



CENTER FOR COALFIELD JUSTICE

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Tamia N. Gordon, Principal Deputy Director
Office of Energy Justice and Equity
Department of Energy
1000 Independence Ave. SW,
Washington, DC 20585

RE: DOE Environmental Justice Strategic Plan RFI

Thank you for the opportunity to provide input on the Department of Energy's (DOE) Environmental Justice Strategic Plan.

The Center for Coalfield Justice ("CCJ") is a Pennsylvania-incorporated not-for-profit organization with federal Internal Revenue Service § 501(c)(3)-status recognition located in Washington, PA. Our mission is to "improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower and organize coalfield citizens; and to protect public and environmental health." CCJ has over three thousand members and supporters and is governed by a volunteer Board of Directors.

CCJ's service area includes numerous environmental justice communities, several are designated to receive the benefits of President Biden's Justice40 initiative. Our service area is home to the largest underground mine complex in the United States, Pennsylvania's most fracked county, and also lies within the footprint of the ARCH2 Hydrogen Hub to be funded by the DOE. It is with that perspective that CCJ respectfully submits the following comments.

1. Do the draft environmental justice strategic goals provided as follows address your interests and concerns about the advancement of environmental justice by the Department of Energy? Why or why not? // 2. What actions should the Department of Energy undertake to advance environmental justice? // 3. What performance measures or metrics should the Department of Energy establish to monitor progress toward advancing environmental justice?

While DOE's goals are a good starting point, the progress DOE makes toward environmental justice should make a real difference in these communities. Working toward the following ideas and goals of environmental justice communities should be reflected in all United States Energy Policy, DOE project agreements, and Community Benefits Plans and Agreements. The Community Benefits Plans and Agreements entered into for DOE projects should be enforceable and created with heavy input from

residents so these communities will actually see improvements. History shows that without enforceable community benefits agreements, industry is unlikely to follow through with its promises without enforceable community benefits agreements

Public Engagement

Communities begin to experience justice when the residents are meaningfully engaged regarding projects proposed in their town. They don't only want the ability to give input and be acknowledged; they want their concerns taken seriously and implemented into agency decisions. Those who live in environmental justice communities are experts at what it is like to live next to energy infrastructure, and their concerns must be addressed when new projects are considered and reflected in the final project agreements. This includes not moving forward with a project when the community is opposed.

True meaningful engagement means that everyone is able to participate and has what they need in order to do so. In our experience, the best way to communicate with people in environmental justice communities is to provide options on how to engage. The internet is still not accessible to many rural areas and poses a financial burden to others, so when a meeting is held exclusively virtually, people who may want to give input are left out. Additionally, people in environmental justice communities may not have the resources to attend a meeting in person due to child care, work requirements, and hours. That is why it is important to provide food, child care for the duration of the meeting, and compensation to get to and from the meeting. Translation services should be available in the meeting for those who need it. Finally, written materials easily understood by a layperson, translated into all necessary languages, should be available both online and at in-person meetings. These standards will allow people who are the most impacted to participate actively in conversations.

However, public engagement should not start and end with a project. DOE should tour the communities they are working in to become intimately familiar with its people and culture to know how a new project may impact it. Additionally, DOE should be continuously present in a community when they are working there. They should host frequent meetings with residents at least twice a month and be present at community events to provide more engagement opportunities.

The metrics DOE can measure here are the number of opportunities for public input, the number of comments received, how much input was incorporated into community plans, the number of community events DOE attended, and the number of events DOE held.

Environmental Protection

It is the experience of most environmental justice communities that industry takes as minimal precautions as possible to protect our environment and human health. In some cases, it is the culture of industry to disregard state regulations that are meant to protect the environment and people who live

near this infrastructure.¹ When industry has finalized its operations, it leaves legacy pollution behind.² This is because industry has a duty to its shareholders to maximize profits rather than maximize protections for frontline and environmental communities. We need greater protections in regulations that will protect our health and the environment and enforcement mechanisms that will persuade compliance. When industry is concluding its operation, we want them to clean up their mess and return the land to how they found it. This should be at the operator's expense, not the taxpayers'. Metrics to measure here could include emissions, violation reports, enforcement actions taken, and taxpayer dollars spent on reclamation and brownfield redevelopment.

Health

As a result of having multiple polluting industries within miles of their homes and work, many residents of environmental justice communities fall victim to chronic poor health.³ To minimize health impacts, DOE should consider cumulative impacts⁴ in an area before moving forward with projects that will further pollute. No residents in these communities should develop chronic health conditions associated with living near energy infrastructure. Those who have already developed chronic health conditions should have the cost of their health care covered. Metrics that could be used to track this include real pollution reduction in environmental justice - not net reductions, and health surveys.

Utilities

Additionally, resident utility bills are consistently on the rise throughout Pennsylvania - not just in environmental justice communities - while energy companies use extraordinary amounts of water⁵ and other resources at a deeply discounted rate. Not only do these companies use a disproportionate amount of these resources, but they often degrade them and don't pay for the damage.⁶ This leads to

¹ David. E. Hess,

DEP Report Finds: Conventional Oil & Gas Drillers Routinely Abandon Wells; Fail To Report How Millions Of Gallons Of Waste Is Disposed; And Non-Compliance Is An 'Acceptable Norm', PA Environment Digest (January 2, 2023) <http://www.paenvironmentdigest.com/newsletter/default.asp?NewsletterArticleID=57147>.

² *PA's Mining Legacy and AML*, Pennsylvania Department of Environmental Protection

<https://www.dep.pa.gov/Business/Land/Mining/AbandonedMineReclamation/AMLProgramInformation/Pages/PA's-Mining-Legacy-and-AML.aspx>; Ethan Story, *The DEP Reports That Conventional Oil and Gas Has A Culture of Noncompliance...Likely Not Going To Change Soon*, Center for Coalfield Justice

<https://centerforcoalfieldjustice.org/2023/01/the-dep-reports-that-conventional-oil-and-gas-has-a-culture-of-noncompliancelikely-not-going-to-change-soon/>.

³ *Public Health Resources*, Center for Coalfield Justice, <https://centerforcoalfieldjustice.org/public-health-resources/>;

Cradle-To-Grave: the harms of fossil fuel dependence and the case for a just phase-out, Global Climate and Health Alliance (July 2022) <https://climateandhealthalliance.org/wp-content/uploads/2022/07/Cradle-To-Grave-Fossil-Fuels-Brief.pdf>.

⁴ *Cumulative Impacts Research*, United States Environmental Protection Agency

<https://www.epa.gov/healthresearch/cumulative-impacts-research>.

⁵ *How Much Water Does Hydraulic Fracturing Use?*, American Petroleum Institute,

[https://www.api.org/oil-and-natural-gas/energy-primers/hydraulic-fracturing/how-much-water-does-hydraulic-fracturing-use-2](https://www.api.org/oil-and-natural-gas/energy-primers/hydraulic-fracturing/how-much-water-does-hydraulic-fracturing-use-2;).; *How It Works: Water for Coal*, Union of Concerned Scientists (Updated August 2014) <https://www.ucsusa.org/resources/water-coal>.

⁶ Becky Hammer, *Fracking's Aftermath: Wastewater Disposal Methods Threaten Our Health & Environment*, National Resource Defense Council (May 2012)

<https://www.nrdc.org/bio/becky-hammer/frackings-aftermath-wastewater-disposal-methods-threaten-our-health-environment>.

utilities raising rates⁷ to upgrade their equipment at the ratepayer's expense. Metrics here could include utility costs and amounts of community resources used by the energy industry (e.g. water).

Taxes & Community Improvements

Finally, environmental justice communities want thriving main streets and safe infrastructure. The coal communities that we work and live in have seen a significant decrease in their tax base. As coal extraction continues to decrease, those tax bases do, too. Pennsylvania does not have a severance tax⁸ on the oil and gas industry, instead, operators must pay a fee per well, which does not make up for our communities' falling revenue.⁹ With tax bases decreasing, our communities can't afford needed upgrades to infrastructure - which often need it because of the energy industry's activities.

To make up for this tax loss, we need a diversity of tax-paying businesses, not just those associated with the energy sector, to move onto Main Street. These businesses can provide stable jobs outside the energy sector and make our communities more attractive to move to, which will grow our population and tax base. This would also provide community members more third places to enjoy and make it truly feel like home. Not only would this attract new residents, but families that have been here for generations would have the opportunity to stay and excel.

However, many new projects sponsored by DOE, including the Hydrogen Hubs, are only viable because of tax credits. Even as fossil fuel resources are becoming less competitive with renewable energy sources economically, these immensely profitable, highly polluting projects are still being funded by the federal government. If fossil fuel operators want to prolong their operations, they should pay for it out of their own pockets instead of taxpayer dollars. Taxpayer dollars should be used to improve our communities and transition us into the future, not lock us into the past.

Metrics here could include the tax income of communities, the number of infrastructure projects ongoing and completed, the number of businesses opened, the number of job sectors represented in a community, the number of jobs there, the community's population, and public transportation options.

4. What are examples of successful collaborations between Federal agencies and Tribal, Territorial, local, and State governments or communities with environmental justice concerns?

⁷ *Pennsylvania American Water Files Rate Request Driven by \$1 Billion in Investment*, Pennsylvania American Water (November 2023)

<https://www.amwater.com/press-room/press-releases/pennsylvania/pennsylvania-american-water-files-rate-request-driven-by-1-billion-in-investment>; *FirstEnergy Pennsylvania Will File Rate Review to Support Continued Service Reliability Enhancements for Customers*, FirstEnergy (April 2024)

https://www.firstenergycorp.com/newsroom/news_articles/fe-pa-will-file-rate-review.html.

⁸ Anne Kolesnikoff and Cassarah Brown, *State Oil and Gas Severance Taxes*, National Conference of State Legislatures (September 2018) <https://www.ncsl.org/energy/state-oil-and-gas-severance-taxes>.

⁹ Jamie Martines, *A Pennsylvania county went from bust to boom times with natural gas. Now, it's nearly broke*, SpotlightPA, (March 8, 2021) <https://www.spotlightpa.org/news/2021/03/pa-greene-county-broke-tax-increase-gas-payouts-businesses/>.

The EPA and other federal agencies implementing the Bipartisan Infrastructure Law or Infrastructure Investment and Jobs Act have created technical assistance programs to help local governments and community organizations that are typically low on capacity design projects and apply for funding.¹⁰

6. How can DOE better assist communities, local governments, and community benefit organizations with drafting and developing CBPs as they apply for DOE grants?

DOE staff should go through resource utilization training to teach them how to provide clear instructions and communications about the recommended practices for utilizing DOE resources to maximize their benefits.

When applying for DOE grants, communities should have guidance and assistance throughout the whole process. Communities should be able to reach out to DOE to help design their plans, and help with technical questions during the application process and throughout implementation. DOE should help communities engage with residents to form Community Benefits plans that reflect the wants and needs of the community.

7. How can DOE assist communities that are beneficiaries of Community Benefits Plans?

Before a plan is created, the communities that will be beneficiaries should be consulted, and their feedback should be incorporated into the final plan. When the plan is complete, communities should have access to the Plan and written materials that are easily digestible that explain the plan, the projected benefits of the plan, how the benefits are being tracked, and how to access the benefits that will be provided. DOE should also hold information sessions in the community so they may better understand the plan and its benefits and ask questions and get immediate responses.

8. How can DOE ensure successful implementation, compliance or enforcement of Community Benefit Plans.

Successful implementation of Community Benefits Plans begins with robust community engagement and input into the plans. The plans should be reflective of wants and needs in the communities that DOE is working in - not assumptions on what is wanted and needed. Further, the final version of the plan needs to be written clearly and in a way that a layperson would understand. Additionally, the plan should be written so that the operators can face penalties for not following through with the commitments they made to the communities in which they are working. Thus, the agreements must be legally enforceable.

9. What are examples of regional approaches to building community capacity supporting energy democracy?

Community organizations lead this work in our region. Our community organizations do the bulk of education and organizing to get community members involved in what our energy systems look like and who they serve. When there are opportunities to provide input into a plan, it is most often the community

¹⁰ *Technical Assistance*, United States Environmental Protection Agency, <https://www.epa.gov/advance/technical-assistance>.

organizations that drive people to submit comments. Sometimes, government agencies specifically partner with community organizations to lead outreach, but this is often not the case.

Thank you for your consideration. If you have any questions, please contact me anytime.

Respectfully,

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