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Mr. Barry E. Hill
Director, Office of Environmental Justice
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Mail Code 2201A
Ariel Rios South Building, Room 2226
Washington, DC 20460-0001

**RE: COMMENTS ON EPA ENVIRONMENTAL JUSTICE DRAFT
FRAMEWORK/OUTLINE**

Dear Mr. Hill:

As Director of the Environmental Justice Resource Center at Clark Atlanta University, I respectfully submit the following comments on the U.S. Environmental Protection Agency's *Framework for Integrating Environmental Justice and Environmental Justice Strategic Plan Outline* ("Draft Framework/Outline").¹

I. Overview

EPA's Draft Framework/Outline must be analyzed in a larger societal context since Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*,² did not drop out of the sky. Unlike the federal EPA, low-income communities and communities of color did not first discover environmental inequities in 1990. The federal EPA only took action on environmental justice concerns after extensive prodding from grassroots environmental justice activists, educators, research scientists, and a few academics. In 1991, EPA administrator William Reilly established an Environmental Equity Work Groups.³ And in 1992, EPA released *Environmental Equity: Reducing Risk for All Communities*.⁴ While the EPA's *Environmental Equity* report refused to acknowledge the existence of environmental racism and chose the term "environmental equity" over "environmental justice," the

Environmental Equity report did recognize that low-income and minority populations are disproportionately affected by some environmental problems. The report highlighted childhood lead poisoning and pesticide exposure as two examples.

Two years later, in response to growing public health concern and mounting scientific evidence, President Clinton on February 11, 1994 (the second day of the NIEHS *Symposium on Health and Research Need to Ensure Environmental Justice*)⁵ issued Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. The Order attempts to address environmental injustice within existing federal laws and regulations.⁶

Executive Order 12898 reinforces the four-decade old Civil Rights Act of 1964, Title VI, which prohibits discriminatory practices in programs receiving federal funds. The Order also focuses the spotlight back on the National Environmental Policy Act (NEPA), a law that set policy goals for the protection, maintenance, and enhancement of the environment. NEPA's goal is to ensure for all Americans a safe, healthful, productive, and aesthetically and culturally pleasing environment. NEPA requires federal agencies to prepare a detailed statement on the environmental effects of proposed federal actions that significantly affect the quality of human health.

The Executive Order calls for improved methodologies for assessing and mitigating impacts, health effect from multiple and cumulative exposure, collection of data on low-income and minority populations who may be disproportionately at risk, and impacts on subsistence fishers and wildlife consumers. It also encourages participation of the impacted populations in the various phases of assessing impacts—including scoping, data gathering, alternatives, analysis, mitigation, and monitoring. The Executive Order focuses on "subsistence" fishers and wildlife consumers.

II. EPA's abbreviated public comment period did not allow adequate time for the public to review the Draft Framework/Outline

It is disturbing that the less than 30-day public comment period allotted (June 22, 2005 thru July 15, 2005) for the Draft Framework/Outline violates the spirit and letter of the law. It also violates *The Model Plan for Public Participation* developed by EPA's National Environmental Justice Advisory Council (NEJAC) in February 2000.⁷ It is disappointing to see the very agency that oversaw the development of *The Model Plan for Public Participation* (adopted and used by numerous agencies across the nation) simply ignore it. EPA should extend the public comment period.

It is also disappointing to learn that the Draft Framework/Outline was developed internally at EPA, and without significant input or advise from the National Environmental Justice Advisory Council (NEJAC). There is a good chance that had EPA allowed NEJAC to stay fully operational, the agency would not be talking about redefining and weakening the Executive Order—but rather implementing the Order.

III. The Draft Framework/Outline does not offer a clear and coherent framework for consistently implementing the intent of the Environmental Justice Executive Order 12898

The Draft Framework/Outline does not offer a clear and coherent framework for consistently implementing the intent of the Environmental Justice Executive Order 12898, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations*.⁸ Under the Executive Order, each federal agency is required to develop an agencywide environmental justice strategy “that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, or activities on minority populations and low-income populations.”⁹

IV. The Draft Framework/Outline fails to identify “affected communities” and the key recipients of environmental justice: namely, minority populations and low-income populations

The Draft Framework/Outline does nothing to reduce or eliminate existing environmental health threats that disproportionately affect minority populations and low-income populations. Moreover, the Draft Framework/Outline is a faint “knee-jerk” response to the agency’s Office of Inspector General’s (OIG) March 2004 evaluation report, *EPA Needs to Consistently Implement the Intent of the Executive Order on Environmental Justice*.¹⁰ The EPA OIG gave the agency a failing mark on implementing the ten-year old Executive Order. Instead of *redefining* the Executive Order, the EPA should *implement* the Executive Order.

The EPA defines environmental justice as: “The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including racial, ethnic, or socio-economic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.”¹¹ Poverty and pollution are intricately linked.¹²

V. The Draft Framework/Outline clearly undermines the intent of Executive Order 12898 by failing to acknowledge and implement a Strategic Plan that identifies minority population and low-income populations (groups that are clearly identified in the Executive Order as protected classes)

After pondering the meaning of environmental justice since 1991, surely EPA could have been more creative and imaginative in implementing the 1994 Executive Order in 2005. Important environmental justice definitions have been adopted over the years.

In 1997, the President’s Council on Environmental Quality (CEQ) issued *Environmental Justice Guidance Under the National Environmental Policy Act* that offered some useful terms and definitions related to the Executive Order:¹³

Minority: Individual(s) who are members of the following population groups: American Indian or Alaska Native; Asian or Pacific Islander; Black, not of Hispanic origin; or Hispanic.

Minority population: Minority populations should be identified where either: (a) the minority population of the affected area exceeds 50 percent or (b) the minority population percentage in the general population or other appropriate unit of geographic analysis. In identifying minority communities, agencies may consider as a community either a group of individuals living in geographic proximity to one another, or a geographically dispersed/transient set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions of environmental exposure or effect. The selection of the appropriate unit of analysis may be a governing body's jurisdiction, a neighborhood, census tract, or other similar unit that is to be chosen so as not to artificially dilute or inflate the affected minority population. A minority population also exists if there is more than one minority group present and the minority percentage, as calculated by aggregating all minority persons, meets one of the above-stated thresholds.

Low-income population: Low-income populations in an affected area should be identified with the annual statistical poverty thresholds from the Bureau of the Census' Current Population Reports, Series P-60 on Income and Poverty. In identifying low-income populations, agencies may consider as a community either a group of individuals living in geographic proximity to one another, or a set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions of environmental exposure or effect.

Disproportionate high and adverse human health effects: When determining whether human health effects are disproportionately high and adverse, agencies are to consider the following three factors to the extent practicable:

- (a) Whether the health effects which may be measured in risk and rates, are significant (as employed by NEPA), or above generally accepted norms. Adverse health effects may include bodily impairment, infirmity, illness, or death; and
- (b) Whether the risk or rate of hazards exposure by a minority population, low-income population, or Indian tribe to an environmental hazard is significant (as employed by NEPA) and appreciably exceeds or is likely to exceed the risk or rate to the general population or other appropriate comparison group; and
- (c) Whether health effects occur in a minority population, low-income population, or Indian tribe affected by cumulative or multiple adverse exposures from environmental hazards.

Disproportionately high and adverse environmental effects: When determining whether environmental effects are disproportionately high and adverse, agencies are to consider the following three factors to the extent practicable:

(a) Whether there is or will be an impact on the natural or physical environment that significantly (as employed by NEPA) and adversely affects a minority population, low-income population, or Indian tribe. Such effects may include ecological, cultural human health, economic, or social impacts on minority communities, or Indian tribes when those impacts are interrelated to impacts on the natural or physical environment; and,

(b) Whether environmental effects are significant (as employed by NEPA) and are or may be having an adverse impact on minority populations, low-income populations, or Indian tribes that appreciably exceeds those on the general population or other appropriate comparison group; and,

(c) Whether the environmental effect occur or would occur in a minority population, low-income population, or Indian tribe affected by cumulative or multiple adverse exposures from environmental hazards.

VI. The Draft Framework/Outline is a “giant step backward” and a significant departure from decades of environmental justice policies, directives, guidance, and definitions, including the protected classes covered under Title VI of the Civil Rights Act of 1964

The elimination of race and income from the Draft Framework/Outline sends the wrong message to other federal agencies—especially those government agencies that have been foot-dragging and resistant to implementing the Executive Order since it was signed in 1994. The Draft Framework/Outline gives these agencies a road map to do nothing.

EPA is not the only federal agency covered by the Executive Order. Sensing the importance of Executive Order 12898, on April 15, 1997, the U.S. Department of Transportation issued its Order on Environmental Justice, requiring the U.S. DOT (DOT Order 5680.2) to comply with the Executive Order within the framework of existing laws, regulations, and guidance.¹⁴ In December 1998, the Federal Highway Administration (FHWA) issued an order requiring the agency to incorporate environmental justice in all its programs, policies, and activities.

On the other hand, DOT clearly uses “race” and “income” in its environmental justice implementation strategy and plan. The FHWA Order specifically addresses environmental justice for minorities (defined as Black, Hispanic, Asian American, American Indian or Alaskan Native) and low-income populations including whites (median household income below Department of Health and Human Services poverty guidelines). Pursuant to NEPA, all federally funded transportation planning and decisions must involve an environmental justice assessment process that explicitly considers adverse effects or the potential of adverse effects on these populations.

Nondiscrimination. The FHWA Order reaffirms NEPA, Title VI and FHWA's longstanding policy to ensure nondiscrimination in the programs and activities of Federal aid recipients, subrecipients and contractors. Furthermore, it is FHWA's continuing policy to identify and prevent discriminatory effects. FHWA actively administers decision-making activities to ensure that social, economic and environmental impacts are addressed up front from early planning through project implementation.

Public Involvement. Equally important, these and other authorities underscore FHWA's commitment to ensure that the public is involved in transportation decision-making and activities, provides input, and has access to public information concerning transportation, health and environmental impacts.

Coordination. The FHWA Order reinforces the applicability of Title VI and all other federal laws, regulations and other authorities. Together they prohibit discrimination and underscore protection of health and the environment. Title VI expands the nondiscrimination mandate to federally-funded entities and activities. They reinforce FHWA's NEPA process.

Accordingly, FHWA decisions and actions factor in environmental, health, economic, and social impacts. FHWA's framework of policies and procedures help meet social, economic and environmental responsibilities while accomplishing the transportation mission.

VII. EPA's "Environmental Justice Mission Statement" misses the mark altogether

EPA's Environmental Justice Mission Statement reads: "Environmental justice is the goal to be achieved for all communities and persons across this Nation." The Executive Order 12898 is not for "all communities" just as *Executive Order 13045 on Protection of Children from Environmental Health Risks and Safety Risk*¹⁵ (signed by President Clinton on April 21, 1997) is not for all communities. Executive Order 12898 focuses on minority and low-income populations and Executive Order 13045 focuses on infants and children. If "environmental justice is for all communities and persons across the nation," then why do we need an EPA Office of Environmental Justice? The Mission Statement should be rewritten to focus on the recipient population of the Executive Order, minority populations and low-income population, or deleted altogether.

VIII. The Draft Framework/Outline runs counter to Executive Order 12898 and recent Congressional mandates tied to EPA's budget

EPA's flawed Draft Framework/Outline not only runs counter to Executive Order 12898, it also conflicts with two recent pieces of environmental justice legislation passed in the U.S. House of Representatives (Rep. Alcee Hastings D-FL lead sponsor) and the U.S. Senate (Minority Whip Richard Durbin D-IL lead sponsor). The House and the Senate passed legislation calling on EPA to ensure that none of its funds are used "in contravention of, or to delay the implementation of" Executive Order 12898.¹⁶

IX. The Draft Framework/Outline abandons several decades of studies that clearly link environmental hazards, race/class health disparities, and unequal protection

The Draft Framework/Outline abandons several decades of studies that clearly link environmental hazards, race/class health disparities, and unequal protection. Numerous studies, dating back to the seventies, reveal that people of color have borne greater health and environmental risk burdens than the society at large.¹⁷ In 1987, the Commission for Racial Justice produced *Toxic Waste and Race*¹⁸, the first national study to correlate waste facility sites and demographic characteristics. Race was found to be the most potent variable in predicting where these facilities were located--more powerful than poverty, land values, and home ownership.

In 1990, *Dumping in Dixie: Race, Class, and Environmental Quality* chronicled the importance of race in the siting of polluting facilities in African American communities in the South.¹⁹ Two years later, University of Michigan professors Bunyan Bryant and Paul Mohai published *Race and the Incidence of Environmental Hazards: A Time for Discourse*, a landmark book in the field of environmental justice.²⁰

The 1999 the Institute of Medicine study (a study in part funded by EPA), *Toward Environmental Justice: Research, Education, and Health Policy Needs*, concluded that low-income and minority communities are exposed to higher levels of pollution than the rest of the nation and that these same populations experience certain diseases in greater number than more affluent white communities.²¹ For example, people of color are subjected to elevated health risks from contaminated fish consumption²², location of municipal landfills and incinerators,²³ toxic waste dumps,²⁴ toxic schools,²⁵ toxic housing,²⁶ and toxic air releases.²⁷

The impetus for Executive Order 12898 was derived from the empirical evidence that minorities and low-income populations suffer disproportionately from environmental hazards. The problem is important enough that more than 30 states have environmental justice legislations, policies, and initiatives.²⁸ The smart people at the EPA should know that taking “race” and “income” out of the Draft Framework/Outline does not make the problem of environmental injustice disappear. Such a strategy is tantamount to the U.S. Department of Housing and Urban Development (HUD) trying to address fair housing without dealing with racial discrimination, racial redlining, or racial steering. The same would hold true for Health and Human Services (HHS) trying to address health disparities without confronting racial and income disparities. Using the logic of EPA’s Draft Framework/Outline, it is possible to address American apartheid without ever mentioning race or designing policies, procedures, and programs to address racism (individual, cultural, and institutional).

Running from race and income disparities only compounds the problem of environmental injustice that low-income people and people of color have been struggling for decades to get the government to address. Race and place in America are interconnected.²⁹ Race maps closely to economic geography.³⁰ Race continues to polarize and spatially divide

people and places.³¹ Racialized place provides advantage, privilege, and an “edge” for whites, while placing a “tax” on blacks and other people of color.³² Place affects access to jobs, education, culture, shopping, level of personal security, medical services, and public services such as parks and recreation facilities.³³ Place even affects the air we breathe.³⁴

Racism influences the likelihood of exposure to environmental and health risks as well as accessibility to health care.³⁵ Many of the nation's environmental policies distribute the costs in a regressive pattern while providing disproportionate benefits for whites and individuals who fall at the upper end of the education and income scale.

Despite significant improvements in environmental protection over the past several decades, a disproportionately large share of racial/ethnic and low-income Americans continue to live, work, play, and go to school in unsafe and unhealthy physical environments.³⁶ Over the past thirty-five years, the U.S. EPA has not always recognized that many of our government and industry practices (whether intended or unintended) have adverse impact on poor people and people of color. Many of the differences in environmental quality between black and white communities result from institutional racism.

Institutional racism influences local land use, enforcement of environmental regulations, industrial facility siting, and where people of color live, work, and play. The roots of institutional racism are deep and have been difficult to eliminate. Discrimination is a manifestation of institutional racism and causes life to be very different for whites and blacks. Historically, racism has been and continues to be a major part of the American sociopolitical system, and as a result, people of color find themselves at a disadvantage in contemporary society.

Environmental racism is real. It is just as real as the racism found in the housing industry, educational institutions, employment arena, and judicial system.³⁷ What is environmental racism and how does one recognize it? *Environmental racism refers to any policy, practice, or directive that differentially affects or disadvantages (whether intended or unintended) individuals, groups, or communities based on race or color.* Environmental racism combines with public policies and industry practices to provide benefits for whites while shifting costs to people of color.³⁸ Environmental racism is reinforced by government, legal, economic, political, and military institutions.³⁹

People of color communities are often victims of land-use decision making that mirrors the power arrangements of the dominant society. Historically, exclusionary zoning (and rezoning) has been a subtle form of using government authority and power to foster and perpetuate discriminatory practices—including environmental planning.⁴⁰ Zoning is probably the most widely applied mechanism to regulate urban land use in the United States. Zoning laws broadly define land for residential, commercial, or industrial uses, and may impose narrower land-use restrictions (e.g., minimum and maximum lot size, number of dwellings per acre, square feet and height of buildings, etc.).⁴¹

Historically, local land use and zoning policies are “a root enabling cause of disproportionate burdens and environmental injustice” in the United States.⁴² Exclusionary zoning has been used to zone against something rather than for something. On the other hand, “expulsive” zoning has pushed out residential and allowed “dirty” industries to invade communities.⁴³ Largely the poor, people of color, and renters inhabit the most vulnerable communities. Zoning laws are often legal weapons “deployed in the cause of racism” by allowing certain “undesirables” people (immigrants, people of color, and poor people) and operations (polluting industry) to be excluded from areas.⁴⁴

With or without zoning, deed restrictions or other devices, various groups are unequally able to protect their environmental interests. More often than not, people of color communities get shortchanged in the neighborhood protection game.⁴⁵ Zoning ordinances, deed restrictions, and other land-use mechanisms have been widely used as a “NIMBY” (not in my backyard) tool, operating through exclusionary practices.

A 2001 Center for Health, Environment, and Justice study, *Poisoned Schools: Invisible Threats, Visible Action*, reports that more than 600,000 students in Massachusetts, New York, New Jersey, Michigan and California were attending nearly 1,200 public schools, mostly populated by low-income and people of color students, that are located within a half mile of federal Superfund or state-identified contaminated sites.⁴⁶

A 2001 National Academy of Public Administration study found that “environmental justice has not yet been integrated fully into the agency’s core mission or its staff functions” and “EPA does not now have a routine process for identifying high-risk communities and giving them priority attention to prevent pollution and reduce existing public health hazards.”⁴⁷

In January and February 2003, the U.S. Commission on Civil Rights (USCCR) held hearings on environmental justice. Experts presented evidence of environmental inequities in communities of color, including disproportionate incidences of environmentally related disease, lead paint in homes, hazardous waste sites, toxic playgrounds, and schools located near Superfund sites and facilities that release toxic chemicals. In its 2003 report, *Not in My Backyard: Executive Order and Title VI as Tools for Achieving Environmental Justice*, the USCCR concluded that “Minority and low-income communities are most often exposed to multiple pollutants and from multiple sources. . . . There is no presumption of adverse health risk from multiple exposures, and no policy on cumulative risk assessment that considers the roles of social, economic, and behavioral factors when assessing risk.”⁴⁸

X. The Draft Framework/Outline does not address environmental policies and practices that result in unfair, unjust, and inequitable outcomes for minority populations and low-income populations

EPA’s Draft Framework/Outline does not ask the hard questions that go to the heart of environmental injustice: What groups are most affected? Why are they affected? Who did it? What can be done to remedy the problem? How can communities be justly

compensated and reparations paid to individuals harmed by industry and government actions? How can the problem be prevented? Vulnerable communities, populations, and individuals often fall between the regulatory cracks. They are in many ways “invisible” communities. These are the communities and populations the Executive Order was intended to address.

The Executive Order, though not perfect, served to make the environmental “hot spots” in disenfranchised minority and low-income communities visible for focused and targeted action. Air pollution fits this “hot-spot” model. Air pollution is not randomly distributed across communities and the landscape. Some populations are at greater risk from dirty air. National Argonne Laboratory researchers discovered that 57 percent of whites, 65 percent of African Americans, and 80 percent of Latinos lived in the 437 counties that failed to meet at least one of the EPA ambient air quality standards.⁴⁹ A 2000 study from the American Lung Association shows that children of color are disproportionately represented in areas with high ozone levels.⁵⁰ Additionally, 61.3 percent of Black children, 69.2 percent of Hispanic children and 67.7 percent of Asian-American children live in areas that exceed the 0.08 ppm ozone standard, while only 50.8 percent of white children live in such areas.

Air pollution from vehicle emissions causes significant amounts of illness, hospitalization, and premature death. A 2002 study in *Lancet* reports a strong causal link between ozone and asthma.⁵¹ Ground-level ozone may exacerbate health problems such as asthma, nasal congestions, throat irritation, respiratory tract inflammation, reduced resistance to infection, changes in cell function, loss of lung elasticity, chest pains, lung scarring, formation of lesions within the lungs, and premature aging of lung tissues.⁵²

Air pollution claims 70,000 lives a year, nearly twice the number killed in traffic accidents. Emissions from “dirty” diesel vehicles also pose health threats to nearby residents, including premature mortality, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function. Long-term exposure to high levels of diesel exhausts increase risk of developing lung cancer.⁵³ Diesel particulate matter alone contributes to 125,000 cancers in the United States.⁵⁴

Although it is difficult to put a single price tag the on cost of air pollution, estimates range from \$10 billion to \$200 billion a year.⁵⁵ Asthma is the number one reason for childhood emergency room visits in most major cities in the country. The hospitalization rate for African Americans and Latinos is 3 to 4 times the rate for whites. In 2003, the CDC reported that African Americans had an asthma death rate 200 percent higher than whites.⁵⁶

The question of environmental justice is not anchored in a debate about whether or not EPA decision makers should tinker with risk assessment, risk management, and risk ranking schemes. Communities of color and low-income communities know too well that when risks are ranked on a national level, who the likely “winner” and “losers” are. Environmental justice “hot spots” often do not rise to the level of national priority. Some

communities just have the “wrong complexion for protection.” This is not rocket science, but political science.

The environmental justice framework seeks to prevent environmental threats before they occur.⁵⁷ The environmental justice framework incorporates the precautionary principle that seeks to eliminate harmful practices. The Executive Order is consistent with the goals and principles of environmental justice. EPA should take the sage advice of its OIG report: *EPA Needs to Consistently Implement the Intent of the Executive Order on Environmental Justice*. After more than a decade, the time for action is long overdue.

Conclusion

The EPA Draft Framework/Outline can be described in three words, “giant step backward.” Clearly, the Draft Framework/Outline does not offer a clear and coherent framework for consistently implementing the intent of the Environmental Justice Executive Order 12898, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations*. The Draft Framework/Outline *redefines* the intent of the Executive Order instead of *implementing* the Executive Order—making “invisible” the protected classes (minority and low-income populations) the Executive Order was clearly intended to serve.

The Draft Framework/Outline would allow EPA to shirk its responsibility for addressing environmental justice problems in minority population and low-income population and divert resources away from implementing the Executive Order—actions that run counter to more than a decade of policy decisions and recent environmental justice legislation from the U.S. Congress.

While we agree that EPA was created to protect and enforce the law without regard to race, color, national origin, or income status. However, the Executive Order is not for everybody. The Executive Order, as made explicit in its title, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations*, has a specific target population and recipient group. EPA’s Draft Framework/Outline should stay focused on this target population and recipient group in implementing the Executive Order.

The Draft Framework/Outline, whether intended or unintended, reinforces the dominant paradigm that the 1994 Environmental Justice Executive Order 12898 attempted to address. The dominant environmental protection paradigm manages, regulates, and distributes risks. It also institutionalizes unequal enforcement, trades human health for profit, places the burden of proof on the “victims” and not the polluting industry, legitimates human exposure to harmful chemicals, pesticides, and hazardous substances, promotes “risky” technologies, exploits the vulnerability of economically and politically disenfranchised communities, subsidizes ecological destruction, creates an industry around risk assessment and risk management, delays cleanup actions, and fails to develop pollution prevention as the overarching and dominant strategy.⁵⁸

The Executive Order 12898, the CEQ *EJ Guidance*, DOT EJ Order, and FHWA EJ Order make clear the target and recipient populations (minority and low-income populations) for environmental justice actions. EPA's Draft Framework/Outline sends the wrong message to other government agencies that "race" and "income" (i.e., minority and low-income population that are disproportionately and adversely affected by environmental hazards) can be eliminated when implementing the Executive Order by focusing on the notion that "environmental justice is for all communities and persons across this Nation." This wrongheaded interpretation of Executive Order 12898 should not go forward.

EPA should go back to the drawing board and develop a comprehensive environmental justice Strategic Plan that builds on a decade of sound environmental justice policies with the goal of consistently implementing the intent of Executive Order 12898.

I look forward to future opportunities to work with EPA on the development of this strategic plan.

Sincerely,

Robert D. Bullard, Ph.D.
Ware Distinguished Professor of Sociology and Director

Endnotes

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- ¹ See EPA Environmental Justice Strategic Plan Framework and Outline (Working Draft), 70 Fed. Reg. 36167 (June 22, 2005) (“Strategic Plan”).
- ² *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Exec. Order No. 12,898.*
- ³ William K. Reilly, “Environmental Equity: EPA’s Position,” *EPA Journal* 18 (March/April, 1992): 18-19.
- ⁴ U.S. EPA, *Environmental Equity: Reducing Risks for All Communities*. Washington, DC: EPA--230/R-92/008A, 1992.
- ⁵ National Institute of Environmental Health Sciences (NIEHS), NIH, *Symposium on Health Research Needs to Ensure Environmental Justice: Executive Summary and Proceedings*, February 10-12, 1994, Arlington, Virginia (NIEHS: Research Triangle Park, North Carolina, 1994).
- ⁶ *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Exec. Order No. 12,898.*
- ⁷ EPA, National Environmental Justice Advisory Council, *The Model Plan for Public Participation*. Washington, DC: Office of Environmental Justice, EPA-300-K-00-001, February, 2000.
- ⁸ See generally *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Exec. Order No. 12,898*, 3 C.F.R. 859 (1995), *reprinted as amended in* 42 U.S.C. §4321 (1994 & Supp. VI 1998) (the “Executive Order.”).
- ⁹ *Ibid.*, p. 1-103.
- ¹⁰ U.S. EPA, Office of Inspector General, *EPA Needs to Consistently Implement the Intent of the Executive order on Environmental Justice*. Washington, DC: Office of Inspector General, Report No. 2004-P-00007, (March 1, 2004).
- ¹¹ U. S. Environmental Protection Agency. *Guidance for Incorporating Environmental Justice in EPA’s NEPA Compliance Analysis*. Washington, DC: USEPA, 1998; See Robert Bullard and Glenn Johnson. “Environmental and Economic Justice: Implications for Public Policy.” *Journal of Public Management & Social Policy*, Vol. 4, No.4, 1998: 137-148.
- ¹² K. Olden, “The Complex Interaction of Poverty, Pollution, Health Status.” *The Scientist*, Vol. 12, No. 2, (February 1998): 7. See NIEHS: Division of Extramural Research and Training: Health Disparities Research, <http://www.niehs.nih.gov/dert/programs/translat/hd/ko-art.htm>. Accessed December 1, 2002.
- ¹³ Executive Office of the President, Council on Environmental Quality “*Environmental Justice Guidance Under the National Environmental Policy Act*,” Appendix A, “Guidance for Federal Agencies on Key Terms in Executive Order 12898,” p. 25 (December 10, 1997)(the “CEQ EJ Guidance”).
- ¹⁴ “Department of Transportation (DOT) Order to Address Environmental Justice in Minority and Low-Income Populations,” 62 *Federal Register* 18,377 (1997) (No. 5610.2).

¹⁵ See "Executive Order 13045—Protection of Children from Environmental Health Risks and Safety Risks," 62, (78) *Federal Register* (April 23, 1997) : 19883-19888.

¹⁶ Amendment offered by Congressman Alcee Hastings of Florida, *Congressional Record—House*, May 19, 2005, p. H3663.

¹⁷ See W. J. Krivant, "People, Energy, and Pollution." Pp. 125-167 in D. K. Newman and Dawn Day, eds., *The American Energy Consumer*, Cambridge, Mass.: Ballinger, 1975; Robert D. Bullard, "Solid Waste Sites and the Black Houston Community." *Sociological Inquiry* 53 (Spring, 1983): 273-288; United Church of Christ Commission for Racial Justice, *Toxic Wastes and Race in the United States*. New York: Commission for Racial Justice, 1987; Dick Russell, "Environmental Racism." *The Amicus Journal* 11 (Spring, 1989): 22-32; Eric Mann, *L.A.'s Lethal Air: New Strategies for Policy, Organizing, and Action*. Los Angeles: Labor/Community Strategy Center, 1991; D. R. Wernette and L. A. Nieves, "Breathing Polluted Air: Minorities are Disproportionately Exposed." *EPA Journal* 18 (March/April, 1992): 16-17; Bryant and Mohai, *Race and the Incidence of Environmental Hazards*; Benjamin Goldman and Laura J. Fitton, *Toxic Wastes and Race Revisited*. Washington, DC: Center for Policy Alternatives, NAACP, and United Church of Christ, 1994.

⁴ Commission for Racial Justice (1987), *Toxic Wastes and Race in the United States*, New York: United Church of Christ.

¹⁹ Robert D. Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality*. Westview Press, 1990.

²⁰ Bunyan Bryant and Paul Mohai, *Race and the Incidence of Environmental Hazards: A Time for Discourse*. Boulder, CO: Westview Pres, 1992.

²¹ Institute of Medicine, *Toward Environmental Justice: Research, Education, and Health Policy Needs*. Washington, DC: National Academy of Sciences, 1999, Chapter 1.

²² Patrick C. West, J. Mark Fly, and Robert Marans, "Minority Anglers and Toxic Fish Consumption: Evidence from a State-Wide Survey in Michigan." In Bryant and Mohai, *Race and the Incidence of Environmental Hazards*, pp. 100-113.

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