

June 17, 2020

The Honorable Karen E. Spilka
President of the Senate
24 Beacon Street, Room 332
Boston, MA 02133

The Honorable Robert A. DeLeo
Speaker, Massachusetts House of Representatives
24 Beacon Street, Room 356
Boston, MA 02133

The Honorable Michael J. Rodrigues
Chair, Joint Committee on Ways & Means
24 Beacon Street, Room 212
Boston, MA 02133

The Honorable Aaron Michlewitz
Chair, Joint Committee on Ways & Means
24 Beacon Street, Room 243
Boston, MA 02133

Re: Race as a Criterion in Environmental Justice Bills is Crucial

Dear Senate President Spilka, Speaker DeLeo, Chair Michlewitz, Chair Rodrigues, Senator Barrett, Senate Legal Counsel, and House Legal Counsel:

The Environmental Justice Legislative Table formed in February 2019 to ensure that Massachusetts residents in communities that have borne and continue to bear the burdens of pollution can shape decisions that impact their lives. We support a set of bills that would help make this a reality in Massachusetts, specifically H.4264, S.464, and S.453. These bills are a necessary step in the process of resolving and repairing decades of disparate environmental impacts on our communities.

We have experienced pushback against these bills because of the use of race as one criterion in designating neighborhoods as environmental justice communities. In response, members of the Environmental Justice Legislation Table drafted a letter explaining how the United States Constitution allows the Commonwealth to take race into consideration in defining environmental justice populations. This is a companion letter explaining the need for environmental justice legislation that includes race.

Environmental justice (EJ) is a civil rights principle: all people have a right to be protected from environmental pollution and to live, learn, work, play, and pray in and enjoy a clean and healthy environment regardless of race, income, national origin, or English language proficiency. In a time of severe climate change, this means equal protection against the adverse consequences of severe weather, extreme temperatures, and flooding. Currently, we are deeply concerned about the impact of COVID-19 on EJ communities, where rates of infection appear to be much higher than in whiter, wealthier neighborhoods,¹ and poor air quality has been linked to higher death rates.² For example, eight of the top

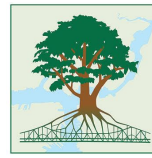
¹ Massachusetts Department of Public Health, COVID-19 Cases in MA, Count and Rate (per 100,000) of Confirmed COVID-19 Cases in MA by City/Town, January 1, 2020 – April 29, 2020,

<https://www.mass.gov/doc/confirmed-covid-19-cases-in-ma-by-citytown-january-1-2020-april-29-2020/download>.

² Conservation Law Foundation, COVID-19 and Health Neighborhoods Study Communities, March 23, 2020.

<https://www.clf.org/covid-19-and-healthy-neighborhoods-study-communities/>; see also *Data Show COVID-19 is Hitting Essential Workers and Communities of Color Hardest*, ACLU MASSACHUSETTS (2020),

<https://www.aclum.org/en/publications/data-show-covid-19-hitting-essential-workers-and-people-color-hardest>; and see Lisa



ten municipalities with the highest number of cases are EJ communities.³ These alarming numbers are not a coincidence: COVID-19 has exposed long-standing health and environmental inequities across the state.

Apart from the COVID-19 outbreak, residents throughout the Commonwealth face barriers to environmental justice. In Roxbury and in Springfield, students in public schools, renters in public housing, and people of color suffer from asthma at much higher rates than their affluent peers and homeowners. A state-mandated study found that East Boston residents are exposed to airport pollution and, as a result, suffer high rates of chronic obstructive pulmonary disorder compared to populations living farther from the airport. In the Merrimack Valley, incinerators surround communities like Haverhill and Lawrence. And in Western Massachusetts, residents lacking access to transit struggle to find economic opportunities. The passage of these bills would build on the historic work of the EJ movement, both in documenting the scope of inequity and organizing to achieve environmental justice. The benefits that would be available to all residents of EJ communities would have far-reaching quality-of-life impacts across the Commonwealth.

In 1987, Benjamin F. Chavis, Executive Director of the United Church of Christ Commission for Racial Justice, described environmental racism as: “racial discrimination in environmental policymaking, in the enforcement of regulations and laws, and the targeting of communities of color for toxic waste disposal and the siting of polluting industries.”⁴ Many laws that resulted in segregation have been overturned, but the effects of years of discriminatory practices persist today. In 2007, a nationwide study concluded that “[r]ace continues to be an independent predictor of where hazardous wastes are located, and it is a stronger predictor than income, education and other socioeconomic indicators.”⁵ This is true in Massachusetts where communities of color have historically and continue to be prime locations for polluting facilities.

On the South Shore, the Baker administration has defended a compressor station, now under construction, it knows will bring toxic pollutants to a community overburdened by industrial activity. A proposed change to a renewable energy program would provide greater financial incentives to biomass facility owners, such as the one proposed in East Springfield, the asthma capital of the country populated by people of color and low-income residents.⁶ In East Boston, an electrical substation proposed along the banks of the Chelsea Creek, on a parcel of land that has flooded numerous times and next to an 8-million gallon tank of jet fuel, would further expose a densely populated neighborhood to a hazardous facility.

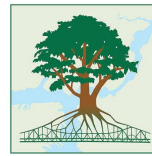
Friedman, *New Research Links Air Pollution to Higher Coronavirus Death Rates*, NEW YORK TIMES (Apr. 7, 2020), available at: <https://www.nytimes.com/2020/04/07/climate/air-pollution-coronavirus-covid.html>.

³ In order of the number of cases, these communities are: Chelsea, Brockton, Everett, Randolph, Lynn, Lawrence, Topsfield, Revere, Holyoke, Danvers. Only Topsfield and Danvers do not have state-designated EJ populations. See <https://www.mass.gov/doc/confirmed-covid-19-cases-in-ma-by-citytown-january-1-2020-april-29-2020/download>.

⁴ See Mohai, Paul; Pellow, David; Roberts, J. Timmons, *Environmental Justice*, 34 ANNUAL REVIEW OF ENVIRONMENT AND RESOURCES, 405–430 (2009).

⁵ Robert D. Bullard, Ph.D.; Paul Mohai, Ph.D.; Robin Saha, Ph.D.; Beverly Wright, Ph.D., *Toxic Wastes and Race at 20 1987-2007*, xii (2007).

⁶ Press Release, Asthma and Allergy Foundation of America, [2018 Asthma Capitals Report Ranks the Most Challenging Cities in the US for Asthma](#) (May 1, 2018).



Legislation is necessary to remedy these harms to our communities and to provide equal protection under the law. Advocacy by EJ practitioners and community members resulted in the passage of federal Executive Order 12898, which states that federal agencies *must* “make achieving environmental justice part of [their] mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of [their] programs, policies, and activities on minority populations and low income populations.” The Massachusetts analogs to the federal order- the EJ policies (2002, 2017) and Executive Order 552- have fallen short of their promises to curb discriminatory agency and industry practices and to increase access to decision-making processes for residents in our communities. The EJ bills we support address these gaps.

We recognize that there is much work to be done to meaningfully implement existing EJ laws, policies, and programs. The passage of the EJ bills would assist communities, advocates, and legal practitioners in this task. Residents traditionally left out of decisions about their communities must be able to access these processes and benefits and to hold decision-makers accountable. Our policymakers can and should consider neighborhood demographics, including the race of residents when weighing whether to approve polluting facilities like incinerator expansions or compressor stations. Moreover, policymakers need to understand neighborhood demographics when creating programs to alleviate the impacts of housing segregation, disparate public health impacts including COVID-19, and/or a lack of access to adequate, reliable, and affordable public transit.

Now, more than ever, we implore you to report the EJ bill, H.4264, out of the House Committee on Ways and Means, and bring the EJ bills to a vote, with the definition of EJ population intact. To remove race from the definition of an EJ population strips away explicit protections for our most vulnerable communities.

Signed,

**The Environmental Justice
Legislative Table:**

GreenRoots

Neighbor to Neighbor MA Education
Fund

Alternatives for Community and
Environment

Conservation Law Foundation

Green Energy Consumers Alliance

Environmental League of
Massachusetts

Massachusetts Climate Action Network

Coalition for Social Justice

Groundwork Lawrence

Lawyers for Civil Rights

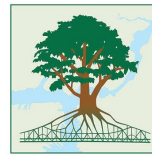
Clean Water Action

Toxics Action Center Campaigns

350 Mass for a Better Future

Ally Organizations:

Acadia Center



Andover WECAN: Working to Educate
for Climate Action Now

Berkshire Environmental Action Team

Bolton Local

Boston Climate Action Network

Boston Democratic Socialists of
America

Canton Residents for a Sustainable,
Equitable Future

Cape Downwinders

Charles River Watershed Association

City Life/Vida Urbana

Climate action Brookline

Climate Action Now, Western Mass

Climate Coalition of Somerville

Climate Finance Action

Co-op Power

Community Labor United

ConcordCAN!

Dorchester Climate Justice

Easthampton Climate Action

Elders Climate Action - Massachusetts
Chapter

Environment Massachusetts

Fore River Residents Against the
Compressor Station

Gas Leaks Allies

Grassroots Central Mass

Green Acton, Inc.

Green Cambridge

HealthLink

HEET

Human Impact Partners

Jewish Alliance for Law and Social
Action

Jewish Climate Action Network - MA

League of Women Voters of
Massachusetts

Lexington Global Warming Action
Coalition (GWAC)

LivableStreets Alliance

Longmeadow Pipeline Awareness
Group

Mass Power Forward Coalition

Massachusetts Climate Education
Organization

Massachusetts Interfaith Power & Light

Massachusetts Public Health
Association

Massachusetts Voter Table

Massachusetts Youth Climate Coalition

Mothers Out Front

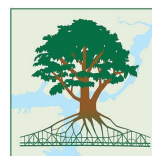
Neighbor to Neighbor Holyoke Chapter

No Fracked Gas in Mass

North American Indian Center of
Boston

North Quabbin Energy Core Group

No Sharon Gas Pipeline | Clean Energy
Now!



Our Climate

SAFE Salem Alliance for the Environment

Sierra Club Massachusetts Chapter

Solstice Initiative

Spring Forward: Climate Education and Empowerment

Sustainable Wellesley

Sustainable Weston Action Group

Transition Wayland

Transit Matters

Transportation for Massachusetts

Union of Concerned Scientists

Unitarian Universalist Mass Action

Westfield Concerned Citizens

Youth Climate Action Network

Youth on Board/Boston Student Advisory Council

Sunrise Boston

Sustainable Arlington

Sustainable Middleborough

Sustainable South Shore

Sustainable Sudbury

cc: Senator Anne M. Gobi, Chair
Joint Committee on Environment, Natural Resources and Agriculture

Representative Smitty Pignatelli, Chair
Joint Committee on Environment, Natural Resources and Agriculture

Senator Michael J. Barrett, Chair
Joint Committee on Telecommunications, Utilities and Energy

Representative Thomas A. Golden, Jr., Chair
Joint Committee on Telecommunications, Utilities and Energy

Jennifer Miller, Counsel to the Senate

James C. Kennedy, Counsel to the House