercial.**

Nobody regulates or sets safety standards for eggs and livestock products grown for personal use.

Generally, guidelines for individual/home food safety come from public health or university co-op extensions.

**Q: What about my dog?**

How PFAS exposure effects pets and livestock is currently a knowledge gap. We do know from existing studies that some animals exposed to high levels of PFAS experience negative health effects. But, we don't have enough information to connect the dots yet between PFAS exposure and sick pets.

If your pet is sick or acting unwell, talk to your veterinarian. Because there is very little information at this point on what levels of PFAS are harmful to animals, though, having your pet's blood tested for PFAS won't help your vet manage their care.

### **Q: What do we say to our legislators?**

Here is a guide to participating in state legislative action, including tips for how to prepare for and to talk to your elected representatives:

<https://leg.wa.gov/legislature/Pages/EffectiveParticipation.aspx>

Look up your district and legislators at <http://leg.wa.gov>.

### **Q: People's wealth is tied to homes and properties. What is the perception of property value and real estate? How has that been affected in other areas? If it affects property values, what can be done to address it?**

We don't know that ourselves right now. However, Island, Spokane, Pierce, and Clark counties are a bit further along in their journey with PFAS contamination than Yakima. People in those areas could likely share how it affected them, especially after they had the permanent system installed.

An attendee at the meeting shared they decided to appeal their property assessment. They aren't sure yet if it was the right call, but after debating back and forth decided to do it.

Another attendee decided to appeal their property assessment. Isn't sure if it was the right call but after debating back and forth, decided to do it. They included their test results with the appeal.

## **Questions for the Army**

These questions, and the frustration surrounding them, were communicated to the Army by DOH after the meeting. The following answers were provided to DOH by the Army.

### **Q: What is the waiting period on filter installation from the Army?**

It's too early to know at this time; in-home assessments were recently completed (24 Feb 2023). There are many unknowns with respect to alternative drinking water solutions for self-supply wells. It has not yet been determined that filtration is feasible for the assessed homes. If filtration is chosen as an alternative drinking water solution, systems must be tailored to each particular situation.

### **Q: When is the Army coming back to test again?**

At this time, there is no plan for the Army to re-sample wells.





May 24th, 2023

Regarding Climate Commitment Act Funding for Ultra High Speed Rail

Hello Environmental Justice Council,

In this testimony I would like to update the Environmental Justice Council (EJC) on what we at Climate Rail Alliance (CRA) and WA Physicians for Social Responsibility (WPSR) view as a misappropriation of Climate Commitment Act (CCA) transportation funds. For the 2023-2025 biennium the legislature has appropriated \$50 million to the speculative Ultra High Speed Rail program (UHSR) pending approval of a federal grant application. It is the third largest CCA transportation line item in the CCA funded transportation projects. Please see link [here](#) for full list of CCA funded Transportation projects. The UHSR funds will be used only for planning purposes of a multi-decade project and will do nothing to help Washington State meet its CCA statutory requirements of achieving its 2030 or 2040 or 2050 climate goals. Moreover additional substantial appropriations are planned through 2029. See Figure 1 below.

From recent WSDOT presentations we hear a lot of uncertainty about the UHSR project in terms of where it will go, where it will connect, how much it might cost or even what type of technology will be used. It will certainly need all or mostly all new land and separate right of way in order to run at ultra high speeds. Its purpose appears to be to connect a small number of major metropolitan areas (Vancouver BC, Seattle and Portland) in the north-south corridor, omitting many smaller towns, which is problematic from the standpoint of justice and equity. It appears to be intended for the benefit of business ridership. To be clear, CRA and WPSR are neutral on the UHSR project itself, our concern is the use of CCA funds for a speculative project which will take decades to realize only if substantial additional infrastructure funding can be secured (up to at least \$40 billion based on spending in California on a similar project).

At the same time, many worthy transportation projects remain unfunded or underfunded, such as electric school buses, electrification of public fleets, programs to bring EV to low income communities and investment in our existing regional passenger rail system, Amtrak Cascades (see Figure 2) and East-West service. We believe regional passenger rail should be funded as a part of integrated public transit service. These programs could be realized in the next 10 years and provide regional travelers an alternative to environmentally damaging driving and flying. Well developed passenger rail systems improve health and mobility equity, and greatly reduce GHG from transportation. We strongly believe that CCA funds are better spent on implementing programs that can help Washington achieve its climate, health and equity goals within the near term (10yrs).

All improvements in our **current** rail system should be considered essential climate and health solutions, because rail uses only one-third the energy of highway vehicles and emits one-third or fewer emissions per passenger or ton mile; *even prior to locomotive electrification*. We need to prioritize rapid mode shift away from highways especially, and aviation, using our existing rail networks.

We know from recent success with 110 mph speeds between St. Louis and Chicago, that freight and passenger rail can co-exist and deliver great results. Freight trains operate on Amtrak's Northeast Corridor sharing with passenger trains operating at 100 mph and more. Why is Washington State not embracing similar opportunities? Washington taxpayers have invested

tens of millions of dollars since the 1990's for improved passenger rail, resulting in the current Amtrak Cascades service and the Amtrak Cascades Long Range plan (LRP). The LRP would provide frequent, faster (110 mph), reliable service, and is the basis for the current Washington State Rail plan high growth scenario (pg 47-49) and the National Program to improve Amtrak service pg 37. Why have WSDOT and the Legislature abandoned this plan but instead are pouring millions of precious CCA funds into UHSR? There are no plans for future funding for Amtrak Cascades beyond the 2023 biennium (Figure 1).

We believe the legislature and WSDOT should be investing in infrastructure improvements in our existing rail programs, not just for the Puget Sound corridor and Amtrak Cascades (see Figure 2), but throughout the state. Investment in our existing rail infrastructure would provide more mobility justice for those who don't and can't drive, reduce freight trucking, replace barge services on our waterways, and bring more options for people wanting to travel East-West or locally in Eastern Washington. Please see CRA's legislative summary (Table 1) and goals for the supplemental budget for the 2024 legislative session (Table 2).

As we are all aware, if current trends continue we will be facing runaway climate chaos in the next few years. Tipping points are around the corner. We need to be investing as much money as possible into projects which have near term GHG reduction potential. UHSR is not such a project. There are many transportation projects which can use more funding immediately and can provide near term solutions to bring down our use of fossil fuels.

I am also submitting (in a separate letter) to the EJC my comments on Linkage of the Washington Cap and Invest program with California and Quebec. Linkage will potentially have a very big impact on how much CCA funding will be available for continued climate and environmental justice solutions in Washington State going forward.

Thank you for considering our views. We hope that this testimony is helpful to EJC during review of CCA appropriations.

Thank you for your work.

Sincerely,

Arvia Morris  
morrisarv@gmail.com  
CRA

Figure 1 LEAP April 21, 2023 Rail Program Y

LEAP Transportation Document 2023-2 ALL PROJECTS as developed April 21, 2023														
2023-25 Biennium														
Rail Program (Y)														
(Dollars In Thousands)														
Rte	Project	Project Title	Leg Dist	Funding Source					2021-23	2023-25	2025-27	2027-29	Future	Total (incl Prior)
				TPA	Nic	CW	MA	Oth						
<b>Passenger Rail - Train Investments</b>								<b>4,041</b>	<b>1,560</b>	<b>1,760</b>	<b>800</b>	<b>7,318</b>	<b>16,111</b>	
000	700010C	Passenger Rail Equipment Preservation	99	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	672	1,560	1,760	800	7,318	12,110
000	HSR002	Locomotive Service Equipment and Overhaul	99	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3,369	0	0	0	0	4,001
<b>Passenger Rail - High Speed Rail Grant Investments</b>								<b>176</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>59,699</b>	
000	700001C	New Locomotives (8) (ARRA)	99	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	176	0	0	0	0	59,699
<b>Rail and Port Projects</b>								<b>7,564</b>	<b>18,200</b>	<b>5,000</b>	<b>0</b>	<b>0</b>	<b>31,504</b>	
000	752010A	Salmon Bay Bridge Rehabilitation Project	99	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,000	15,000	5,000	0	0	25,000
000	L1000221	Titlow Rail Bridge/Culvert Improvement - Metro Parks Tacoma	28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,000	0	0	0	0	1,000
000	L1000235	Port of Moses Lake Northern Columbia Basin Railroad Feasibility Study	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	0	0	0	0	249
000	L1000242	Spokane Airport Transload Facility	06	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	500	0	0	0	0	500
000	L2000361	Jones/John Liner Road BNSF Railroad Undercrossing	39	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	367	0	0	0	0	851
000	L4000074	Spokane International Airport Transload Rail Facility	06	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0	1,500	0	0	0	1,500
012	L2000359	Aberdeen US 12 Highway-Rail Separation	19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	696	0	0	0	0	704
000	L2021138	Spokane Transload Center Rail Extension	03, 06	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	0	1,700	0	0	0	1,700
<b>Other Move Ahead WA</b>								<b>0</b>	<b>83,500</b>	<b>44,925</b>	<b>45,000</b>	<b>126,575</b>	<b>300,000</b>	
000	L2021074	Ultra High Speed Rail	98	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0	50,000	25,000	25,000	50,000	150,000
000	L4000079	Palouse River and Coulee City RR - Rehabilitation	09, 12, 13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0	33,500	19,925	20,000	76,575	150,000
<b>Other</b>								<b>0</b>	<b>150</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>150</b>	
000	L1000336	Truck Parking Off SR 906	99	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	0	150	0	0	0	150

Figure 2 Amtrak Cascades Route



**Table 1 Climate Rail Alliance (CRA) Post-Session Review of 2023-2025 Transportation Budget**

Bill in Senate & Section #		Bill in House & Section #		CRA Recommendations for Reconciliation	Final Budget Results	CRA Rating
<a href="#">Senate Striker 4.5.23</a>	Section in Senate	<a href="#">Engrossed Substitute House Bill 1125</a>	Section in House		<a href="#">Engrossed Substitute House Bill 1125 as Passed by Legislature</a>	
absent		JTC oversee evaluation methods for carbon emissions reductions accounts	Section 204 (6)	<b>Maintain</b> this item: Include \$1M in 23-25 biennium	<b>Included in Sec. 204(7)</b>	<b>Excellent</b>
absent		Benefit cost analysis (BCA) for Electrification of Class 1 rail yards	Section 204 (7)	<b>Maintain</b> this item: Include \$250k in 23-25 biennium	<b>Not included</b>	<b>Missed opportunity</b>
absent		JTC role of independent oversight of study to replace barge shipping on LSR	Section 204 (8)	<b>Maintain</b> this item: Include \$500k in 23-25 biennium	<b>Included</b>	<b>Excellent</b>
absent		Multi-state emissions, resiliency in Transportation Plan	Section 205 (6)	<b>Maintain</b> this item: Include in 23-25 biennium	<b>Included in Sec. 205(9)</b>	<b>Excellent</b>
absent		\$2,250,000 from multimodal for UHSR coordination, engagement, and planning	Section 223 (1)	<b>Do not include</b> \$2.25M from multimodal for UHSR	<b>Included, but we prioritize use of state and federal funds for near-term emission reduction projects.</b>	No climate or mobility benefits for several decades
absent		Grant applications for Amtrak Cascades in	Section 223 (2)	<b>Maintain</b> this item: Include in 23-25 biennium	<b>Not included - minimal commitment to seeking grants for</b>	<b>Missed opportunity for near</b>

Bill in Senate & Section #		Bill in House & Section #		CRA Recommendations for Reconciliation	Final Budget Results	CRA Rating
		the 2023-2025 biennium.			<b>future Cascades projects</b>	<b>term benefits</b>
Fund Cascades post COVID to ARRA grant level	Section 223 (1)	absent		<b>Include</b> in 23-25 biennium by combining w/ House Sec. 223(2)	<b>Minimal commitment to the Cascades by completing post-Covid and ARRA grant service is included.</b>	<b>Poor minimal effort for minimal service</b>
Study to replace barge shipping with rail and other options along Lower Snake River	Section 223 (2)(a)	Study to replace barge shipping with rail and other options along the Lower Snake River	Section 223 (5)(a)	<b>Retain</b> the house section 223 (5)(a) but the final report should be due December 2024 as in the Senate bill, Section 223 (2)(a)	<b>Timeline for barge replacement study is too long, and greater specificity of Solutionary Rail recommendations (not included in bill language) would have ensured review of short line rail's role in barge replacement.</b>	<b>Good</b> but money and time could be used much more effectively to emphasize role of short-line rail
absent		So. Kelso Railroad Crossing Project / Hazel St. overpass	Section 309 (1)	<b>Maintain</b> this item: Include \$6,200,000 in 23-25 biennium	<b>Not included Kelso grade separation for safe community access</b>	<b>Missed opportunity</b>
absent		zero emissions drayage trucks	Section 309 (8)	<b>Maintain</b> this item: Include \$6.3M in 23-25 biennium and apply to on-dock rail electrification also; otherwise move item to MARINE Section 222	<b>CRA supports all port electrification including rail applications, but items not pertaining to rail should not be in the Rail Sections.</b>	<b>Fair</b> Rail accounts should be used solely for rail electrification
absent		Port electrification	Section 309 (9)(10)	<b>Maintain</b> these items: Include \$14M + \$3M in 23-25 biennium in MARINE Section 222	<b>CRA supports all port electrification including rail applications, but items not pertaining</b>	<b>Fair</b> Rail accounts should be used solely for rail

Bill in Senate & Section #		Bill in House & Section #		CRA Recommendations for Reconciliation	Final Budget Results	CRA Rating
					<b>to rail should not be in the Rail Sections.</b>	electrification, and accounts funding rail applications
absent		Tacoma Rail locomotive electrification	Section 309 (11)	<b>Maintain</b> this item: Include \$5 Million in 23-25 biennium	<b>Included</b>	<b>Excellent</b> - benefits rail workers and community
absent		Moses Lake rail replacement and upgrades	Section 309 (12)	<b>Maintain</b> this item: Include \$12,316,000 in 23-25 biennium	<b>Nothing included for Moses Lake.</b>	<b>Missed opportunity</b>
Salmon Bay Draw Bridge \$15M	Section 310 (8)	absent		<b>Include</b> \$15 Million in 23-25 biennium (Senate appropriation)	<b>Included</b>	<b>Excellent</b>

**Table 2. Climate Rail Alliance (CRA) Recommendations for 2024 Supplemental Budget**

Funding Item	Current status	CRA Recommendation
Funding for Benefit Cost Analysis of East-West Amtrak service via Stampede Pass	Absent	This service would benefit the fast growing areas between Seattle and Auburn, Ellensburg, Yakima, Pasco, Spokane and beyond. The Steer study did not contain an economic analysis.
State-match funds for infrastructure projects on the Amtrak Cascades - Point Defiance Bypass curve revision and high-speed track between Nisqually and Centralia	Absent	New Cascades trainsets arriving in 2025-2026 will not operate to their capability due to insufficient infrastructure; improved reliability and Seattle-Portland trip times of 2.5 hours remains an unfunded mandate.
Dedicated Rail Office and rail funding account	Absent	We need a Rail office staffed by experts in rail science, operations, and engineering to prioritize existing rail corridor improvements.
Preliminary study of potential for rail line electrification	Absent	We need to begin to design electrification of routes that are feasible within the state.
\$50M from CCR for UHSR	Included	We believe UHSR is an <b>inappropriate use of CCA funds</b> due to its decades-long timeline. Alternative funding sources needed

Dear Environmental Justice Council,

I am forwarding the comments I submitted with my partner to the Department of Ecology regarding Linkage.

The Department is considering linking Washington State Carbon Market with California and Quebec possibly as early as 2025. The Climate Commitment Act (CCA) statute requires that the Department of Ecology move forward with linkage if 4 criteria are met. In our comments below we list each criteria and our opinion about each criteria. The first two criteria are directed at how linkage will impact the ability of the policy to address Climate Justice issues.

As you can see from our comments we believe early linkage, before the first required CCA comprehensive progress report due in 2027 could be detrimental to Washington State's ability to continue to invest in Climate and Equity Solutions.

We hope you will be interested in these comments. Please do contact us if you would like to review further.

Sincerely,  
Arvia Morris  
morrisarv@gmail.com

Comments regarding linkage of the Washington State Carbon Market with the California and Quebec Carbon markets  
Arvia Morris and Peter Clitherow  
[morrisarv@gmail.com](mailto:morrisarv@gmail.com)  
[peter.clitherow@gmail.com](mailto:peter.clitherow@gmail.com)  
Climate Advocates  
Seattle, Washington

May 15, 2023

We recommend delaying linkage of the Washington State carbon market with California and Quebec carbon markets until after the first first

comprehensive review of the Washington program in 2027 and/or certainty is reached regarding the ability of California Air Resource Board (CARB) to administer the California program in 2030. The question of CARB administration adds significant complexity and uncertainty to the linkage question which indicates that this question must be addressed before any of the required criteria for linkage in the Climate Commitment Act (CCA) can be evaluated by Washington Dept. of Ecology.

The Department of Ecology is required to evaluate if linkage would satisfy four criteria listed below before linking to the California and Quebec markets. For each criteria below are reasons that delay is needed to achieve a robust linked carbon market system which will address environmental justice concerns and reduce GHG according to the statutory requirements of 70A.45.020 2020

There is a strong drive for an early linkage date to reduce costs to entities that are covered under the Cap and potential efficiencies in administration of the program if there is linkage. These drivers serve short term business goals and potentially reduce administration costs but do not guarantee that linkage would help the CCA achieve its goals in reducing GHG and increasing environmental justice.

Criteria to be met:

**1) Ensure California and Quebec have provisions to ensure their programs provide benefits to vulnerable populations and overburdened communities.**

It is not clear what California's program will look like after 2030 when it will be determined if the CARB can administer the program. The question of CARB administration adds significant complexity and uncertainty to the linkage question and makes it unknowable till 2030 if the California and Quebec programs provide benefits to vulnerable populations and overburdened communities.

The Washington State legislature worked hard to include the HEAL Act in the CCA legislation. We need to see that the California program is aligned with Washington's Heal Act requirements. We want to pressure California to have high environmental justice (EJ) standards like Washington. Without similar embedded EJ legislation in the California

reauthorization in 2030 there is no way to know that the California EJ commitment is comparable to Washington's. This is also true for Quebec.

## **2) Not have an overall negative effect on highly impacted communities in any jurisdiction.**

Definitions are important. What criteria is used to define vulnerable populations and overburdened communities? This question needs to be answered similarly in all three jurisdictions for a linked system. Washington State is still determining what exactly these terms refer to and what data is used to define these communities. Similar data and criteria need to exist in all jurisdictions covered in a linked system. The UW health disparities map is a useful tool, but is not considered complete by some communities. Do similar data sets exist for California and Quebec?

To determine negative effects we need a complete set of baseline data on agreed upon criteria for impacts to overburdened communities without linkage and then be able to compare to with linkage. These data could take many years to collect. Linkage must not occur till baseline data are collected to see impacts from current policies without linkage and then be able to determine if linkage hurts or helps the baseline impacts.

Linkage will likely reduce the amount of money raised for Washington at an auction as currently the California allowance price is much lower than the Washington price and California has many more allowances. Any reduction in allowance price will result in less investment for climate solutions which could potentially be detrimental to highly impacted communities.

In addition, reductions in funds could undermine support for the Cap and Invest program especially if California or Quebec benefits disproportionately while Washington programs slow down due to lack of funding.

## **3) Not negatively impact Washington's ability to meet the emissions reduction commitment set in state law in 2020.**

2021 Climate Commitment Act (CCA) set a goal that Washington State meet its statutory greenhouse gas (GHG) emission-reduction targets of

45% below 1990 levels by 2030, 70% below 1990 levels by 2040; and 95% below 1990 levels by 2050; and achieving the 2050.

Washington and California are already not meeting their goals and Washington has no baseline up to date GHG data. The last Washington state emissions inventory was published for 2019. There is supposed to be an inventory published every two years. The most recent data (not compiled into a report) on the Ecology web site was for 2021, two years ago. At a Senate Transportation meeting in January a representative from the Department of Ecology said that there was not enough staff to update the state GHG emissions inventory. This seems like it should be a straightforward task. If we can't keep up-to-date with emissions reporting, how will the state be able to administer the much more complicated compliance systems when data is not available in a timely manner. Linkage must not occur unless Washington has up-to-date GHG emissions data available on an annual basis that is no more than a year old. Ideally it would be preferred to have instantaneous data available so we can understand impacts of policy decisions rapidly and see if we are on track to meet our goals in as close to real time as possible.

Linkage will likely reduce the amount of money raised for Washington at an auction unless the floor price is keyed to the Canadian price for carbon. This dilution in allowance value will decrease the amount of funds generated at allowance auctions.

So far direct investments and strong policy has resulted in the most GHG reductions (Cullenward and Victor 2020 chapters 7 and 8). Reducing funds available for direct investment in GHG reduction with low cost auction allowances hoping industry will use savings to reduce consumer costs is wishful thinking. If Ecology decides to implement linkage and this results in low allowance costs, they need to have a mechanism for determining if industry is using "savings" due to inexpensive allowances to clean up its industry. Ecology will also need to have predetermined criteria to determine if the economy is decarbonizing in Washington at a faster or slower pace. If linkage reduces the speed of Washington decarbonization, it must be terminated. Termination of linkage will be a messy process, so there is a big need to get it right the first time by proceeding slowly and understanding the unlinked Washington market first.

There are many downsides to low allowance costs, better to keep a tight market and high direct investment in solutions to meet our GHG goals. Linkage would have a neutral impact if the allowance price is kept high and if it were similar between the Canadian, California and Washington markets prior to linkage. Currently California's allowances have a low price.

In summary, before linking with another program, we need more data about the strength of our market over time, decarbonization initiatives by covered entities, effectiveness of investments at reducing emissions, and integration of the administration of investments into state government. A significant change in CCA auction prices has the potential to affect all of these elements, and will introduce new uncertainties.

By establishing a baseline report ahead of linkage, Ecology and the Legislature will be better able to evaluate the potential impacts of linkage agreements, and subsequent reports will better assist with modifications and course corrections. The first CCA progress report is not scheduled until 2027, whereas Ecology's current timeline expects to announce a linkage decision this summer, with actual linkage occurring as soon as 2025.

Ecology should produce at least one baseline report before linkage is complete.

#### **4) Reduce the cost of compliance for covered businesses—**

Washington's initial allowance auction price is only slightly higher than British Columbia's carbon tax, which has been aligned with the federal Canadian carbon tax. Meanwhile California's allowance prices are artificially low due to surplus banked allowances. British Columbia's carbon price is clearly more realistic, and because it is a defined tax, more predictable, providing more economic certainty for their covered entities. Washington should not lower its allowance price prematurely through linkage with California and should seek similar predictive certainty as the Canadian carbon tax. Providing allowance cost certainty will be key in enabling industry to plan how they will meet their compliance obligations.

Given the risk to Washington's ability to meet its climate goals through CCA investments posed by California's lower allowance price and volume of banked allowances, it would not be prudent for Washington to link with

California until auction reforms recommended by IEMAC, such as the creation of an emissions containment reserve, have been completed.

Lower allowance prices are supposed to make it less expensive for entities to meet their compliance obligations. This may be true but it will also disincentivize industries from rapidly reducing GHG. It is also unlikely industries will pass on lower costs to benefit consumers.

The risk to slowing down progress with direct GHG reduction investments by linking to a market with reduced allowance prices, are not worth any reduction in administration or industry cost. Industry will like lower costs and administrators may find some aspects of the program easier to manage with linkage, but the many negotiations and compromises it will take to merge markets are not worth the risk to real gains in fighting Climate Change. Yes linkage will reduce costs but not necessarily reduce pollution. We think the most important goal here is to reduce GHG pollution as efficiently as possible. Early linkage to a large carbon market in California with a weak carbon price is not a good way forward.



**Re: Front and Centered Comments on Ecology’s Proposal to Link Washington’s Carbon Market with California and Québec**

Stephanie Potts  
WA Dept. of Ecology - Air Quality Program  
P.O. Box 47600  
Olympia, WA 98504-7600

May 15, 2023

Dear Ms. Potts:

Thank you for the opportunity to provide input on the question of whether Ecology should pursue linkage of Washington’s carbon market with those of California and Québec.

Front and Centered is a climate justice coalition of organizations led by and serving communities of color in Washington. Our mission is to advocate for the interests of frontline communities, who are first and worst impacted by the climate crisis, in advocating for a just transition from an extractive to a regenerative economy. In this letter, we seek to express our concerns surrounding the proposal to link carbon markets. Despite limited information, there is clear indication that the greenhouse gas emissions trading programs that Ecology is considering linking to are operating in a less than satisfactory manner and that linkage would serve only to frustrate both Washington’s emission reduction goals and protective measures, as well as those of the linked markets.

Before beginning an analysis of the harms that linkage could cause, it is first necessary to consider Ecology’s public participation process. Ecology has solicited public feedback on whether it should actively pursue linkage but has not provided participants sufficient analysis from which to comment. The law sets out criteria that include environmental and human impacts, but the only publicly available information Ecology has provided is an economic analysis on the price of carbon in the market. This focuses more on the cost of compliance, and not the other, arguably more important, societal goals of the programs, including the benefits or harms caused to communities. In other words, Ecology is asking the public to think about the criteria posed by the legislature and to provide feedback but has not provided information to

help them do so. Without any information on the potential effects of linkage Ecology cannot expect to receive useful input from the public.

Ecology is asking the public to provide input on how California and Québec's markets operate even before Ecology itself has looked at how the two markets operate.<sup>1</sup> Instead, Ecology has solicited feedback from the public on how Ecology should go about analyzing the criteria that the legislature gave the department, rather than providing the public with any meaningful analysis as a result of the criteria. Following Ecology's analysis of the criteria, there is no meaningful opportunity for public input prior to Ecology issuing a decision on whether to pursue linking markets.<sup>2</sup> Essentially, Ecology has siloed community voices solely to provide feedback on the criteria Ecology utilizes to analyze a decision with major effects, rather than allowing community voices into the decision itself.

The next opportunity for public comment will be after Ecology has already made a decision to pursue linkage—most likely 2024, at the earliest.<sup>3</sup> At that point, negotiation processes will have already begun and a draft linkage proposal will have been developed, meaning that the opportunity to provide meaningful feedback in opposition of any linkage will be quite limited.

## **I. Legal Background**

RCW 70A.65.210 provides the legal authority for Ecology to link jurisdictions, but it requires that Ecology first make certain findings and hold a public comment period before entering into a linkage agreement. Ecology must consider input received from public comment before finalizing a linkage agreement.<sup>4</sup> If Ecology finds that a full linkage agreement is unlikely to meet criteria set by the legislature, it may enter into a linkage agreement with limitations (including limits on the share of compliance that may be met with allowances originating from linked jurisdictions and other limitations deemed necessary by department).<sup>5</sup>

The criteria that Ecology must consider before entering into a linkage agreement are quite detailed. First, Ecology must determine that any linkage agreement allows for the mutual use and recognition of compliance instruments issued by WA and other linked jurisdictions, broadens the GHG emission reduction opportunities to reduce the cost of compliance on covered entities and consumers, enables allowance auctions to be held jointly and provides for the use of a unified tracking system for compliance instruments, enhances market security, reduces program administration costs, and provides consistent requirements for covered

---

<sup>1</sup> Washington State Dept. of Ecology, *Cap-and-Invest Linkage Listening Session - April 18, 2023*, YouTube (Apr. 27, 2023), [https://www.youtube.com/watch?v=Tvdw\\_xcjlCQ](https://www.youtube.com/watch?v=Tvdw_xcjlCQ) (25:30-26:12, explaining the criteria that Ecology must analyze before linking, but then noting that Ecology has not yet begun to evaluate and that this public process is simply to solicit feedback on what considerations Ecology should have when evaluating criteria).

<sup>2</sup> *Cap-and-Invest Linkage*, Washington State Dept. of Ecology, <https://ecology.wa.gov/Air-Climate/Climate-Commitment-Act/Cap-and-invest/Linkage> (last visited May 15, 2023)

<sup>3</sup> *Id.*

<sup>4</sup> RCW 70A.65.210(3).

<sup>5</sup> RCW 70A.65.210(3).

entities whose operations span jurisdictional boundaries.<sup>6</sup> Second, Ecology must “ensure that the linking jurisdiction has provisions to ensure the distribution of benefits from the program to vulnerable populations and overburdened communities.”<sup>7</sup> Third, any linkage agreement may “not yield net adverse impacts to either jurisdictions’ highly impacted communities or analogous communities in the aggregate, relative to the baseline level of emissions.”<sup>8</sup> Finally, any linkage agreement Ecology enters into must “[n]ot adversely impact Washington’s ability to achieve the emission reduction limits established in the [CCA].”<sup>9</sup> In this final consideration, Ecology “must evaluate and make a finding regarding whether the aggregate number of unused allowances in a linked program would reduce the stringency of Washington’s program and the state’s ability to achieve its greenhouse gas emissions reduction limits.”<sup>10</sup>

**II. Linkage is not appropriate, as it will yield net adverse impacts to highly impacted communities and will negatively affect Washington’s abilities to achieve its stated emission reduction limits.**

**A. Linkage would lead to a drop in the price of carbon, leading to less revenue achieved for CCA funds, as well as a reduction in incentive to reduce emissions.**

Ecology has already commissioned an independent economic analysis of the cap-and-invest program that estimated allowance prices under different regulatory scenarios.<sup>11</sup> This analysis found that linkage would lead to the lowest cost per metric ton of carbon emissions.<sup>12</sup> Linkage prices were modeled to be around \$17 less per metric ton of carbon emissions than the proposed rules set forth by Ecology, which includes frontloading of the release of an allowance price containment reserve (APCR), and around \$27 per metric ton of carbon emissions lower than a scenario without linkage or frontloading.<sup>13</sup>

There are also a number of mismatches in policy that have led to a glut of allowances available in the potentially linked markets of California and Québec, and which would likely lead to a reduced incentive for emitters to curtail emissions should Washington link to those markets. Though Washington may have policy measures in place that reduce the number of allowances available for purchase at auction in accordance with the number of offsets purchased, California does not.<sup>14</sup> Further, while in Washington, only certain industries are granted free allowances, in

---

<sup>6</sup> RCW 70A.65.210(1).

<sup>7</sup> RCW 70A.65.210(3)(b).

<sup>8</sup> RCW 70A.65.210(3)(c).

<sup>9</sup> RCW 70A.65.210(3)(d).

<sup>10</sup> RCW 70A.65.210(3).

<sup>11</sup> Washington State Dept. of Ecology, *Summary of Market Modeling and Analysis of the Proposed Cap and Invest Program* (Publication No. 23-02-010 2022).

<sup>12</sup> *Id.* at 3-4

<sup>13</sup> *Id.*

<sup>14</sup> Isabella Brenda, *Emitting Greenhouse Gases in WA? Here’s Who Will Need to Pay Up to Pollute*, Seattle Times (Feb. 26, 2023), <https://www.seattletimes.com/seattle-news/environment/emitting->

California, all industrial facilities receive free allowances.<sup>15</sup> Combined with the fact that both Washington and California allow for the “banking” of carbon allowances without expiration dates,<sup>16</sup> it becomes clear that there is a strong risk of having an overabundance of banked allowances become utilized any time the auctioned price of carbon is deemed too high by emitters. In California, the number of banked allowances is “roughly equivalent to all the carbon the companies emit in a year.”<sup>17</sup> There are so many banked allowances that the Legislative Analyst’s Office (LAO) for California found that the covered entities will be able to continue emitting well above the state’s emission reduction goals in 2030.<sup>18</sup> As the Chair of the Independent Emissions Market Advisory Committee for California stated, “[b]ecause of the size of the bank, it’s plausible that all the covered sources don’t reduce emissions at all over the course of the decade.”<sup>19</sup> The California LAO has also noted that this is likely going to be a cyclical problem: “[a]s covered entities begin to see that more allowances than they need are available, some of the allowances offered at state auctions likely will go unsold.”<sup>20</sup> These results would only be amplified by linkage, as the number of allowances available to be sold are increased across the markets.

Further, while linkage reduces the cost of compliance for emitters, it also reduces the amount of funds in accounts funded by the carbon markets. This, in turn, means less funds going to overburdened communities, which would pose a problem for overburdened communities in all linked markets, not just Washington.<sup>21</sup>

The current trends out of California’s linked market suggests that linking Washington’s market would only serve to frustrate both Washington and California’s abilities to achieve their respective greenhouse gas emission reduction limits, all while reducing the amount of funds available to overburdened communities.

**B. The results from California’s market already show that there is continued harm to environmental justice impacted communities from their cap-and-trade model. Linking Washington’s cap-and-trade model only serves to exacerbate these harms for both California and Washington residents.**

---

greenhouse-gases-in-wa-heres-who-will-need-to-pay-up-to-pollute/ (“Comparatively, in California, offsets may be used in addition to pollution allowances.”).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Kathleen Ronayne, *California Companies’ Pollution Credits Risk Climate Aims*, AP News (Feb. 16, 2022), <https://apnews.com/article/climate-business-environment-and-nature-california-pollution-694060aa41a4e78dc8a436a71d57564d> (citing the 2022 Annual Report of the Independent Emissions Market Advisory Committee); see also Gabriel Petek, *California Legislative Analyst’s Office, Assessing California’s Climate Policies: The 2022 Scoping Plan Update 8* (2023), <https://lao.ca.gov/Publications/Report/4656>.

<sup>18</sup> Petek, *supra* note 17, at 8.

<sup>19</sup> Ronayne, *supra* note 17 (quoting committee Chair Dallas Burtraw).

<sup>20</sup> Petek, *supra* note 17, at 9.

<sup>21</sup> *Id.* at 9 (noting that allowance prices will decline in California as a result of the overabundance of banked allowances, leading to reduction in auction revenue).

While Ecology must analyze whether potential market partners have provisions to ensure their programs provide benefits to vulnerable populations and overburdened communities, the department must also look to what effects would be had by these programs should they be linked.<sup>22</sup>

Multiple reports out of California have shown that while the cap-and-trade program may have raised the cost of emitting some fossil fuels, the rates at which emissions have been changed are not equal.<sup>23</sup> At least two studies have demonstrated that communities of color “are still more exposed to pollution from facilities such as oil refineries when compared to white communities.”<sup>24</sup> Further, “[s]ome of those communities even saw the level of emissions grow worse since the start of the cap and trade program.”<sup>25</sup> Similarly, multiple studies have drawn into question the impact of offsets for overburdened communities and vulnerable populations.<sup>26</sup>

In other words, the California cap-and-trade program does not actually enact a benefit for overburdened communities and vulnerable populations. Linking Washington’s market to California’s market would only serve to exacerbate these harms by allowing for a glut of allowances to flood the joint market and drive down the price of carbon, leading to reduced funding for overburdened communities, as well as a reducing incentive for covered emitters to reduce the amount of pollution they are generating.

**C. Any benefits of linkage are administrative or favor emitters, but even those benefits are uncertain given the legal status of CARB authority to administer a cap-and-trade program post-2030.**

As noted above, linking carbon markets does not benefit overburdened communities and may, in fact, frustrate the state’s ability to meet its greenhouse gas emission reduction targets. Given this data, it seems that the only benefits that could credibly be demonstrated from linkage modeling are administrative and/or favor polluters regulated under the market.

---

<sup>22</sup> RCW 70A.65.210(3)(b)-(c).

<sup>23</sup> Jonah Valdez, *Is California’s Cap-and-Trade Program Hurting the Environment More Than Helping It?*, Los Angeles Times (March 22, 2022), <https://www.latimes.com/california/story/2022-03-22/what-has-california-cap-and-trade-accomplished>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Dallas Burtraw & Katelyn Roedner Sutter, *Chapter 1: Carbon Market Reform*, in 2022 ANNUAL REPORT OF THE INDEPENDENT EMISSIONS MARKET ADVISORY COMMITTEE 6, 11 (2022), <https://calepa.ca.gov/wp-content/uploads/sites/6/2023/02/2022-ANNUAL-REPORT-OF-THE-INDEPENDENT-EMISSIONS-MARKET-ADVISORY-COMMITTEE-2.pdf> (“...the quality and permanence of forest offsets remain important questions.); see also Evan Halper, *Burned Trees and Billions in Cash: How a California Climate Program Lets Companies Keep Polluting*, Los Angeles Times (Sept. 8, 2021) (“The California regulators are also tangling with a credentialed group of scholars at Stanford, UC Berkeley, UC Santa Barbara, Columbia University and the University of Utah who have concluded the state is significantly exaggerating the environmental value of the offsets California polluters are buying.”).

Administratively, Ecology notes that “[l]arger markets are generally more stable and have more consistent pricing.”<sup>27</sup>

While the initial cost of compliance may seem more attractive through a linked market, it is unclear how costs would play out in the long-term. Per the independent economic report commissioned by Ecology, the price of allowances “in a linked market would most likely align more closely with prices in the California-Québec market,” rather than the higher prices of an independent Washington market.<sup>28</sup> However, as also explored above, it is unclear how the price of carbon would be affected by the glut of allocations banked in the California market. The California LAO predicts that carbon prices will continue to trend lower as a result of the banked allowances, even without linkage and the introduction of additional allowances.<sup>29</sup>

This does not even account for the uncertainty around the legal authority of the California Air Regulatory Board to administer the California cap and trade program post-2030. Per California Assembly Bill 398, CARB has explicit legal authority to administer a cap and trade program through the end of 2030.<sup>30</sup> However, what happens after 2030 is less clear.<sup>31</sup> The opacity around this legal question has very real implications for the operation of the carbon market in the interim: “[i]f investors know a carbon price will exist, they can evaluate low-carbon technologies; however, the market will not effectively drive investor behavior if the market’s future is uncertain. Ambiguity about the market after 2030 introduces risk to investments....”<sup>32</sup> Even if California chooses to rely on a statutory reading that implies an authority for CARB to operate the cap-and-trade market post-2030, this does not remove the need for significant policy alterations to be made to the California market, which itself will introduce uncertainty into the price of carbon. Both the independent commission tasked with the oversight of CARB’s implementation of the cap-and-trade program and the California Legislative Analyst’s Office have noted the need for substantive changes to the program in order for the state to meet its own emissions reduction targets.<sup>33</sup>

---

<sup>27</sup> *Cap-and-Invest Linkage*, *supra* note 2.

<sup>28</sup> *Id.*

<sup>29</sup> Petek, *supra* note 17, at 9.

<sup>30</sup> California Global Warming Solutions Act of 2006, Cal. Assemb. B. 398, Chapter 135 Reg. Sess. 2017-2018 (Ca. 2017), [https://leginfo.ca.gov/faces/billPdf.xhtml?bill\\_id=201720180AB398&version=20170AB39892C-HP](https://leginfo.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB398&version=20170AB39892C-HP).

<sup>31</sup> Danny Cullenward, *Chapter 4: Legal Authority*, in Independent Emissions Market Advisory Committee, 2022 Annual Report of the Independent Emissions Market Advisory Committee 24 (2022), <https://calepa.ca.gov/wp-content/uploads/sites/6/2023/02/2022-ANNUAL-REPORT-OF-THE-INDEPENDENT-EMISSIONS-MARKET-ADVISORY-COMMITTEE-2.pdf> (analyzing whether the relevant statutes can be read to imply continued authority for CARB to administer the cap-and-trade program post-2030).

<sup>32</sup> Burtraw & Sutter, *supra* note 26, at 6.

<sup>33</sup> *Id.* at 7 (“To achieve the accelerated 2030 emissions reduction target requires the ‘cap’ to be calibrated to the level of ambition required to meet the state’s climate goals.”); Petek, *supra* note 17, at 1 (“We also recommend the Legislature consider changes to the cap-and-trade program to address concerns about program stringency.”).

These regulatory changes are certain to cause an effect on the price of carbon.<sup>34</sup> As a result, by considering linking in this period of uncertainty around the future of California’s carbon market, Ecology is effectively signing up Washington’s market for a period of instability.

### **III. Prior to considering linkage, Washington State should address issues with the independent Washington carbon market.**

Washington’s independent carbon market faces its own flaws that should be addressed before Ecology considers linking the market with others. As Front and Centered determined in its 2022 report, *Exposing False Solutions: How Washington’s Cap and Trade Program Gives Industrial Polluters a Free Pass*, the Washington cap-and-trade program, as currently structured, provides little to no incentive for emitters that are protected under the “emissions-intensive and trade-exposed” (EITE) label to actually reduce any emissions.<sup>35</sup> Also, as noted above, Washington’s carbon allowances have no expiration date,<sup>36</sup> meaning that emitters can bank these allowances for as long as they wish, potentially leading to a situation similar to what California is currently facing, where there is a stockpile of allowances that may lead to California failing to meet its greenhouse gas emissions reduction targets.

Ultimately, the cap-and-trade model is flawed in that, at its core, it focuses on the economics of curtailing pollution, rather than the real-world effects of the continued influx of pollutants to vulnerable populations. As such, Front and Centered suggests that at minimum, Ecology take into consideration the following changes to the cap-and-trade program, either prior to or during linkage agreements:

- The establishment of “no-trade zones” in or near overburdened communities;<sup>37</sup>
- The establishment of expiry dates for stored allocations;<sup>38</sup> and
- Further limiting the use of offsets.<sup>39</sup>

### **IV. Conclusion**

---

<sup>34</sup> *Id.* at 7 (“A challenge with any adjustment to the carbon market is an administrative intervention suggests another may be forthcoming, thereby undermining confidence in the market.”).

<sup>35</sup> Greg Karras, Front and Centered, *Exposing False Solutions: How Washington’s Cap and Trade Program Gives Industrial Polluters a Free Pass* 1, 2 (2022), <https://frontandcentered.org/wp-content/uploads/2022/06/Exposing-False-Solutions-Report-June2022.pdf>.

<sup>36</sup> Brenda, *supra* note 14.

<sup>37</sup> See Katelyn Sutter & Dr. Meredith Fowlie, *Chapter 2: No-Trade Zones and Facility Level Emission Limits*, in 2022 ANNUAL REPORT OF THE INDEPENDENT EMISSIONS MARKET ADVISORY COMMITTEE 14 (2022), <https://calepa.ca.gov/wp-content/uploads/sites/6/2023/02/2022-ANNUAL-REPORT-OF-THE-INDEPENDENT-EMISSIONS-MARKET-ADVISORY-COMMITTEE-2.pdf>; Environmental Justice Advisory Committee, 2022 Scoping Plan Recommendations 28, Recommendation C4 (2022), <https://ww2.arb.ca.gov/resources-related-ab-32-environmental-justice-advisory-committee-2022-scoping-plan-update>.

<sup>38</sup> Sutter & Fowlie, *supra* note 37, at 17.

<sup>39</sup> Environmental Justice Advisory Committee, *supra* note 37, at 27, Recommendation C2.

Carbon markets have inherent conceptual flaws—they allow most major polluters to continue as usual and puts industry in the driver’s seat for where we go with GHG policy.<sup>40</sup> Further, they have not met their own expectations in practice, as is seen in the case of California greenhouse gas emissions reduction forecasting.<sup>41</sup> As explored in the comment above, linking will only exacerbate these issues.

We have handed enough carrots to emitters with the development of the cap-and-trade model. Now is the time to craft forward-looking policy and put the power back into the hands of the people and policymakers.

In addition to the above comments, we pose the following questions to Ecology for consideration:

- 1) It does not seem at all the spirit of the law, nor the intent of the legislature, that cost of compliance for industry should receive the same level of gravity as the effects linkage would have on overburdened communities and vulnerable populations.<sup>42</sup> Is Ecology planning to weight the different criteria considerations provided to the department by the legislature? If so, how?
  
- 2) A number of studies on the California cap-and-trade program have found that Black and Latino communities and other communities of color are still more exposed to pollution from facilities covered by the program than are white communities.<sup>43</sup> In fact, some communities actually saw the level of emissions grow worse since the start of cap-and-trade.<sup>44</sup>
  - a) How would Ecology deal with the fact that emitters in California have already purchased enough offsets and allowances to afford them the ability to potentially not change business as usual? Would not linking just allow for even more of a glut of allowances across all the linked markets (especially given that California & Québec's market is over five times larger than the Washington market and this is already happening)?
  
  - b) As a result of the above studies, some advocates in California are calling for the implementation of no-trade zones in order to force facilities located near overburdened communities and vulnerable populations to comply with emissions

---

<sup>40</sup> Karras, *supra* note 35, at 1.

<sup>41</sup> See, e.g., Petek, *supra* note 17, at 1.

<sup>42</sup> RCW 70A.65.005(4) (“The legislature further finds that while enacted carbon policies can be well-intended to reduce greenhouse gas emissions and provide environmental benefits to communities, the policies may not do enough to ensure environmental health disparities are reduced and environmental benefits are provided to those communities most impacted by environmental harms from greenhouse gas and air pollutant emissions.”).

<sup>43</sup> Valdez, *supra* note 23.

<sup>44</sup> *Id.*

reductions standards without the assistance of allowances.<sup>45</sup> Would Ecology seek to introduce similar protections in Washington if linkage were to occur?

- 3) Ecology recently commissioned an independent economic analysis of what would happen if linkage were to occur. The study determined that linkage would actually lead to the lowest cost of allowances. While this would reduce the cost of compliance for industry, it would also lead to reduced funding in the CCA accounts.<sup>46</sup> Why would linkage be beneficial beyond a reduced cost of compliance?
- 4) Why would Ecology choose to link with California now, when the legal authority of the California Air Resource Board to administer the cap and trade program is undetermined post-2030?<sup>47</sup> Even if legal authority is clarified, the independent government body that is statutorily charged with analyzing and reporting on the California cap and trade program, the legislative analyst's office, and state politicians have noted the need for fundamental updates to California's cap-and-trade model in order for it to even remain functional, much less successful.<sup>48</sup> Why would Ecology link before those changes are determined, when such changes could have a huge effect on the carbon market?
- 5) Multiple studies of California's offsets have determined that even with oversight, the projects often have no actual beneficial impact (or their impact is otherwise unverifiable).<sup>49</sup> Further, multiple critiques have been leveled at the offset program, noting that it harms local communities by allowing emitters to continue business as usual.<sup>50</sup> How does Ecology plan to ensure there are meaningful impacts to communities as a result of offsets programs?
- 6) Has Ecology studied how the Inflation Reduction Act will affect: the market price of carbon in both a linked and unlinked market, compliance with carbon emissions

---

<sup>45</sup> See Katelyn Sutter and Dr. Meredith Fowlie, *Chapter 2: No-Trade Zones and Facility Level Emission Limits*, in Independent Emissions Market Advisory Committee, 2022 Annual Report of the Independent Emissions Market Advisory Committee 14 (2022), <https://calepa.ca.gov/wp-content/uploads/sites/6/2023/02/2022-ANNUAL-REPORT-OF-THE-INDEPENDENT-EMISSIONS-MARKET-ADVISORY-COMMITTEE-2.pdf>.

<sup>46</sup> *Cap-and-Invest Linkage*, *supra* note 2 (“If linking results in lower allowances prices, it could reduce the amount of funding generated for climate projects throughout the state.”).

<sup>47</sup> Cullenward, *supra* note 31.

<sup>48</sup> Burtraw & Sutter, *supra* note 26, at 7 (“To achieve the accelerated 2030 emissions reduction target requires the ‘cap’ to be calibrated to the level of ambition required to meet the state’s climate goals.”); Petek, *supra* note 17, at 1 (“We also recommend the Legislature consider changes to the cap-and-trade program to address concerns about program stringency.”); Ronayne, *supra* note 17 (“State Sen. Bob Wieckowski, a Democrat, said he should have pushed harder to bar companies from keeping saved allowances after 2021, forcing them to start fresh.”)

<sup>49</sup> Burtraw & Sutter, *supra* note 26, at 11 (“...the quality and permanence of forest offsets remain important questions.”); see also Halper, *supra* note 26.

<sup>50</sup> Halper, *supra* note 26.

reduction goals, and greenhouse gas emissions overall?<sup>51</sup> If it has not, when will Ecology study the interaction between federal and state policy on the topic? Will the results be made public?

Sincerely,

A handwritten signature in black ink that reads "Deric J. Gruen". The signature is written in a cursive, flowing style.

Deric Gruen, Co-Executive Director, Programs and Policy  
Front and Centered  
deric@frontandcentered.org

A handwritten signature in black ink that reads "Nico Wedekind". The signature is written in a cursive, flowing style.

Nico Wedekind, Attorney  
Front and Centered  
nico@frontandcentered.org

---

<sup>51</sup> Meredith Fowlie & Dallas Burtraw, *Chapter 3: Federal and State Climate Policy Interactions, in 2022 ANNUAL REPORT OF THE INDEPENDENT EMISSIONS MARKET ADVISORY COMMITTEE 18, 18-19 (2022)*, <https://calepa.ca.gov/wp-content/uploads/sites/6/2023/02/2022-ANNUAL-REPORT-OF-THE-INDEPENDENT-EMISSIONS-MARKET-ADVISORY-COMMITTEE-2.pdf> (discussing, in part, how IRA subsidies will reduce demand for allowances and carbon prices).