



Assateague Coastal Trust - PO Box 731, Berlin, MD 21811 - 410-629-1538

August 18, 2020

The Honorable Lawrence J. Hogan
State Capitol
100 State Circle
Annapolis, MD 21401

Dear Governor Hogan,

By now, most Marylanders are acutely aware of the disproportionate harms and injustices faced by African Americans in our state. The undersigned community leaders, public health experts and organizations wish to bring to your attention the failure of the Maryland Department of the Environment (MDE) to address environmental justice issues and the failure of MDE to adequately protect our more vulnerable citizens and frontline and fence-line communities from the environmental injustice endured due to urban heat islands, lack of green infrastructure, incinerators, air and water pollution from super polluters in the more urban areas of our state, as well as the air and water pollution, and unsafe worker conditions from industrial agriculture on the Eastern Shore.

Systemic racism has taken on egregious forms, as in Stop and Frisk and the Redlining of our cities. But this systemic racism also comes in the more subtle, but insidious and pervasive shape embodied by government siting and permitting decisions or the denial of representation on a government commission. This type of systemic racism is known as environmental racism.

The ongoing pandemic has raised awareness of this form of injustice causing death and sickness in Black America. Preliminary studies have linked higher rates of death from COVID-19 to air pollution, including an 8% increase in the risk of mortality in counties with elevated levels of particulate matter and a 17% increase in mortality for each additional microgram of sulphur dioxide pollution. This disproportionate burden is the result of not only our racist past, including intentional redlining in our cities, but also current permitting, zoning, and enforcement decisions that turn a blind eye to where pollution flows and who is exposed to it. In Maryland, Black Americans are 79% more likely to live in neighborhoods and cities with industrial pollution and have higher cancer risk associated with exposure to this pollution compared to other groups. There's likely a large overlap between the thousands of Marylanders dying of COVID-19 and those who have been more exposed to pollutants caused by burning fossil fuels.

Environmental Justice is a movement many decades old that is supposed to be embodied in our laws and government agencies through state and federal statutes and executive orders and carried out by various commissions and agencies. One of the founders of the EJ movement, Dr. Robert Bullard, describes

environmental justice as embracing *“the principle that all people and communities have a right to equal protection and equal enforcement of environmental laws and regulations.”*

Maryland established what is now called the Commission on Environmental Justice and Sustainable Communities in 2001. Nearly two decades later this commission has failed to advance any significant environmental justice policy priorities in Maryland and appears completely incapable of making meaningful change due to a lack of leadership and a lack of authentic EJ constituent representation on the Commission. We know because we have studied the Commission, advocated before it, and worked with those who serve on it. Our conclusion today is that it is long past time for Maryland to join the growing number of states that are adopting real environmental justice reforms, both through commissions with real power and other laws that require environmental decision makers to think about environmental justice implications of their decisions and consult with affected communities before giving the green light to discharge additional toxic and carcinogenic substances into vulnerable communities.

We, the undersigned, are calling on you, Governor Hogan, to take a stand against this systemic racism inherent in current institutions and policies in Maryland, and to enshrine protections in our laws. Maryland must have a newly constituted Commission, with new voices, fresh perspectives, and authentic representation of impacted communities in order to immediately begin to address ongoing environmental injustice and to help advise the legislature on how to enhance our state laws and hold agencies accountable for addressing environmental injustice. We ask the following solutions be instituted:

- **MDE needs to have an Environmental Justice Plan**
 - a. MDE and other agencies should be required to develop an environmental justice plan that has metrics to track progress and ensure that performance standards are included in the job performance of all staff in implementing the plan
 - b. Require all state agencies to use the Maryland EJ SCREEN tool in permitting, enforcement, and other relevant decisions
 - c. Require that all state agencies have a division who helps them implement and track their work on implementing their environmental justice plan
 - d. Require that the state develops an interagency workgroup similar to the federal interagency working group on environmental justice that works in concert with the Environmental Justice Commission
 - e. Require enhanced community engagement for all permitting processes for all state agencies

- **Maryland’s Environmental Justice and Sustainability Commission must be re-chartered**
 - a) A need to expand authority for the Commission to allow it to appropriately insert itself in the decision-making processes of agencies who control the levels and location of pollution sources in Maryland
 - b) Establish a permanent working group within the Commission dedicated to understanding and mitigating the effect of cumulative impacts of pollution faced by low income populations and communities of color**
 - c) Draft language that compels the Commission to work with EPA to ensure that it can review all project(s) that fall under NEPA regulations to ensure environmental assessments (EAs) and Environmental Impact Statements (EISs) are proper. Also,

- allowing the Commission to verify NEPA requirements involving public notice, public involvement and consideration of alternatives
- d) Draft language that gives the Commission authority to review all Finding of No Significant Impact (“FONSI”)
 - e) Draft language that gives the Commission authority to encourage public input regarding environmental assessments (EAs) and to work with EPA in providing opportunity for public participation to occur prior to the draft of the EA
 - f) The Commission must be open to, and committed to, hosting their quarterly meetings around the State, not just in Baltimore, MD. These meetings should be used as listening sessions so that constituents can share their environmental justice concerns. Currently, seats on the Commission appear to be filled by people who live in or around Baltimore where it is convenient to attend Commission meetings. If the Commission was properly representative of Maryland frontline communities, a rotation of meeting locations would be not only necessary but would encourage participation by more Marylanders.
- **The Governor’s Office must show greater commitment to addressing systemic racism and advancing environmental justice**
 - a) Develop and release an Executive Order on Environmental Justice and COVID-19 to address disparities like your peer Governor Roy Cooper did
 - b) Support the passage of a new bill that directs state agencies to examine the effects of proposed regulations on environmental justice and develop policies that advance environmental justice just like HB704/SB406 that passed in Virginia in 2020
 - c) Support the passage of a bill that requires all county governments identify environmental justice communities and incorporate environmental justice into their general plans as California did with SB1000
 - d) New mandatory duties for agencies like MDE that compel the agency to listen to the voices on the Environmental Justice Commission and to take the representatives of affected communities seriously
 - e) Cumulative Impact Assessments must be part of permitting processes of all state agencies particularly MDE, Department of Transportation, Department of Planning, Department of Natural Resources, Department of Agriculture
 - f) MDE and other agencies including the Public Service Commission, Department of Transportation, and Department of Natural Resources should receive additional oversight from the legislature in their implementation of the Brandywine EJ civil rights complaint settlement
 - g) Modify the current Maryland Environmental Policy Act to include stronger language on compliance with Title VI of the Civil Rights and require environmental assessments (EAs), environmental impact assessments (EIAs), and environmental impact statements (EIS) to include cumulative impact analysis and health impact assessment, allowing adequate opportunity for public comment before final determination.
 - h) Pass the Community Healthy Air Act and conduct a peer reviewed study of actual emissions from Concentrated Animal Feeding Operation exhaust fans
 - i) Pass new legislation to establish ecodistricts or environmental benefits districts in areas with high environmental justice scores, with sustainable funding
 - j) Require that MDE and other state agencies use air quality data collected by residents through community science or citizen science if available in decision-making

- k) Independent enforcement authority solely dedicated to ensuring that violations of environmental laws in environmental justice communities are enforced and illegal pollution is mitigated and environmental hazards eliminated.

As Dr. Sacoby Wilson has stated, “the coronavirus has made visible those populations our policies and laws had made invisible”. We cannot turn a blind eye to the impact that environmental rules and regulations have on Black Americans any more than we can continue to ignore police brutality. Fixing systemic environmental injustices against African Americans and other overburdened and underserved racial/ethnic groups starts with ensuring they are fully and meaningfully represented on the Maryland Commission for Environmental Justice and Sustainable Communities, and must end with a host of new laws to finally ensure that all Marylanders receive equal protection through our environmental laws.

Sincerely,



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cc: Brian E. Frosh, Maryland Attorney General
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Secretary Joe Bartenfelder, MD Dept. of Agriculture
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Chairman Darryl Barnes, Legislative Black Caucus of Maryland, Inc.
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