

May 25, 2022 Environmental Justice Council Meeting Materials

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Environmental Justice Council

Wednesday May 25, 2022

2:00pm – 6:30pm

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86333504675?pwd=bSNrH35tFrhpz55o2aN1ZM5EONVVC4.1>

Passcode: 067795

Or Telephone: +1 253 215 8782

Webinar ID: 863 3350 4675

Passcode: 067795

Draft Agenda

2:00 PM – 2:55 PM	I. Welcome and Introductions	LaKesha Kimbrough, Facilitator Council Members
Break		
3:00 PM – 3:35 PM	II. Today's Meeting Norms and Decision-Making Process -Possible Council Action	LaKesha Kimbrough Theo Cielos, Council Staff Council Members
3:35 PM – 3:40 PM	III. Approval of Agenda -Possible Council Action	LaKesha Kimbrough Council Members
3:40 PM – 3:45 PM	IV. Approval of April 4, 2022 Meeting Notes -Possible Council Action	LaKesha Kimbrough Council Members
3:45 PM – 3:50 PM	V. Environmental Justice Council Staff Updates	Sierra Rotakhina, Council Staff
Break		
4:00 PM – 4:05 PM	VI. Proposed 2022 and First Quarter 2023 Meeting Schedule -Possible Council Action	LaKesha Kimbrough Council Members
4:05 PM – 4:30 PM	VII. Developing Subcommittees -Possible Council Action	LaKesha Kimbrough Sierra Rotakhina

		Council Members
4:30 PM – 4:50 PM	VIII. Public Comment	
Break		
4:55 PM – 5:30 PM	IX. Community Engagement Guide Next Steps and Process	Rowena Pineda, Council Staff Council Members
5:30 PM – 5:55 PM	X. Council Member Discussion of the Climate Commitment Act (CCA) - Possible Council Action	LaKesha Kimbrough Sierra Rotakhina Council Members
Break		
6:00 PM – 6:15 PM	XI. Public Comment	
6:15 PM – 6:30 PM	XII. Check-out and Farewell	LaKesha Kimbrough Council Members

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 or 360-584-4398.

- Embrace and use wonder and curiosity
- Suspend judgment of self and others
- Honor your lived experiences and those of others, speaking your truth and allowing others to do the same
- Lean into bravery, courage, vulnerability, and discomfort
- Try it on
- Remember we may not reach resolution or closure
- Share space and time
- Seek clarification, resist assumptions
- Participate as fully as you feel comfortable/are able
- Listen deeply
- Keep our purpose at the forefront of our minds
- None of us are perfect, we come from different schooling of life, people make mistakes, receive and understand that we are not perfect (we are beautifully imperfect)
- Move toward action, even if action is exploratory
- Keep it simple
- Assume positive and good intent
- Don't always have to reinvent the wheel, lean on other EJ groups and examples of actions as needed
- Keep our eyes on systemic change to be our best possible ancestors
- In order to comply with the OPMA, when using the Chat function please Chat Everyone

Environmental Justice Council

Date: May 25, 2022

To: Environmental Justice Council Members

From: Theo Cielos, Environmental Justice Council Community Outreach Coordinator

Subject: Proposed Interim Decision-Making Process

Background and Summary:

The Environmental Justice Council will need to decide on decision-making processes in the coming months to guide its work and operations. The scope of this agenda item is to discuss an interim decision-making process to be used by Council members while the Council works to develop permanent processes. The goal is to review, discuss and if necessary, amend the proposed decision-making process.

Council Staff Recommended Actions:

The Council may wish to consider, amend if necessary, and adopt the following motion:

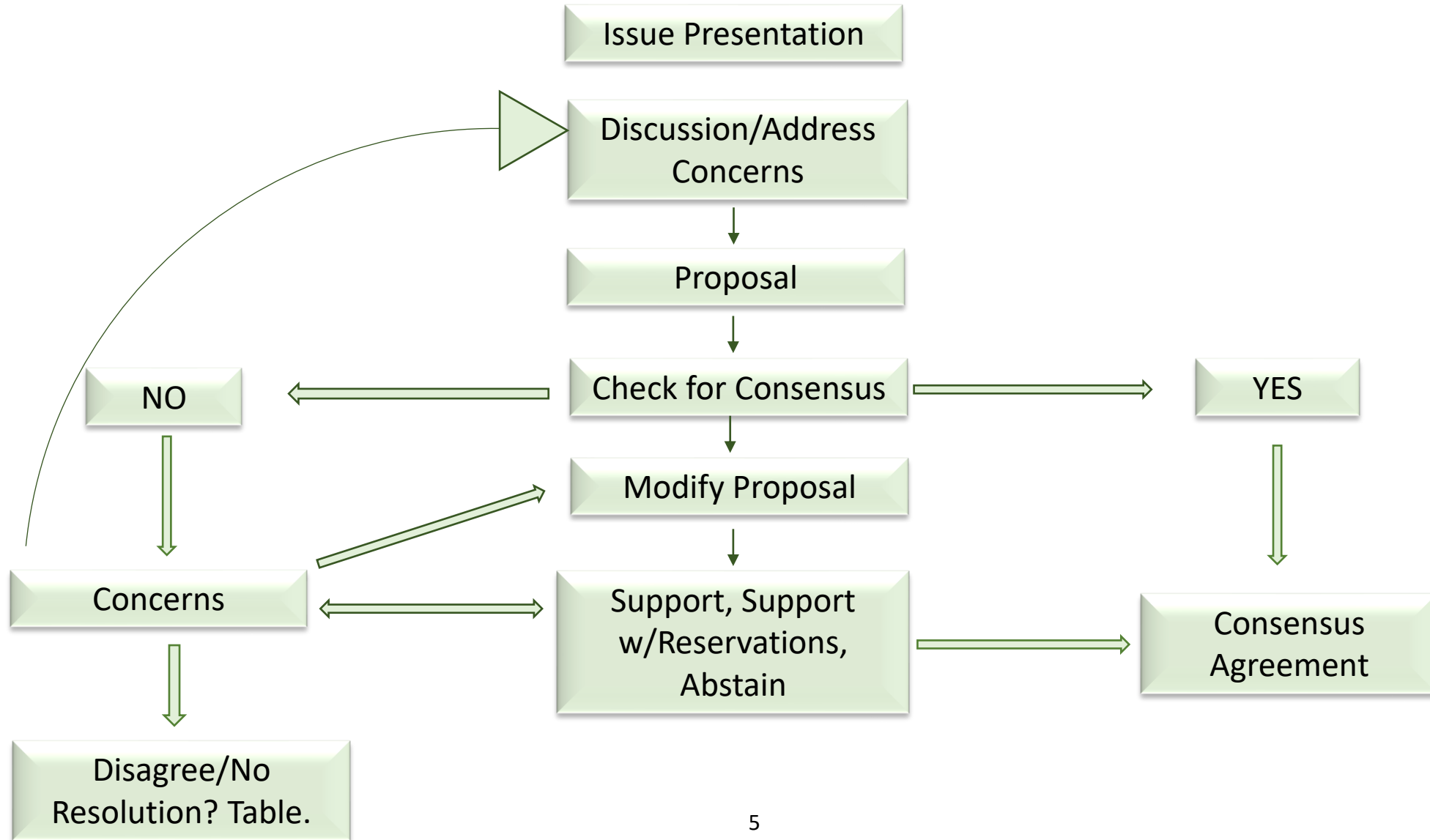
The Council adopts the proposed Interim Decision-making Process, with any changes agreed upon today, until such time that the Council creates and agrees to a more permanent process.

Staff

Theo Cielos, Council Community Outreach Coordinator, theo.cielos@doh.wa.gov, 360-480-2196

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

Temporary Decision-Making Process Proposal

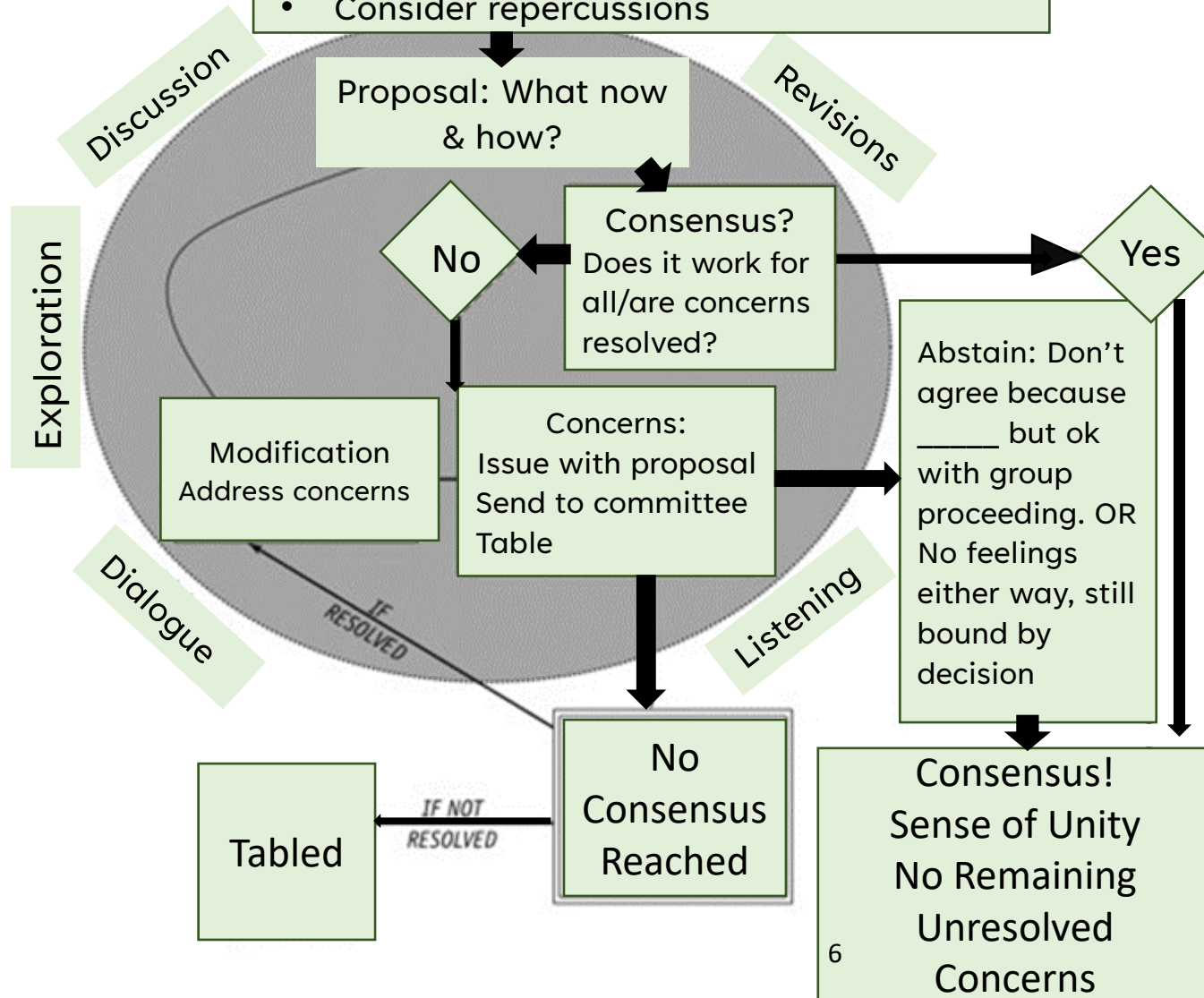


Presentation of the Issue: Proposal for action or defining the issue

*History *Why it matters * Goal of discussion

Clarifying Questions & Gathering Input

- Ensure issue is fully understood
- Gather feelings, ideas, possibilities
- Consider repercussions



Draft Minutes of the Environmental Justice (EJ) Council

April 4, 2022

2:00-6:30PM

Virtual meeting via ZOOM Platform

Environmental Justice Council members present:

Maria Batayola

Aurora Martin

Raeshawna Ware (joined late)

Faaluania Pritchard

Rosalinda Guillen

NiRae Petty

Maria Blancas

Esther Min

Honorable Patrick DePoe, Vice Chair, Makah Tribe

Honorable Jarred-Michael Erickson, Councilmember, Confederated Tribes of the Colville Reservation

Honorable Misty Napeahi, Vice Chair, Tulalip Tribe

Dawn Vyvyan on behalf of the Honorable Sylvia Miller, Vice Chairwoman, Puyallup Tribe

Running Grass

Nichole Banegas

Todd Mitchell

David Mendoza

Ex-Officio Liaisons present:

David Bayne, Department of Health

Laura Blackmore, Puget Sound Partnership

Millie Piazza, Department of Ecology

Earl Key (on behalf of Allison Camden), Department of Transportation

Jennifer Grove (on behalf of Michael Furze), Department of Commerce

Tom Bugert, Department of Natural Resources

Kelly McLain, Department of Agriculture

Guests and other participants:

Senator Rebecca Saldaña

Rob Dengel, Department of Ecology

Luke Martland, Department of Ecology

Caroline Mellor, Department of Ecology

Claire Boyte-White, Department of Ecology

Environmental Justice Council staff present:

Sierra Rotakhina, Environmental Justice Council Manager

Rowena Pineda, Environmental Justice Advisor

Theo Cielos, Community Engagement Coordinator

Meeting Facilitator:

LaKesha Kimbrough

I. Welcome and Introductions

Sierra Rotakhina, EJ Council staff, opened the meeting and introduced the meeting facilitator LaKesha Kimbrough.

LaKesha Kimbrough called the public meeting to order at 2:15pm and read from a prepared statement (on file). She detailed the operating procedure for the meeting including noting that the meeting is being recorded. Recording of the meeting was paused during Public Comment.

Prior to the introduction of the Environmental Justice Council members, Senator Rebecca Saldaña made opening remarks. She shared:

“I'm here today because this is a dream come true for me. And it is a historical moment. And I wanted to make sure I was able to witness and to give thanks to each and every one of you for taking time, for bringing your wisdom, for bringing your bodies to this really critical work. It is with our work together that we are going to create history for Washington State.

It's really important to acknowledge that we have done harm. We have done harm to the people that call this place home and to this land. We also have an opportunity to demonstrate that State Governments can do better, that we can be a true partnership in creating a different world that is better for our people and for our land.

It's because of all of your work that we are coming together from every part of the state, that our children and our grandchildren will one day talk about this moment and the work that you are beginning together.

I just want to acknowledge this is a great responsibility. But I'm hopeful, I believe in you, and I believe that the work you will do will make a difference. Thank you so much for letting me be here with you today.”

LaKesha Kimbrough and Sierra Rotakhina facilitated the introductions of Environmental Council members and staff.

The Council took a break at 2:57pm and reconvened at 3:05pm.

II. Approval of Agenda

LaKesha Kimbrough asked the Council Members if they wanted to make any changes to the agenda.

Motion: [Approve April 4, 2022 agenda.](#)

Motion/Second: Council Member Lua Pritchard/Council Member Maria Batayola. [Approved unanimously.](#)

III. Today's Agreements/Meeting Norms

LaKesha Kimbrough facilitated a discussion of meeting norms. The EJ Council decided to use the following:

- Embrace and use wonder and curiosity
- Suspend judgment of self and others
- Honor your lived experiences and those of others, speaking your truth and allowing others to do the same
- Lean into bravery, courage, vulnerability, and discomfort
- Try it on
- Remember we may not reach resolution or closure
- Share space and time
- Seek clarification, resist assumptions
- Participate as fully as you feel comfortable/are able
- Listen deeply
- Keep our purpose at the forefront of our minds
- None of us are perfect, we come from different schooling of life, people make mistakes, receive and understand that we are not perfect (we are beautifully imperfect)
- Move toward action, even if action is exploratory
- Keep it simple
- To seek clarification
- Assume positive and good intent
- Don't always have to reinvent the wheel, lean on other EJ groups and examples of actions as needed
- Keep our eyes on systemic change to be our best possible ancestors

Motion: [Approve today's meeting norms.](#)

Motion/Second: Council Member Lua Pritchard/Council Member Maria Batayola. [Approved unanimously.](#)

IV. HEAL Act Update

[LaKesha Kimbrough](#) introduced EJ Council staff to provide an update on HEAL Act implementation.

[Sierra Rotakhina](#) provided announcements before beginning the HEAL presentation:

1) Council on Environmental Quality (CEQ) Mapping Tool

The Council on Environmental Quality (CEQ) within the Executive Office of the President has created a Justice Screening map for federal agencies to use when directing the required 40 percent of certain Federal investments to communities most impacted by environmental injustices. The tool includes many indicators, such as income, to identify EJ communities (similar in concept to the Environmental Health Disparities map). CEQ developed a draft version of the tool and they are taking public comments on the tool through April 25, 2022. [Federal Register :: Climate and Economic Justice Screening Tool Beta Version](#). The tool does not use race or ethnicity as indicators to identify EJ communities. EJ Council staff and many state agency staff have significant concerns with this “race-neutral” approach to addressing environmental racism. The State Office of Equity is writing a comment letter outlining those concerns, and state agencies will have the option to sign on to that letter or write their own.

Discussion:

The Council discussed if there was a way for the Council, as a body, to engage in this letter and decided that, with a comment deadline of April 25, there is not sufficient time for the Council to review the letter and have a transparent decision-making process about whether to sign on to the letter. Several Council Members did emphasize the importance of this issue. Some Members also raised the point that engagement in federal decision making is important, and the Council needs to develop a process for weighing-in on federal issues.

[Council Member Esther Min](#) shared a link to a story-map she created, which compares the Washington Environmental Health Disparities Map with the CEQ’s beta version of the CEJST:

<https://storymaps.arcgis.com/stories/2fa34bcc4a7443e380b0eccc0a41c2c9>

Dawn Vyvyan noted the importance of having time to bring decisions back to the Puyallup Tribe before signing on to anything. Other Council members also noted the importance of having time to bring decisions back to their communities.

The Council decided, that due to the deadline for this specific issue, for general awareness Council staff would share the draft letter with the full Council, as well as the link to the federal portal where people can provide comments on the beta tool. Then each Council member can individually decide if they want to submit comments on behalf of themselves or any of the organizations they work with.

2) Community Participation Grants Budget Proviso

During the 2022 legislative session the budget that passed included a budget proviso requiring the Department of Health to grant funds to a statewide community based environmental justice organization. That organization then establishes a community participation fund to grant funds to community-based organizations serving vulnerable populations in highly impacted communities in rural and urban area. The goal is to support access, improve understanding, and encourage participation in EJ council deliberations and HEAL implementation. \$100,000 is allocated this fiscal year (which ends June 30) and \$400,000 will be allocated next year (July 2022-June 2023). The Department of Health has noted that allocating funding before the end of this fiscal year will be extremely challenging and recognizes that it is important to have a transparent, inclusive process.

Sierra Rotakhina and Rowena Pineda, EJ Council staff, provided an update on HEAL implementation, with a focus on the community engagement guide that state agencies are drafting. Presentation on file here: [https://waportal.org/sites/default/files/documents/EJ Council/April 4 2022_EJCouncil_MeetingMaterials_Updated.pdf](https://waportal.org/sites/default/files/documents/EJ_Council/April 4 2022_EJCouncil_MeetingMaterials_Updated.pdf)

Discussion:

Council members had questions about why the State Board of Health, Fish and Wildlife, and Recreation were not named in the HEAL Act especially given their impact on environmental justice. In addition, Council members asked if agencies could opt-out of HEAL. Staff confirmed that the HEAL Act doesn't say anything about an agency opting out of HEAL after they have opted in. It is

staff understanding that agencies opting-in have the flexibility to opt out, but staff will have to confirm this with the Attorney General's Office.

Another question from the Council related to how it will hold agencies accountable. Staff shared that there are a few mechanisms built into the HEAL Act itself that hold agencies accountable; such as state agencies being required to report to the Council every September on the progress that they've made on deliverables named in statute, and developing metrics for measuring how successful the agencies have been in implementing them. In addition, the HEAL Act creates a required dashboard on the Office of Financial Management's website where agencies will post how well they are doing in implementing the HEAL Act. The Council can also explore other ways to hold agencies accountable, including mechanisms for how make accountability matter.

A further clarifying question was asked by the Council regarding the accountability of agencies who are in a listen and learn capacity. Staff shared that agencies that are in a listen and learn capacity are really interested in doing this work and doing it right. They would want guidance and accountability from the Council. However, they didn't get any funding to do this work because of the way the Legislative process works. The agencies named in the HEAL Act had fiscal notes and secured funding to hire staff and to start implementing the HEAL Act. The other agencies not named didn't get any funding to do the work. Listen and learn agencies may look into doing decision packages which is the process for requesting funding from the legislature.

Tamara Fife, Tribal Relations Director for the Department of Health, shared that the Tribal Liaisons Work Group is working on a Tribal engagement guidance section for the community engagement plan. Tamara is serving in co-leadership role with Asa Washines with the Attorney General's Office.

Tamara shared that the Tribal Liaisons are at each state agency per RCW 43.376. In accordance with the Centennial Accord/Millennial Accord, each agency has to have a liaison that reports directly to the agency to do government-to-government work.

The Tribal Liaisons Work Group will be inviting the Tribal Representatives on the Council to a briefing to provide information about the work group, and to seek guidance on the Tribal Engagement Guide.

Discussion:

Vice Chairman DePoe, Council Member, shared his hope that working with Tamara and the other Tribal Liaisons will help to better define boundaries pertaining to the role of Tribal representatives on the EJ Council. He mentioned that environmental justice doesn't often intersect with Tribal issues; however there is a government-to-government process that is in place. There may be a need to understand how they are the same and how they can be different in certain situations. Tamara affirmed that the Tribal Liaisons Work Group is talking about inherent rights and treaty rights. Its members are looking forward to having a conversation with EJ Council Tribal representatives.

Council members were curious about the timeline for the Tribal Engagement Guide section. Tamara shared that the Tribal Liaisons Work Group is looking to have a draft for review by the EJ Council Tribal Representatives in the next month to six weeks.

The Council took a break at 4:10pm, and reconvened at 4:20pm.

V. Start Discussion of what guiding documents Council wants (e.g. Bylaws or Other Guiding Documents, Agreements, Meeting Norms)

Sierra Rotakhina took a few minutes to plant the seed that the Environmental Justice Council needs guiding documents, bylaws, a charter, or some way to guide how the Council will make decisions. She requested Council members to email her directly with the kind of guiding documents that the Council is interested in having so staff can start putting resources together for the next meeting.

Discussion:

Council members encouraged staff to look at examples of comparative documents from other states, jurisdictions, countries, etc. They are interested in examples of protocols and/or procedures for running meetings and reaching decisions; including achieving consensus, using non-bureaucratic ways that get to the core of what people are trying to say, and recognizing the diversity of insights and guidance that Council members bring. Council members are also interested in examples of communication and decision-making protocols, and clear guidance to staff on the scope of their responsibilities.

Ex-Officio Liaison from the Department of Ecology, Millie Piazza, shared on chat that Oregon has convened an EJ Task Force since 2007 and shared a link that might have helpful documents:

<https://www.oregon.gov/ODA/AboutUs/Pages/EnvironmentalJustice.aspx>.

VI. Climate Commitment Act Update

LaKesha Kimbrough invited Department of Ecology staff to provide an update on implementation of the Climate Commitment Act. Presentation on file here:

https://waportal.org/sites/default/files/documents/EJ_Council/April_4

[2022_EJCouncil_MeetingMaterials_Updated.pdf](#)

1) Rulemaking for the Cap and Invest Program

Luke Martland, Department of Ecology, provided an overview of the rulemaking process that the Department of Ecology is currently engaged in—in relation to the Cap and Invest Program. He noted that the program will go into effect at the beginning of 2023 which necessitated that the rulemaking process be initiated prior to the EJ Council being seated. There are three main rules that Ecology has been developing to help implement the Cap and Invest Program.

1. The technical rule concerning how businesses will report completed initiatives.
2. The formal rule language pertaining to EITEs (Emissions Intensive Trade Exposed Industries) was proposed in December and it is anticipated that it will be adopted in June.
3. The Cap and Invest Rule, or Rule 446, is halfway through the process. The Department of Ecology conducted listening sessions in November, December, and January. The Department of Ecology is in the process of developing the final rule language which is anticipated to be issued in mid-May.

There will likely be future rulemaking processes, either to fix a problem that arises or to address something that will be learned as it takes shape. For future rulemaking processes Ecology will follow these steps: informal outreach, public process, and engaging with the EJ Council.

Discussion:

Council members expressed serious concern and disappointment about the disconnect and misalignment between the EJ Council work and the commencement of Climate Commitment Act (CCA) rulemaking. It was voiced that the deadline for rulemaking does not provide adequate time to get input from vulnerable community members, including those that various Council members represent. Council Member Rosalinda Guillen shared that the rulemaking process has been traditionally harsh for farmworkers, Latinos, and other people of color. It is difficult to participate in the process because of lack of resources, especially if meetings are held in Olympia. Furthermore, the speediness of the process is astounding and discouraging, and continues to perpetuate the false emergency that Black, Indigenous, and People of Color (BIPOC) communities encounter in Eurocentrically-styled decision-making. Council Member Maria Batayola shared that it is hard to undo and amend rules. Both Council Member Batayola and Council Member Running-Grass encouraged creative brainstorming around the deadline and how to augment the process to make sure the voices of communities and the EJ Council are heard. Other Council members agreed that there should be a conversation about the deadline. Council Member Aurora Martin shared that the spirit of HEAL is equitable governance, and with something as meaningful as the HEAL Act and CCA, the rulemaking deadline is unfortunate.

Ecology staff shared that there are many ways that the EJ Council can participate in the implementation of the Cap and Invest beyond rulemaking including providing advice to the Legislature on how funding should be made. The EJ Council can also weigh in on petitions for allowances brought forth by industries. It is also important to note that the EJ Council has responsibility for reviewing all aspects of program details and functionality of CCA including evaluating EJ and health goals of the program in addition to the funding.

Council members asked EJC staff to provide an analysis of how rules that have been decided will impact overburdened communities. In addition, Council members asked to have a description of the EJ Council's role and scope of responsibility in relation to CCA. Council Member Martin recommended that if there are materials that the EJ Council need to review they should be shared prior to the next meeting in May.

2) Reduction of Air Pollution

Luke Martland transitioned to Caroline Mellor and Rob Dengel, Department of Ecology, who talked about Ecology's effort to reduce air pollution in overburdened communities. This work happens in coordination with partners including seven local air agencies across the state which are responsible for air permitting within their jurisdictions, Tribes, state agencies including the Department of Health, and federal agencies such as the Environmental Protection Agency (EPA). Caroline outlined different parts of the initiative including identifying overburdened communities, placing air monitoring systems in those communities, establishing air quality targets specifically for these areas, identifying and notifying the largest sources of the emissions, and a regular review of the air quality data. Once communities have been identified, Ecology will work with the communities as well as the EJ Council to develop emission regulation, potential standards, and emission reduction mechanisms to address the criteria for air pollution in these communities. Ecology is focused on addressing six criteria air pollutants: particulate matter, ozone, sulfur dioxide, nitrogen dioxide and lead. It is likely that new regulation will be involved.

Ecology is currently finishing up an informal public process to inform the creation of criteria used to identify overburdened communities. It has convened listening sessions and released a survey to get input. The survey deadline has been extended to Thursday, April 7th. The draft criteria will be released in June and shared with the public to determine if they are reflective of the priorities identified in the listening sessions and the survey. In the fall, Ecology will start placing expanded monitoring systems in communities. In 2023, emission control strategies for specific overburdened communities will be identified and informed by community members. Ecology seeks to engage the EJ Council in this process.

Discussion:

Council Member Batayola asked why aircraft emissions is not one of the criteria for air pollution. Ecology staff said they will look into this. Council Member Mendoza shared that he believes there may be federal preemption preventing regulation of aviation fuels.

Council Member Guillen asked, “when you say ‘potential for input in ongoing discussion’ what is the authority of the EJ Council to impact the decision?”

VII. Public Comment Period

Sierra Rotakhina started with an opening statement. There were three public comments:

Darlene Schanfeld

My name is Darlene Shanfeld. I live on the North Olympia Peninsula of Washington State. Let me know if I am speaking too quickly. I want to get this topic on your radar. It is one I work with at the local level, at the state level, at the national level. And it has to do -- it is an EJ issue. It has to do with the spreading of highly toxic hazardous sewage waste, effluent and solids after they have gone through a treatment plan. And they have pathogens as well as the toxins. They are spread on land, they are spread on food crops, on forests, ballparks, recreational lands, etc. They move through the air and they also run off in the water. And it is a circulating system that goes up the toxins move up into the food system. And it is also very harmful to the workers that work in the farm fields and have to work in this toxic sewage, where crops are grown. Also spread on grazing lands. Gets into the chickens and the pork and the cows. I would like to get this on your radar to talk about these are also sold as commercial composts, and often these composts are donated to community gardens and in areas where there are poor communities trying to set up these gardens. So I would very much like to talk to you in more depth, if I could get ahold of a few of you, and go more deeply into this really needs to be on the EJ radar and discussions and considerations around this issue. Thank you.

Ginger Wireman

Hi. I am Ginger Wireman. I work on ecology on the Hanford clean-up. I work with Millie on the EJ stuff for the agency. Also live in Richland, Washington. And I was wondering, I found out about the meeting from Millie, and I am wondering where all it was advertised. You don't have to answer that. But want to encourage the Council to reach out through Front and Centered to make sure all of the other partners and TNC and Sierra Club and everybody else are trying to share out to local and regional Facebook groups. And I know it is really tough to find sometimes these small groups,

because they may not actually have a non-profit status, and you have to know the right person to spread the word. So I would just encourage you to maybe make a list and have the list posted somewhere so that folks can look at who is getting notices and see who is missing and then try to add the people who are missing from the conversation. I think Citizens Climate Lobby might be another good organization to share information through. Thank you. And I am really excited about this. This is a great that this is convening.

Kenny Coble (kcoble@cityoftacoma.org)

Hi, Council. I am very, very happy that y'all exist. As someone who has worked and cared about Environmental Justice since I was a wee babe, just very, very happy this is here. And thank you and thanks for having me. I want to talk about two things. One I am really interested in the community engagement plan that y'all are working on. My title at the city of Tacoma is Community Engagement Coordinator. I get to work in that field. I don't know if it would be helpful to have -- I am not sure how the committees work or any of the projects work. If there are any space for outside friends to help with it, I'd be happy to jump on and want to let you know we have a coalition of agencies in Pierce County that are working on an equitable engagement plan that we'll share at our agencies. I have a feeling that's similar to what y'all are working on. And would definitely love to learn from you. And then my advocacy point is: I'd love to see Pierce County be a big part of this group. We are one of the most diverse counties in the state and have a lot of people passionate here about this work. If we can be involved, we'd love to. I can put my name and e-mail in the chat if that's helpful if anyone wanted to reach out. I think that Environmental Justice pairs really beautifully with participatory budgeting and want to put that in your ears and eyes and mouths. And if there's any way that community members could help advocate to see any budget that comes through the EJ Council be done in a democratic way, in ways that co-create with our community, I would just want to say that I am a cheerleader for that and we'll join alongside any other cheerleaders here. So again, really grateful for this. I love all of you already. And want to say thank you for having me speak today. Thanks y'all.

LaKeshia Kimbrough went back to questions/discussion on the CCA given that there aren't additional public comments.

Took a break at 5:45 and reconvened at 5:55pm

VIII. 2022 Environmental Justice Council Meeting Schedule

The Council discussed the May and June proposed Council meeting dates and landed on the following dates:

- May 25, 2:00pm to 6:30pm
- June 22, 10:00am to 3:00pm

IX. Creating Subcommittees

Sierra Rotakhina brought up the possibility of the EJ Council convening subcommittees and giving staff directions on how to proceed. The Council may also choose to table it for a later discussion. The Council discussed the following three possible subcommittees: 1) a subcommittee focusing on the climate commitment act, 2) a subcommittee focusing on community engagement; and 3) a subcommittee focusing on developing guidance on environmental justice assessments.

Discussion:

Council members agree that having subcommittees is a good idea. However, there were questions regarding the scope of work of the subcommittees. Council Member Mendoza shared that in his view subcommittees is where work gets done and they inform the full body in making final decisions.

Regarding community engagement, Council Member Min noted that the subcommittee can be a space to vision what a true community engagement plan from bottom up can look like instead of reacting to a draft community engagement plan that has already been written.

There were questions and discussion on how the Council will provide input to the community engagement process guide especially given the July 1st deadline. Sierra Rotakhina noted that EJ Council members can provide input during the EJ Council meetings as one way. Council members can review, make comments, and send the comments to EJ Council staff to be synthesized and collated. However, substantive input should be discussed during public meetings. Recognizing the deadline of July 1st for the community engagement plans, Sierra Rotakhina shared that agencies are not looking at July as an end point but as the beginning—it is one of many drafts. The state

agencies have been dealing with balancing the tension of not wanting to write a document without community and EJ Council guidance yet having to meet the statutory deadline. By having something on paper is one way to engage in a meaningful interaction with the EJ Council without being extractive of members' time.

Council Member Batayola shared that she agrees with having subcommittees. She also wanted the Council to have time to get to know and understand each other's ways of approaching and defining environmental equity. She noted that this is an invaluable conversation to have and to create a larger vision of the work of the EJ Council.

Council Member Min recommended for staff to engage in one-on-one or two-on-one conversations with EJ Council members between now and the May meeting. The purpose of the meetings is to get more details on the vision and scope of work for subcommittees that can be shared during the May meeting.

X. Check-out and Farewell

LaKesha Kimbrough adjourned the meeting at 6:30 p.m.

During the virtual meeting, approximately 91 members of the public joined and participated. The Council thanks all those that took time to join, listen in, and share their personal experiences and perspectives during the meeting.

The HEAL Act, Health Equity Zones, and the Pro-Equity Anti-Racism (PEAR) Plan and Playbook

There are two new pieces of work to promote equity and justice in Washington State government and to address disparities: 1) Health Equity Zones and 2) Pro-Equity Anti-Racism (PEAR) Plan and Playbook. There are short descriptions of these two initiatives below. There is potential overlap and opportunities for collaboration between these two initiatives and the Healthy Environment for All (HEAL) Act. Figure 1 outlines some areas of possible overlap.

Health Equity Zones

In 2021 the Washington State Legislature passed Senate Bill 5052 — Concerning the Creation of Health Equity Zones. The law ([RCW 43.70.595](#)) tasks the Washington State Department of Health with sharing and reviewing population health data to identify (or allow communities to self-identify) potential “health equity zones” in the state. Community organizations in these health equity zones can then identify projects to address the zone’s most urgent needs related to health disparities. Organizations can form coalitions to identify the needs of the zone and to design the projects. The Department of Health must provide: 1) support to the community organizations to identify and apply for resources to support the projects, 2) technical assistance related to project management and developing health outcomes and other measures to evaluate project success, and 3) funding (as available) to implement the projects. The Department of Health is convening a Health Equity Zones Community Advisory Council which will develop the foundation for the Health Equity Zones Initiative.

There is potential overlap or coordination between the identification of Health Equity Zones and the identification of overburdened communities under the HEAL Act.

Pro-Equity Anti-Racism (PEAR) Plan and Playbook

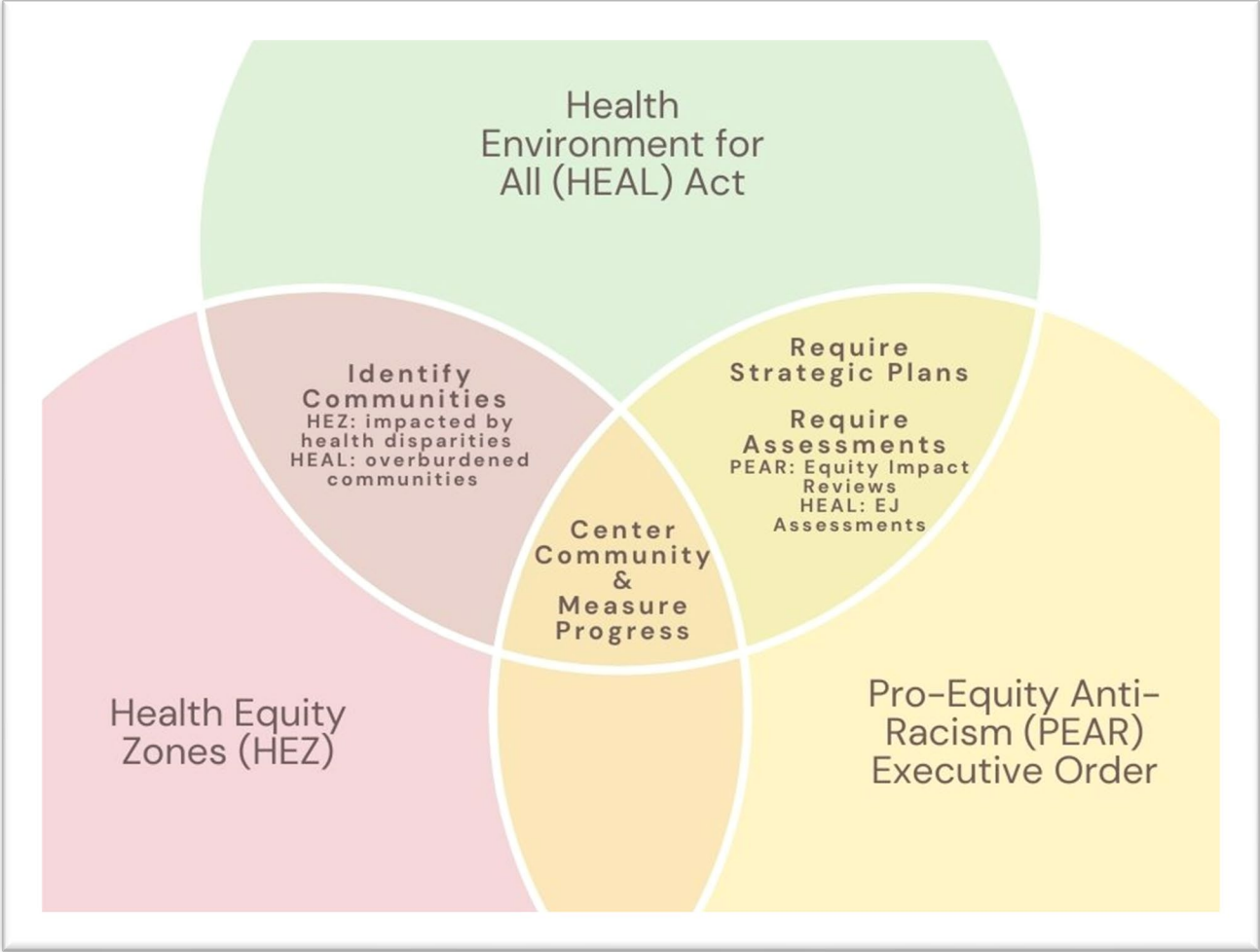
The Governor signed [Executive Order 22-04](#) (Implementing the Washington State Pro-Equity Anti-Racism [Pear] Plan & Playbook) on March 21, 2022. The executive order notes that the Office of Equity co-created the state's inaugural five-year Washington State PEAR Plan & Playbook. The PEAR Plan & Playbook establishes a unified vision of equity for state government, mission, values, and goals, and contains a step-by-step playbook for developing, implementing, and embedding PEAR into every state government action.

The executive order discusses the PEAR Equity Impact Review framework: a five-step process that blends numerical data and descriptive, community narrative data to inform agency planning, decision-making, and implementation of actions to promote equity. Agencies will be required to conduct an Equity Impact Review prior to proposing changes to agency policies, programs, and practices.

State agencies will be required to develop, implement, and measure the effectiveness of their pro-equity, racial justice, access, and belonging strategic action plans. The Office of Equity will support agencies in creating statewide and agency-specific measures to determine the impacts on reducing disparities.

Agencies must conduct a baseline Equity Impact Review by August 1, 2022 and then complete a PEAR strategic action plan template by September 1, 2022.

Figure 1: Potential Overlap between the HEAL Act, Health Equity Zones, and the Pro-Equity Anti-Racism (PEAR) Plan and Playbook



Environmental Justice Council

Date: May 25, 2022

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Proposed Meeting Schedule for 2022 and First Quarter of 2023

Background and Summary:

[RCW 70A.02.110](#) specifies that meetings of the Environmental Justice Council (Council) are subject to the Open Public Meetings Act ([chapter 42.30 RCW](#)). [RCW 42.30.075](#) requires the Council to file a schedule of regular meetings with the Code Revisor to be published in the Washington State Register. Once the Council has adopted a 2022 meeting schedule, staff will file the schedule with the Code Revisor. The Council can make changes to the meeting schedule, but the changes must be published in the State Register at least twenty days prior to the rescheduled meeting date. The Council can also call special meetings under [RCW 42.30.080](#) as long as the public is notified at least 24 hours before the meeting.

At its April 4, 2022 meeting, the EJ Council established dates for the May and June Council meetings: May 25, 2022 2:00pm-6:30pm and June 22, 2022 10:00am-3:00pm. Staff have developed a proposed meeting schedule for August 2022 through April 2023 that includes meetings held at various days of the week and times of the day, to see which meeting days and times are the most accessible to community members. The Council could make changes to the proposed meeting schedule if it finds that certain days or times works best for community.

Council Staff Recommended Actions:

The Council may wish to consider, amend if necessary, and adopt the following motion:

The Council adopts the proposed Meeting Schedule for 2022 and First Quarter of 2023 with any changes agreed upon by the Council during discussion of the proposed meeting schedule at its May 25, 2022 meeting.

Staff

Sierra Rotakhina, Council Manager, sierra.rotakhina@doh.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@doh.wa.gov or 360-584-4398. TTY users can dial 711.

Environmental Justice Council 2022 and First Quarter 2023 Proposed Meeting Schedule

Meeting Date	Location
Confirmed: Monday April 4, 2022 2:00pm-6:30pm	Virtual Only Join Zoom meeting: https://us02web.zoom.us/j/85252692400 Or join by phone: +1 253 215 8782 Meeting ID: 852 5269 2400
Confirmed: Wednesday May 25, 2022 2:00pm-6:30pm (meeting date confirmed)	Virtual Only
Confirmed: Wednesday June 22, 2022 10:00am-3:00pm (meeting date confirmed)	Virtual Only
Proposed: Saturday August 27, 2022 10:00am-3:00pm	To be determined (likely in-person with an option to join virtually)
Proposed: Thursday October 27, 2022 3:00pm-7:30pm	Virtual Only

Proposed: Tuesday December 13, 2022 2:00pm-6:30pm	Virtual Only
Proposed: Tuesday February 28, 2023 3:00pm-7:30pm	To be determined
Proposed: Wednesday April 26, 2023 2:30pm-7:00pm	To be determined

Time and locations subject to change as needed. See [Environmental Justice Council | WaPortal.org](#) for the most current information.

Last updated 04/26/2022

Environmental Justice Council

Date: May 25, 2022

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Creating Subcommittees

Background and Summary:

The Environmental Justice Council (Council) may choose to develop subcommittees to focus on specific work. The Council bylaws or other guiding documents may outline the structure of these subcommittees or the structures could be developed in subcommittee charters, etc. Considerations may include size, leadership structure, and whether subcommittees will include members of the public.

The Council began discussing subcommittees at its April 4, 2022 meeting but did not take any action. Between the April and May 2022 meeting staff met one-on-one with Council members and in small groups with Council members to get guidance on what resources staff could provide to the EJ Council as it discussed developing subcommittees at a future Council meeting. Council Members suggested the following potential subcommittees for the full Council's consideration:

- Climate Commitment Act
- Community Engagement
- Environmental Justice Assessments
- Environmental Justice and Budget Decisions
- Identifying Overburdened Communities (potentially part of a Community Engagement Subcommittee)
- Guiding documents/Bylaws/Council Governance
- Metrics for measuring success (potentially an element in each subcommittee rather than its own subcommittee)

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

Council Members also shared perspectives on the following topics which will require deliberation and decision by the full Council:

- Whether or not subcommittees should include community members who do not sit on the Council as subcommittee members
- Whether or not subcommittee meetings should be open to the public (assuming subcommittees consist of less than a quorum of the Council)
- What elements of subcommittee structure, process, and scope should be decided by each subcommittee versus brought to the full Council for decision
- What process to use to ensure subcommittees hear from people who may disagree with the perspectives of Council members
- Which subcommittees will be standing versus ad hoc or time-limited
- How does the Council strike a balance in allowing Council subcommittees to do free-thinking and visioning work on HEAL Act guidance rather than just reacting to documents from state agencies while also working in close collaboration with state agencies

In addition to guidance related to subcommittees, Council members asked staff for the following support and resources:

- Briefing documents on the HEAL Act and the Climate Commitment Act (included in today's meeting packet)
- Support in gaining a better understanding of the content of the HEAL Act and the Climate Commitment Act
- Support in working with the Environmental Health Disparities Map
- Support in helping the Council do strategic planning, get grounded in the HEAL Act, and form as a unified body
- Support in ensuring the Council discusses construction workers as populations overburdened by environmental harms in where they live and work

Council staff recommend that the Council discuss whether to create subcommittees at today's meeting. Staff recommend discussing subcommittee structure at an upcoming Council meeting

when bylaws or other guiding documents are adopted or at subcommittee meetings. Due to limited staff and Council member capacity, staff recommend the Council convene a maximum of two subcommittees today and discuss additional subcommittees at a future meeting once the first two are established. The meeting packet includes an outline of the Council's roles under the HEAL Act along with timelines in the statute to support the Council's prioritization of subcommittees.

Council Staff Recommended Actions:

The Council may wish to consider, amend if necessary, and adopt the following motion:

The Environmental Justice Council directs staff to begin the work of establishing a subcommittee on Community Engagement and a subcommittee on the Climate Commitment Act.

Staff

Sierra Rotakhina, Council Manager, sierra.rotakhina@doh.wa.gov, 360-584-4398

Environmental Justice (EJ) Council Roles in the HEAL Act	Timeline Outlined in the HEAL Act
<p>Community Forum</p> <p>RCW 70A.02.110: The EJ Council must provide a public forum for communities to provide comments, assist the Council in understanding communities EJ priorities to inform EJ Council recommendations to agencies on issues to prioritize, and to identify which agencies community members can contact with specific concerns.</p>	<p>Ongoing</p>
<p>Community Engagement Plans</p> <p>RCW 70A.02.110: The EJ Council must work with the EJ Interagency Work Group to develop guidance for agency community engagement plans.</p>	<p>July 1, 2022</p> <p>Covered agencies must adopt community engagement plans by July 1, 2022. (Note: The plans adopted in July can be draft plans and can continue to change based on EJ Council and community guidance).</p>
<p>Annual Agency Updates</p> <p>RCW 70A.02.090: The EJ Council will receive annual updates from each covered agency on HEAL Act implementation.</p>	<p>September 1 of each year</p>
<p>Review Agency Deliverables</p> <p>RCW 70A.02.110: The EJ Council MAY review agency deliverables required by the HEAL Act (e.g. community engagement plans, etc.).</p>	<p>Ongoing</p>
<p>Environmental Justice in Strategic Plans</p> <p>RCW 70A.02.110: The EJ Council must work with EJ Interagency Work Group to develop guidance for implementation of EJ into agency strategic plans. Agencies may additionally incorporate</p>	<p>Before January 1, 2023</p> <p>Covered agencies must include EJ implementation plans in strategic plans by January 1, 2023. The EJ Council would</p>

an EJ implementation plans into other significant agency planning documents.

need to provide guidance to agencies before they update their strategic plans in order for its guidance to inform agency decision-making.

Significant Agency Actions

RCW 70A.02.060 and RCW 70A.02.110: The HEAL Act defines “significant agency actions” and requires agencies to conduct EJ Assessments on all significant agency actions. Along with the EJ Interagency Work Group, the EJ Council must provide guidance to agencies on what should be classified as a “significant agency actions.”

Each agency must publish a list on its websites of the types of actions that the agency has determined are significant agency actions. Before publishing this list online, the agencies must gather public comment on the list. Then the agencies must conduct EJ assessment with each significant agency action as defined in the HEAL ACT. Agencies must periodically update the list.

The HEAL Act additionally requires agencies (by July 1, 2025) to identify agency actions that should be considered significant agency actions in addition to the actions already defined in the HEAL Act and begin completing EJ Assessments on these additional agency actions.

Agencies must consider guidance from the EJ Council when identifying types of significant agency actions.

Before July 1, 2023

Agencies must publish the list of types of agency actions and begin conducting EJ Assessments on those actions by July 1, 2023. The EJ Council would need to provide guidance to state agencies before they publish their lists for its guidance to inform agency decision-making.

<p>Environmental Justice Assessments</p> <p>RCW 70A.02.110: In coordination with the EJ Interagency Work Group, the EJ Council must develop and provide environmental justice assessment tools, processes, and guidance for covered agencies.</p>	<p>Before July 1, 2023</p> <p>Covered agencies must conduct EJ assessment with each significant agency action by July 1, 2023 and would be looking to tools and guidance from the EJ Council to begin this work.</p>
<p>Environmental Justice in Budgeting and Funding</p> <p>RCW 70A.02.110: The EJ Council must work with the EJ Interagency Work Group to develop guidance for budgeting and funding EJ criteria.</p>	<p>Before July 1, 2023</p> <p>Covered agencies must publish types of budget and funding decisions which will require an EJ lens and take actions on budget and funding decisions that have EJ impacts by July 1, 2023. The EJ Council would need to provide guidance to agencies before they publish their lists for its guidance to inform agency decision-making.</p>
<p>EJ Council Report</p> <p>RCW 70A.02.110: The EJ Council must submit a report to the Governor and the appropriate committees of the State House of Representatives and Senate.</p>	<p>November 30, 2023</p>
<p>Communicate Agency Progress</p> <p>RCW 70A.02.110: The EJ Council must evaluate the progress of the agencies' compliance with EJ Council guidance using the updates provided by the agencies in September of each year. The EJ Council must update guidance to state agencies as needed. The EJ Council must communicate agency progress to the public, the Governor, and the Legislature and summarize the Council's work to date (this is not required to be a report).</p>	<p>By December 1, 2023 and then every two years</p>

<p>Process and Outcome Measures</p> <p>RCW 70A.02.110: The Department of Health must collaborate with the EJ Council, other covered agencies, Office of Financial Management, and the State Office of Equity to create statewide and agency-specific process and outcome measures to show performance in reducing environmental disparities.</p>	<p>No date provided in the HEAL Act, but this is likely linked to the timelines for the Performance Dashboard (see next row “Performance Dashboard” for more information on timeline). Also, there are likely benefits in developing performance measures early into implementation of the HEAL Act to inform implementation.</p>
<p>Performance Dashboard</p> <p>RCW 70A.02.090 and RCW 70A.02.110: The Department of Health must collaborate with the EJ Council, other covered agencies, the Office of Financial Management, and the State Office of Equity to create an online performance dashboard to publish agency performance measures and outcomes as they implement the HEAL Act.</p>	<p>September 1, 2024</p> <p>By September 1st of each year beginning in 2024, each covered agency must publish or update a dashboard report on their HEAL Act implementation on the Office of Financial Management's website. The online dashboard will need to be created before September 1, 2024.</p>
<p>EJ Council Guidance Updates</p> <p>RCW 70A.02.110: The EJ Council and the EJ Interagency Work Group must regularly update its guidance.</p>	<p>Ongoing</p>
<p>EJ Interagency Work Group</p> <p>RCW 70A.02.110: The EJ Council MAY have members sit on the EJ Interagency Work Group</p>	<p>Ongoing</p>
<p>Schedule and Timeline</p> <p>RCW 70A.02.110: With assistance from the EJ Interagency Work Group, the EJ Council will develop a suggested schedule and timeline for sequencing types of: (1) funding and</p>	<p>No date provided in the HEAL Act</p>

<p>expenditure decisions subject to rules (2) criteria for incorporating EJ principles</p>	
<p>Other Council Priorities</p> <p>RCW 70A.02.110: With assistance from the EJ Interagency Work Group the EJ Council MAY identifying other policies, priorities, and projects for Council's review and guidance development.</p>	Ongoing
<p>Identification of Overburdened Communities</p> <p>RCW 70A.02.110: The EJ Council, in consultation with the EJ Work Group, must make recommendations to covered agencies on the identification and prioritization of overburdened communities, including use of the Environmental Health Disparities Map.</p>	No date provided in the HEAL Act, but this will necessarily proceed much of the other work which depends on the identification of overburdened communities.
<p>Timing and Sequencing of HEAL Implementation</p> <p>RCW 70A.02.110: The EJ Council, in consultation with the EJ Interagency Work Group, MAY make recommendations to covered agencies on the timing and sequencing of agency efforts to implement the HEAL Act.</p>	No date provided in the HEAL Act.
<p>Improving Agency Compliance with the HEAL Act</p> <p>RCW 70A.02.110: The EJ Council MAY, in consultation with the EJ Interagency Work Group, make recommendations to the Governor and Legislature on ways to improve agency compliance with the HEAL Act</p>	Ongoing
<p>Amendments to the HEAL Act or Other Policies</p> <p>RCW 70A.02.110: The EJ Council MAY make recommendations for amendments to the HEAL Act, proposed laws, or other existing laws to promote environmental justice.</p>	Ongoing
<p>Agency-Request Legislation</p>	Ongoing

<p>RCW 70A.02.110: The Council MAY make recommendations to agencies that they create EJ-focused agency-request legislation (bills that agencies propose).</p>	
<p>Assisting Non-Covered Agencies</p> <p>RCW 70A.02.110: The EJ Council MAY assist non-covered state agencies in incorporating EJ into their activities if requested.</p>	<p>Ongoing</p>
<p>Community Capacity Building</p> <p>RCW 70A.02.110: The EJ Council MAY recommend funding strategies and allocations to build capacity in vulnerable populations and overburdened communities to address environmental injustices.</p>	<p>Ongoing</p>
<p>Data Disaggregation</p> <p>RCW 70A.02.110: The Department of Health must collaborate with the EJ Council, other covered agencies, the Office of Financial Management, and the State Office of Equity to establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes.</p>	<p>No date provided in the HEAL Act</p>



April 5, 2022

Caroline Mellor
CCA Environmental Justice Planner
Caroline.Mellor@ecy.wa.gov

Claire Boyte-White
CCA Communications Lead
Claire.Boyte-White@ecy.wa.gov

Dear WA State Department of Ecology,

Thank you for this opportunity to comment on the WA Climate Commitment Act & Community Engagement. Friends of Toppenish Creek is a non-profit environmental organization that has been working for over a decade to improve water and air quality in the Lower Yakima Valley. We address these issues through public education, interaction with politicians and government agencies and the courts.

Sincerely,

A handwritten signature in blue ink that reads "Jean Mendoza". The signature is written in a cursive, flowing style.

Jean Mendoza

Executive Director, Friends of Toppenish Creek
3142 Signal Peak Road
White Swan, WA 98952

Friends of Toppenish Creek Comments on the WA Climate Commitment Act Community Engagement - Living Next to a Dairy

March 30, 2022: Spring in the Yakima Valley. A family arrives together to harvest asparagus, just as they have done for many years. Sunlight spreads across the hills and towns. Birds welcome the day.

As the family starts to work, a neighboring dairy begins spraying manure into the air and the smells of springtime morph into the smells of urine and feces. Do Jose and Maria really want to teach their children that a strong work ethic means breathing filth? Can asparagus farmer Kenneth Holestine pay enough to compensate for the days and years subtracted from the family's lifespans due to working in polluted air? Where are the dairy's promises of being a good neighbor?

In the 1970's many Yakima Valley farmers milked small herds of dairy cows and sold the milk to local creameries. There were everyday farm odors and barnyard jokes about the smells. People laughed.

One dairy, north of the small city of Mabton and next to the Yakima River, grew to a few hundred cows and spilled so much manure on the roads that school children walked through manure to reach the school bus and mailmen finally refused to deliver mail. Yakima County closed the dairy in the 1980's due to public health concerns.

At that time dairymen from California, under pressure from environmental consciousness, set their eyes on the Yakima Valley where regulations are few and are not enforced. The Viega family arrived dripping money and purchased the shuttered dairy. Neighbors petitioned Yakima County not to issue a new permit, but officials only saw the money. When Berniece Holestine worried about contamination of her domestic well the officials told her to dig a deeper well.

The Veigas obtained a permit to drill a 106 foot deep dairy supply well and withdraw 16.5 acre feet per year for 350 milk cows and 70 dry cows. The previous dairy had a permit to withdraw 0.5 acre feet of water per year.

The number of cows increased. In 1994 the Veigas deepened the well to 830 feet and tapped into the basalt aquifer. There is no record of a permit to do this, but Ecology certified the well after it was drilled. At that time there was no requirement for meters on wells, so Ecology does not know how much water was actually withdrawn.

The Veigas have since sold the dairy to Gary Visser, DVM. The number of cows is now in the thousands.

In 2015, Randy Vasquez, a night shift worker on the Riverview Dairy drowned in one of the manure storage ponds. In most parts of the nation an investigation would include air testing at the site for methane and hydrogen sulfide. In Yakima County the investigation simply involved an autopsy that found stimulants in Mr. Vasquez' blood. This result was well publicized with the unproven inference that he was just another drug user. The WA Dept. of Labor and Industries valued his life at \$2,200.

In 2016 FOTC asked the Yakima Health District (YHD) and the WA Dept. of Health (DOH) for opinions on the health impacts from spraying manure into the air during inversions and burn bans. The YHD deferred to the DOH. After no response for five years FOTC submitted a public records request for follow-up. DOH stated that they have no records of conversations related to manure spraying.

WAC 173-350-220 requires exempt composters of animal manure to register with and report to local health jurisdictions. Manure composting involves turning the compost from time to time and this generates massive amounts of fecal dust. In 2021, the YHD informed FOTC that “many facilities, including exempt composters, are supposed to submit a notice of intent – many have not. Also, many facilities, including exempt composters, are supposed to submit an annual report – many have not.”

On March 12, 2021, eight neighbors of Riverview Dairy signed a petition regarding dust and manure track-out from Riverview Dairy. Agencies including the Yakima Regional Clean Air Agency, WA State Dept. of Ecology, and WA State Dept. of Agriculture Dairy Nutrient Management Program wrote responsive letters describing their policies and procedures. WSDA conducted an inspection of the dairy on March 15 and found that the dairy is doing everything required in their dairy nutrient management plan. Nothing changed.

On March 23, 2021, the Friends of Toppenish Creek (FOTC) sent a letter to Ecology’s National Pollutant Discharge Elimination System (NPDES) Team with concerns that Riverview is discharging pollutants into the Yakima River. Ecology referred the complaint to WSDA and the DNMP declared the dairy is doing nothing wrong. Regarding FOTC’s offer to test the river water, Ecology stated they only accept testing by their own people, and they do not plan to do that testing.

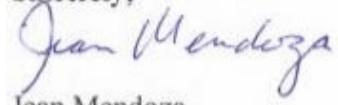
On June 16, 2021, FOTC sent Ecology a letter stating reasons why the Riverview Dairy should have an NPDES permit. A major reason is that the WSDA classified Riverview manure lagoons at high/medium risk for discharge in 2015. The lagoons are clay lined, within ¼ mile of the river, and constructed in soils that are excessively drained. The water table is 10 to 25 feet. WSDA simply replied that their 2015 evaluations are not valid. To date, neither Ecology nor WSDA has provided an alternative evaluation plan. The manure lagoons are not properly evaluated so there is no evidence of discharge. Case closed.

On January 4, 2022, FOTC and Kenneth Holestine informed Ecology that the Riverview Dairy is burying dead cows close to the Yakima River and removing dirt from a natural berm that prevents flooding of cropland on the small peninsula created by a horseshoe bend in the river. The complaint ended up at Yakima Public Works. Inspector Janna Jackson drove by the area and saw no problem from the road. She talked by phone to operator Jason Smeenk who said the dairy does not bury cows near the river and does not remove dirt from the berm. Jackson closed the case.

On February 18, 2022, FOTC sent Ecology and WSDA pictures of manure tracking from the Riverview Dairy. Four days later WSDA’s dairy inspector drove by the dairy and found no evidence of manure on the road. Case closed.

We have good laws to protect Washington air and water. But the laws are not enforced.

Sincerely,

A handwritten signature in blue ink that reads "Jean Mendoza". The signature is written in a cursive style with a large initial "J".

Jean Mendoza

Executive Director, Friends of Toppenish Creek
3142 Signal Peak Road
White Swan, WA 98952



April 5, 2022

Caroline Mellor
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3142 Signal Peak Road
White Swan, WA 98952

FOTC Comments on the WA Climate Commitment Act & Community Engagement

Facts that Ecology already knows or should know about the Lower Yakima Valley.

About 38% of all Washington milk cows are housed in Yakima County, mostly in a 273 square mile area in the Lower Yakima Valley (LYV).¹

Out of all Washington farm animals, milk cows are responsible for 44% of nitrous oxide from manure management, 93% of methane from manure management, and 63% of methane from enteric fermentation.² Greenhouse gas emissions from manure management are increasing in Washington State.³

Along with greenhouse gasses dairies produce large amounts of ammonia, hydrogen sulfide, and volatile organic compounds that lead to creation of fine particulate matter and odor.

The Yakima Valley likely has the highest levels of fine particulate matter in Washington State.⁴

The population near Yakima County Dairies is about 80% Latino and has a lower per capita income than the rest of WA State and the rest of Yakima County. About 25% of the population in the Lower Yakima Valley (LYV) does not speak English or speaks English poorly.⁵

Overarching Concern: Ecology is so slow gathering data and taking action that conditions have changed by the time interventions are begun.

For example, Ecology gathered data for the Yakima Air Winter Nitrate Study (YAWNS) in 2013. Ecology stated that the agency would use this data to develop modeling to predict air pollutant levels. At the time of this writing, nine years later in 2022, the modeling necessary for follow-up is not yet completed.⁶

¹ Lower Yakima Valley Groundwater Management Area. <https://www.yakimacounty.us/541/Groundwater-Management>

² WA State Inventory Tool – Carbon Dioxide, Methane, and Nitrous Oxide Emissions from Agriculture Module. Available on request or at <http://www.friendsoftopenishcreek.org/issues/air.html>

³ Washington State Greenhouse Gas Emissions Inventory: 1990-2018. Available at <https://apps.ecology.wa.gov/publications/documents/2002020.pdf>

⁴ Particulate Pollution in Washington’s Air. Available at <https://ecology.wa.gov/Air-Climate/Air-quality/Air-quality-targets/Air-quality-standards/Particle-pollution>

⁵ U.S. Census Data – Washington State. Available at <https://data.census.gov/cedsci/all?q=Washington%20state>

⁶ Response to public records request and Personal communication - WA State Dept. of Ecology, March 2022

Failure of Ecology to comply with the intent of the Climate Commitment Act regarding engagement of overburdened communities

Ecology held two Air Quality Listening Sessions for Yakima County on March 24, 2022. Ecology asked community organizations to use Ecology’s announcement of the meetings when sharing information about the Listening Sessions. FOTC requested a translation of the announcement into Spanish. Ecology told us they are working on the translation but did not provide translations prior to the sessions.

FOTC has submitted a public records request to learn how Ecology publicized the Listening Sessions for people who speak English less than well, and for people who do not use the internet. The Listening Sessions are advertised on Ecology’s website in English with a request in English for people to participate in a survey. There is a proviso, in English, that says the survey is available in Spanish. FOTC does not consider this a good faith attempt to reach overburdened and marginalized people in Yakima County.

The Yakima Regional Clean Air Agency, one of Ecology’s “partners” did not advertise the Listening Sessions on their website. The YRCAA Interim Director did not inform the YRCAA Board of Directors about the Listening Sessions at the March 10, 2022 YRCAA Board Meeting.

Air pollution in Yakima County is not a new problem.

At the Listening Sessions Ecology stated that the agency will focus on criteria pollutants when spending \$4 million on statewide air testing. Ecology said the Listening Sessions will help the agency determine where to place air monitors. Ammonia, hydrogen sulfide, and volatile organic compounds are precursors to criteria pollutants. Ozone and PM₁₀ are criteria air pollutants. Yet, Ecology informs FOTC that:

- “H₂S and sulfate are not the subject of any active modeling investigations in Yakima County.”
- “Ecology does not estimate VOC contributions to ozone and particulate matter levels in Yakima County.”
- “Ecology does not estimate PM₁₀ emissions from manure composting.”
- “Ecology does not assess the impact of methane emissions on ozone levels in Yakima County.”⁷

⁷ FOTC submitted a public records request on March 3, 2022 for: Copies of Ecology’s current climate models for temperature, winds, humidity, and precursor emissions for Yakima County; Copies of current ANO₃ modeling for Yakima County (Sunnyside, Toppenish, and Yakima); Copies of models that predict hydrogen sulfide emissions and conversion rates to sulfur dioxide in Yakima County; Ecology’s numerical modeling to determine the pathway for reducing the available nitric and/particulate nitrate pool; Ecology’s current assessment of VOC levels in Yakima County and the contribution of VOCs from Yakima dairies; Ecology’s estimate of VOC contribution to ozone levels and particulate matter levels in Yakima County; Ecology’s current health classification scheme for air pollutants, especially with respect to Yakima County; Ecology’s modeling studies that estimate ammonia levels from all sectors in Yakima County (Sunnyside, Toppenish, and Yakima); Ecology’s estimate of PM₁₀ emissions from the > 500 acres of manure composting operations in Yakima County; Ecology’s estimation of methane emissions and assessment of the impact of methane emissions on ozone levels in Yakima County. On March 31, 2022, Ecology replied: “Your public records request has been reviewed and we did not find any records responsive to your request.”

In 2009 then Air Pollution Control Officer (APCO) Gary Pruitt informed the Yakima Regional Clean Air Agency (YRCAA) that Yakima County was in danger of non-attainment.⁸

In 2013 about 20 citizens told the YRCAA about air pollution and odor in the Lower Yakima Valley during comments regarding YRCAA dairy air policy.⁹

In 2013 citizens petitioned the YRCAA to ban spraying of manure into the air during inversions and burn bans. The request was denied.⁹

In 2015 Ecology published the Yakima Air Winter Nitrate Study (YAWNS) that documented high levels of PM_{2.5} in Yakima County during winter months.¹⁰

In 2015 studies by the University of Washington found decreased respiratory function in asthmatic children during periods when ammonia levels in the ambient air were elevated.⁹

In 2016 and again in 2019 FOTC asked Ecology to investigate the YRCAA under their Powers and Duties in the WA Clean Air Act, RCW 70A.15. Ecology declined to investigate.⁹

In 2019 the Latino Community Fund analyzed a survey of 700 Yakima County residents (500 in English, 200 in Spanish). According to the community, the top 3 activities that have a negative impact on the environment are land pollution, air pollution, and climate change.¹¹

In 2019 FOTC completed a study that found ammonia levels in the LYV were 66 times higher than levels in the Upper Yakima Valley.⁹

In 2021 FOTC asked the Yakima County Commissioners to dissolve the YRCAA and sent a copy of this request to Ecology. The reasons are laid out clearly, including alleged violations of WA laws regarding the air quality.⁹

In 2021 neighbors of a LYV dairy petition both Ecology and YRCAA to protect them from air pollution from the dairy. To date nothing has changed.¹²

⁸ Air Quality om Yakima County – the Ramifications of PM 2.5 “non-attainment” status. Available at <https://www.yakimacleanair.org/resources/education.html>

⁹ FOTC Dissolve the Yakima Regional Clean Air Agency. Available at <http://www.friendsoftoppenishcreek.org/issues/air.html>

¹⁰ Yakima Air Winter Nitrate Study (YAWNS) Available at <https://ecology.wa.gov/DOE/files/a6/a67789dd-aed4-461e-b138-e77537dd1952.pdf>

¹¹ Latino Community Fund Community Ecology Report. Available at <http://www.friendsoftoppenishcreek.org/cabinet/data/EPA%20Air%20Attachment%2020%20LCF%20Ecology%20Analysis%20Report.pdf>

¹² Copy of petition available on request

Local and state air control agencies in Yakima County protect the dairy industry

In 2019 between July 19 and July 29 a LYV resident contacted the YRCAA nine times to file complaints regarding dust and odor from a dairy that threatened family health. The YRCAA finally responded on July 29 by making a phone call to the dairy to inform the dairy that a complaint had been lodged.⁹

The YRCAA does not enforce:

RCW 70A.15.2000(6): Board member conflict of interest

WAC 173-400-260: Board member conflict of interest

RCW 70A.15.1005: Declaration of public policies and purposes

RCW 70A.15.2270: Annual fees from operating permit program source to cover cost of program

RCW 70A.15.3060: State financial aid-Application for-Requirements

RCW 70A.15.3050: Emission control requirements

RCW 70A.15.3150: Penalties

RCW 70A.15.4530: Odors or fugitive dust caused by agricultural activities consistent with good agricultural practices exempt from chapter

The YRCAA does not register Yakima County dairies and has no permitting, monitoring, or reporting program for Yakima County dairies, despite the fact that these facilities are the largest emitters of air pollutants in the LYV.⁹

Concentrated Animal Feeding Operation (CAFO) dairies drain public funds and escape responsibility for adverse side effects from their operations

The health impacts from air pollution in the LYV have never been quantified, although studies by the University of Washington document the impact on asthmatic children and the Environmental Protection Agency (EPA) confirms a dose response relationship between levels of fine particulate matter in the ambient air and cardiac disease.

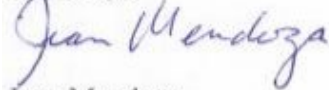
The EPA has spent millions studying water pollution from a cluster of LYV dairies. Washington taxpayers spent well over \$2.3 million on the subsequent Lower Yakima Valley Groundwater Management Area (LYV GWMA). Now the program projects expenditure of around \$100 million to implement the resulting plan.¹

Speaking at a convention of Oregon dairymen this year, economist David Kohl stated, “Basically, the government put us on steroids. Now we’re going to have to cut our teeth as we move forward”. He stated that federal cash represented about 72% of dairy farmers’ net income in 2020.¹³

Other sources say that government support of U.S. dairies was equivalent to 45% of the U.S. cost of production of milk or 71% of the market returns in 2015. Other sources describe a glut of 1.4 billion pounds of cheese in storage due to mandatory purchases of surplus cheese by the government.¹⁴

This may sound like an attack on the dairy industry. It is not. FOTC asserts that WA state and local governments must be realistic about the environment and economics and consider all the facts while implementing the Climate Commitment Act. Dairies in Yakima County receive massive taxpayer subsidies and do not pay for their air emissions. Is this acceptable?

Sincerely,



Jean Mendoza

Executive Director, Friends of Toppenish Creek
3142 Signal Peak Road
White Swan, WA 98952

¹³Capital Press, Dairies must look beyond government help, economist says. Available at https://www.capitalpress.com/state/oregon/dairies-must-look-beyond-government-help-economist-says/article_6487210a-9f5b-11ec-9e84-3fe36c23b3be.html?utm_source=newsletter&utm_campaign=daily-ag-updates-newsletter&utm_medium=email&utm_content=headline

¹⁴How CAFOs milk the public. Available at <http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20How%20CAFOs%20milk%20the%20public%20and%20pollute%20the%20environment.pdf>

May 6, 2022

Via First Class and Electronic Mail

Laura Watson, Director
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Environmental Justice and Washington Concentrated Animal Feeding Operations Permitting

Dear Director Watson,

Puget Soundkeeper Alliance, Friends of Toppenish Creek, Sierra Club, Waterkeeper Alliance, Center for Food Safety, and Western Environmental Law Center, and their tens of thousands of members, supporters, and volunteers throughout the State of Washington, are writing to express our concern with the Department of Ecology's (Ecology) failure to engage with communities impacted by discharge from Concentrated Animal Feeding Operations (CAFO) while drafting its general NPDES permit.¹

Introduction

As we have made clear in our advocacy during the CAFO permitting process, Ecology must engage with the communities impacted by its regulatory decisions, particularly those already overburdened by past and ongoing environmental discrimination. Because Ecology is the state agency charged with protecting our air and water, this engagement is not only a moral imperative but also a legal requirement.

Ecology acknowledges this moral and legal requirement. Yet, in its efforts to develop a general NPDES permit for CAFOs, Ecology is failing to engage with the people directly harmed by pollution from these operations. Because of this, the agency is uninformed of the true impacts and interests of the people working and living in and around CAFOs, and is at risk of producing yet another inadequate and unprotective general permit.

CAFOs have profoundly negative impacts on the health of workers and the people who live in surrounding communities, including through pollutant discharge into water.² As a result,

¹ We use the terms "impacted" and "affected" to refer to regions and people subject to harms from CAFO discharges ranging from lack of access to healthy drinking water to impacts on fish that are an important source of food. Because there is the tendency for CAFOs to be located in regions where people experience cumulative environmental burdens, these terms overlap with the "vulnerable populations" and "overburdened communities" identified in the HEAL Act. *See* RCW 70A.02.010.

² *See, e.g.,* Grout et al., A Review of Potential Public Health Impacts Associated With the Global Dairy Sector, 4 *GeoHealth* 1 (January 30, 2020); Carrie Hribar, Understanding concentrated animal feeding operations and their impact on communities, National Association of Local Boards of Health at 7, 9 (2020) available at https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf.

Ecology must actively engage members of communities affected by CAFO discharge in a dialogue regarding the impact of industrial dairy farms on their water, the legal requirements mandating NPDES permitting of these operations, the scope of the general permit, and the needs and wishes of the members of the local community regarding the regulation of these entities under federal and state clean water law. To do less is unacceptable in any case, but is particularly egregious here given the agency's professed commitment to environmental justice.

I. Ecology's mission and duties mandate attention, consultation, and engagement with people affected by CAFO discharge

Ecology's mission is to “[p]rotect, preserve and enhance Washington’s land, air and water for current and future generations.”³ This mandate to protect our natural resources is broad, and is based on the “fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources.”⁴ To carry out this mission effectively, Ecology, “in consultation with affected constituent groups, [must] continue appropriate public involvement and outreach mechanisms designed to provide cost-effective public input on their programs and policies.”⁵

While the duty to consult with communities affected by pollution is not new, it is now informed by the specific duties of the HEAL Act, passed in 2021, requiring the agency to act towards realizing environmental justice for overburdened communities and vulnerable populations.⁶ Ecology reaffirms this duty by stating that it is “committed to making decisions that do not place disproportionate environmental burdens” on communities in Washington State.⁷ Further, the agency recognizes that full participation by impacted communities in decision-making is an essential step toward environmental justice.⁸ This is consistent with the HEAL Act's requirement that Ecology adopts and implements a plan to engage overburdened communities and vulnerable populations by July 1, 2022.⁹

Because Ecology failed to draft a general permit that met the mandates under state and federal law, CAFOs in Washington State now operate under a permit that expired in March 2022.¹⁰ Ecology's current timeline indicates it plans to release a draft general permit by late

³ Ecology, About Us <https://ecology.wa.gov/About-us> (last visited April 8, 2022).

⁴ RCW 43.21A.010.

⁵ RCW 43.20A.005.

⁶ Engrossed Second Substitute Senate Bill 5141 67th Leg. 2021 Reg. Session (HEAL Act).

⁷ Ecology, Environmental Justice <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice> (last visited May 2, 2022).

⁸ *Id.*

⁹ RCW 70A.02.050(1).

¹⁰ Ecology, Concentrated Animal Feeding Operation <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Concentrated-animal-feeding-operation> (last visited May 4, 2022); *Washington State Dairy Fed'n v. State*, 18 Wash. App. 2d 259, 304, 490 P.3d 290 (2021).

spring 2022 for public comment.¹¹ This means the first stage of drafting will be complete before the July 1 date by which the HEAL Act requires Ecology to adopt its engagement plan. However, any attempt by Ecology to suggest it has some grace period not to engage because its plan is not required at the time the draft permit is released is contrary to stated policy and statutory mandates.

First, as discussed above, Ecology itself states that it is “committed to providing environmental justice to our most vulnerable communities.”¹² It claims that environmental justice “is a priority in our efforts to restore and protect land, air, and water.”¹³ The agency does not tie this commitment to a timeline but indicates it is working towards environmental justice now. Second, under RCW 43.20A.005, the agency has a statutory duty predating the HEAL Act to make at least some effort toward facilitating public engagement.¹⁴ Third, the Clean Water Act requires “[p]ublic participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State.”¹⁵ This was one of the legal mandates that Ecology violated in its last iteration of the permit according to the Washington State Court of Appeals.¹⁶

Finally, apart from policy declarations and statutory duties, any suggestion by Ecology that it is not prepared to effectively engage in outreach is belied by the fact that it already has started outreach efforts under the Climate Commitment Act.¹⁷ Through this program, it is seeking input **from some of the very same communities most impacted by CAFOs**. Despite this overlap, Ecology is not coordinating these efforts.¹⁸ Additionally, Ecology can look to the Environmental Justice Task Force Final Report, produced nearly two years ago, for detailed information about approaches for effectively facilitating community engagement.¹⁹

¹¹ Ecology, Concentrated Animal Feeding Operation <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Concentrated-animal-feeding-operation> (last visited May 4, 2022).

¹² Ecology, Prioritizing EJ <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice/Prioritizing-EJ> (last visited April 12, 2022).

¹³ *Id.*

¹⁴ RCW 43.20A.005.

¹⁵ 33 U.S.C. § 1251(e).

¹⁶ *Washington State Dairy Fed'n v. State*, 18 Wash. App. 2d 259, 304, 490 P.3d 290 (2021).

¹⁷ See Ecology, Improving Air Quality in Overburdened Communities <https://storymaps.arcgis.com/stories/1409205ca61847faa4194072330709cd> (last visited May 4, 2022); See also Ecology, Overburdened communities <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Climate-Commitment-Act/Overburdened-communities> (last visited April 12, 2022).

¹⁸ *Id.*

¹⁹ Washington State Environmental Justice Task Force Final Report (Fall 2020).

II. To comply with its own policy goals and its legal duty to realize environmental justice, Ecology must engage those members of overburdened communities and vulnerable populations affected by CAFO discharge²⁰

Environmental justice is an effort to redress the impacts of historical and ongoing racism and poverty on the distribution of environmental benefits and harms and resulting health outcomes. Currently, the pattern seen across the United States and within Washington State is the inequitable distribution of environmental burdens and benefits, where the cumulative harms of pollutants and other environmental risk factors fall hardest on people of color, Indigenous and Tribal people, and low-income residents, among others.²¹ These disparate environmental impacts result in clear patterns of higher mortality rates and worse general health outcomes for people with historically marginalized identities.²² The discrimination driving the decision-making by governmental entities that lead to these patterns is directly related to failures to ensure that people with historically marginalized identities have a voice and power in decisions directly affecting them. Thus, a governmental entity, such as Ecology, in working towards repairing its and other entities' legacies of discrimination must ensure the right of individuals most impacted by environmental decisions to "participate as equal partners at every level of decision-making, including during needs assessment, planning, implementation, enforcement, and evaluation."²³ Waiting until decision-making processes have already reached draft form is too late because, at this point, members of these communities have already been stripped of the power to drive the shape and parameters of the governmental action.

In Washington State, many CAFOs regulated under Ecology's general permit occur in regions, such as Yakima County, with a higher proportion of low-income and Indigenous people,

²⁰ The HEAL Act defines an "overburdened community" as "a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW [19.405.020](#)." RCW 70A.02.010(11). It defines "vulnerable populations" as

population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) 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 (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

RCW 70A.02.010(14)(a).

The Heal Act states that the term "vulnerable populations" "includes, but is not limited to: (i) Racial or ethnic minorities; (ii) Low-income populations; (iii) Populations disproportionately impacted by environmental harms; and (iv) Populations of workers experiencing environmental harms." *Id.*

²¹ See, e.g., Julie Sze, *Environmental Justice in a Moment of Danger* (2020); Clifford Villa et al., *Environmental Justice: Law, Policy & Regulation*, Third Edition (2020).

²² See, e.g., Rachel Morello-Frosch et al., *Understanding the Cumulative Impacts of Inequalities in Environmental Health: Implications for Policy*, 30 *Health Affairs* 879 (May 2011).

²³ See First National People of Color Environmental Leadership Summit, *Principles of Environmental Justice* (1991), available at <https://www.ejnet.org/ej/principles.html>.

people of color, and Tribal members living and working in the area.²⁴ People with these historically marginalized identities who live and work in the regions where CAFOs tend to be clustered experience elevated environmental burdens where community members suffer worse health outcomes as a result of air and water pollution, including higher rates of asthma, lower birth rates, and shorter life-spans.²⁵

Ecology's current regulatory approach for addressing the environmental damage of CAFOs is through its NPDES general permitting program. Under federal law, as reiterated and reaffirmed by the Washington State Court of Appeals in June 2021, Ecology must provide a means for the public to comment on the draft NPDES permit for regulating CAFO discharge. Under state law, Ecology must work to engage and consult with impacted communities. Finally, Ecology's commitment to equity and environmental justice makes it imperative that it ensure the full participation of local communities in the process.

III. Ecology's public outreach to date has been inadequate

So far, unfortunately, Ecology has failed to engage impacted communities sufficiently.²⁶ In contrast, the agency has reached out to and visited the *regulated* community.²⁷ Fortunately, there is still time for Ecology to take the necessary steps to engage the public before finalizing the draft permit.

As Ecology is well aware, the permitting process is complex. Fundamental, therefore, to enfranchising people who are not experts in the technical or legal field, but are experts in their own lived experience, is effectively communicating to the public the impacts of CAFOs on water, the function of NPDES permitting to address these impacts, the process by which Ecology goes about developing these permits, and how affected individuals can be involved in the process. Ecology's website is one obvious place where the agency should host this information.

²⁴ U. S. Census, Quickfacts Washington State <https://www.census.gov/quickfacts/fact/map/WA,US/PST045221> (last visited April 28, 2022).

²⁵ See, e.g., E. Min, Quantifying the Distribution of Environmental Health Threats and Hazards in Washington State Using a Cumulative Environmental Inequality Index, 14 Environmental Justice 298 (2021) (determining that pollution burdens in general, are significantly higher for people of color and those living in poverty in Washington State); Esmey Jimenez, New Map Shows Hotspots Of Environmental Health Hazards For Washington Neighborhoods, Northwest Public Broadcasting (January 10, 2019) (describing Yakima County's reduced health outcomes as appearing like "a big, red blemish" on the Washington State Health Disparities Map) available at <https://www.nwpb.org/2019/01/10/new-map-shows-hotspots-of-environmental-health-hazards-for-washington-neighborhoods/>; Jacques Colon, The Disproportionate Burden of Fossil Fuel Air Pollution on Communities of Color in Washington State, Front and Centered Report (June 15, 2016) (describing shorter life-spans on average resulting from community exposure to cumulative environmental harms).

²⁶ Chelsea Morris mentioned that she was sending information to one community group at our meeting with her on January 7, 2022.

²⁷ Statements by Chelsea Morris during the September 21, 2021 meeting between Ecology's Chelsea Morris, Jeff Killelea, Nathan Lubliner, and members of Center for Food Safety, Friends of Toppenish Creek, and Puget Soundkeeper Alliance.

Currently, Ecology’s website does not provide this information. In particular, it does not explain the permitting process, discuss why permitting is needed for CAFOs, or describe exactly how the agency develops the CAFO permit.²⁸ Instead, the website briefly mentions the current development of the general permit as a direct response to the June 2021 court opinion, with little further information, and no indication of how public input functions as part of what it is considering.

Further, the website’s information about opportunities to comment is stale, as it is limited to links for the two “listening sessions” held in October 2021 and a link to an “online comment form” that closed on Sunday, October 24, 2021.²⁹ Information such as the “Detailed Explanation of the Permits” discusses the previous iteration of the permit and is long and dense rather than user-friendly.³⁰

Ecology has provided a Spanish-language focus sheet discussing the NPDES permit regulation of CAFOs, including a description of the potential for the operations to pollute drinking water, and instructions for reporting contamination.³¹ This sheet provides one possible starting point for developing more information on the website itself. However, it does not provide a discussion of the current permitting process, nor does it invite input.³² So it does not solve the website’s fundamental lack of information regarding the permitting process.

Another approach to outreach is public forums, including listening sessions. Ecology had two virtual listening sessions in October 2021. Unfortunately, these listening sessions did not represent effective forums for communication. They did not provide clear information but rather meandered through the dense technical weeds of the court opinion and Ecology's concerns.

²⁸ The site links to a fact sheet in Spanish that at least provides some basic explanation of the problem. Translating some of this fact sheet back to English, particularly in the discussion of the impact of CAFO discharge on drinking water could be one, of many, ways Ecology could update the landing site to make it more relevant and useful to people affected by CAFO discharge in their region. *See*, Ecology, Hoja de Enfoque: Permiso de Operación de Alimentación de Animales Confinados (April 2022) available at <https://apps.ecology.wa.gov/publications/parts/1710002part1.pdf>.

²⁹ As we communicated to Ecology during the January 7, 2022 meeting, those “listening sessions” were deeply flawed.

³⁰ Ecology, Fact Sheet for the Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System and State Waste Discharge General Permit and Concentrated Animal Feeding Operation State Waste Discharge General Permit (June 15, 2016) available at <https://ecology.wa.gov/DOE/files/a3/a36ceb3d-7767-4a21-a354-d4b7c1965c95.pdf>.

³¹ Ecology, Hoja de Enfoque: Permiso de Operación de Alimentación de Animales Confinados (April 2022) available at <https://apps.ecology.wa.gov/publications/parts/1710002part1.pdf>. The opportunity to report violations is not currently an effective way for people in the community to protect their waters given apparent failures in agency response to these reports. This is, in part, the result of the 2011 Memorandum of Understanding between Ecology and the Washington State Department of Agriculture, which has led to holes between permitting under state and federal clean water law and enforcement in situations where dairies are violating the law.

³² It is a positive step that Ecology provides the possibility of translated materials via contacting Chelsea Morris or Ecology’s Language Access Team. But this service still requires a member of the community know what information it is he/she/they seek, take the step of asking for that information to be translated, and be prepared to wait however long it takes the agency to return the translated materials.

Further, the information provided was not always accurate. The webinars were hosted on a platform that disenfranchised participants because people could not see each other, and the webinars were not moderated in any way to facilitate comments by those not part of the regulated community. Finally, when people, for example from the regulated community, spoke the agency did not provide information about these speakers and their involvement and interests in the process or correct the misinformation that was provided.

Providing clarity of process and a sense that input is valued and can impact agency decision-making is essential to effective engagement. Unfortunately, as described above, Ecology does not explain how it will use public input in its permit development process. And by stating on its website that it “will not create a formal response to verbal or written comments during [its] listening session comment period”³³ it gives the appearance of relieving itself of any duty to consider the comments.

This opacity of process, apparent lack of interest in community dialogue, and failure to even do the minimum on its website or in forums to reduce barriers to access for members of the impacted community is unacceptable. We know Ecology can do better.

V. **Ecology must engage in far more effective outreach as it develops the draft and final CAFO general permit**

As mentioned above, Ecology has the internal knowledge, connections, and resources to far more effectively engage and empower members of impacted communities in the process of CAFO permit development than it has done so far. Given the legal and policy landscape under which it is undertaking this process, the agency does not have a choice. It must do a better job. Although ultimately, it is the agency's role to develop an engagement plan, we provide some basic expectations below for how the agency might improve its outreach and engagement with impacted communities moving forward.

These expectations arise out of our recognition of the barriers to engagement experienced by members of impacted communities resulting from the systems of oppression, including White supremacy, settler colonialism, capitalist hegemony, patriarchy, and Christian hegemony threaded through agency culture and structure.³⁴ These barriers include lack of access and information, failure of effective communication, apathy and a sense of burden, lack of clear and transparent process, lack of resources, lack of a sense of potential for influence, lack of trust, and a failure to recognize different types of knowledge.³⁵ Many of these barriers result from Ecology's fundamental failure to recognize its role as the steward of the state's clean water, and the expertise people in communities impacted by CAFOs have regarding their own life experiences. Realizing environmental justice requires Ecology to approach these communities with humility, an interest

³³ Ecology, Concentrated animal feeding operations, <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Concentrated-animal-feeding-operation> (last visited May 4, 2022).

³⁴ Washington State Environmental Justice Task Force Final Report at Appendix C (Fall 2020).

³⁵ *Id.* at 64, Appendix C.

in what people can tell them about their experience, and a willingness to allow that information to impact its decision-making.

We recognize that the agency will continue to work through the more fundamental structural and cultural barriers to achieving environmental justice. Related to this, however, Ecology must do a much better job of reaching out to the communities most impacted by pollution from CAFOs. Below are some of the first steps we expect to see from Ecology as it develops the CAFO general permits.

A. Provide better information.

As described above, Ecology has not provided easy access to or effective communication of information about the CAFO permitting process, including how Ecology will consider comments from community members. **Ecology should improve the website, as described above, and host community events, whether virtual or in-person, to provide basic, jargon-free information about the problem, process, and potential for engagement.** Optimally, this information would be provided in English and languages other than English, and delivered through a variety of media, recognizing that providing information only through the written word often presents a barrier in and of itself.

B. Use a variety of platforms and media to communicate information.

Currently, Ecology's failure to widely distribute information across different platforms disenfranchises members of the impacted community. **Ecology must distribute information about CAFOs, their impact, the permits, the permitting process, and opportunities to engage, both online and via meetings, across platforms, to those individuals in regions affected by the permits through electronic and other means (such through churches, colleges, community centers, groceries, food banks, feed stores, hardware stores, the Yakima Herald Republic, Cascadia Weekly, and Radio KDNA).**

C. Coordinate internally to identify groups and individuals in the communities impacted by CAFOs to invite them into the conversations about the CAFO permitting process.

As discussed above, Ecology is already conducting outreach and listening sessions consistent with the Climate Commitment Act in regions also affected by entities covered by the CAFO general NPDES permit. By failing to coordinate internally, the agency disenfranchises members of the communities by failing to make a reasonable effort to reach out to them about CAFO impacts and additionally burdening the local communities with trying to understand the agency's role in the region. **Ecology should therefore coordinate with those agency employees developing the Air Quality in Overburdened Communities Initiative to identify common regions of concern and reach out to people already engaged with the agency in these areas.**³⁶

³⁶ For example, the agency now has a list with addresses and phone numbers of individuals who had expressed concerns about Yakima air quality over the years as a result of efforts on the part of Friends of Toppenish Creek. This is exactly the sort of resource that should be shared within the agency. It is an obvious first step to mail information about the CAFO permitting process, in multiple languages, to these people.

D. Convene organizations and individuals to gather input on how best to reach out to and communicate with those directly impacted by CAFOs

People and organizations in Whatcom County and Yakima are experts in their experience of the impact of CAFOs. They are also knowledgeable about each other and how to communicate with people living and working in these regions. Yet, Ecology has not made an effort to gather input on outreach from these groups and individuals. Instead, it expects the communities and individuals to do the outreach that it should be doing. This further burdens groups and individuals already stretched thin by multiple overlapping crises³⁷ and ensures that barriers to access are strengthened rather than dismantled. **Given the wealth of expertise available and recognizing the burdens already faced by organizations and individuals, Ecology should convene these groups and individuals and collect information from them regarding how best to conduct outreach. These meetings should follow best practices in recognizing barriers to participation in meetings and Ecology should communicate how it intends to use the information. It should also provide follow-up demonstrating that it relied on the information as a way to establish the value of the input of these organizations and individuals.**

E. Host more frequent and more accessible meetings that empower members of the community.

Ecology's approach to meetings creates barriers to access. **Ecology should provide more opportunities for the impacted community to discuss their lived experience of CAFOs with the agency.** Optimally, these opportunities would be in person, although we recognize that the pandemic continues to make this difficult. Regardless, these events must be organized to ensure that people feel empowered rather than excluded. **At a minimum, Ecology must provide the information participants need to feel comfortable speaking up in such a space. Further, participants must be able to see one another, the discussion must be sensitive to different abilities and languages, and Ecology should make sure that, when members of the regulated community provide inaccurate information, that information is challenged.**

VI. Conclusion

Ecology has a moral and a legal duty to engage people impacted by the entities they regulate, particularly members of those communities harmed by a history of discriminatory environmental decision-making. Yet, in the process of developing its general CAFO NPDES permit, the agency has, time and again, failed to make even the most basic attempt to include impacted community members. We urge Ecology to comply with law and policy as it moves forward in the process.

³⁷ Isabel Carrera Zamanill, Covid-19 Gap Analysis, Front & Centered Report (February 2021) available at <https://frontandcentered.org/wp-content/uploads/2021/02/FC-COVID-19-Gap-Analysis.pdf>; Alison Saldanha and Elise Takahama, Graphics tell story of COVID's unequal toll across WA, Seattle Times (April 12, 2022) available at <https://www.seattletimes.com/seattle-news/health/tracking-covids-unequal-unpredictable-toll-across-washington/>; Brandi Fullwood and Libby Denkmann, Whatcom County in Recovery Braces for More Floods, KUOW (February 3, 2022) available at <https://www.kuow.org/stories/whatcom-county-in-recovery-braces-for-more-floods>.

People most impacted by CAFOs in the state are themselves currently dealing with ongoing emergent situations ranging from the COVID-19 pandemic to flooding.³⁸ Indeed, COVID-19 has had a particularly harmful impact on the lives of people in Yakima Valley.³⁹ These multiplying crises mean that, rather than using COVID-19 as an excuse for its failure to engage the people impacted by CAFOS, the agency must redouble its efforts to protect these communities and empower their members in the process of permit development.

We look forward to supporting Ecology in these efforts. If you have questions or would like to talk with us further please feel free to reach out to Jennifer Calkins, at calkins@westernlaw.org or (206) 607-9867.

Sincerely,



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Jean Mendoza
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Conservation Chair
Washington State Sierra Club

Amy van Saun
Senior Attorney
Center for Food Safety

Alyssa Barton
Policy Manager
Puget Soundkeeper Alliance

Kelly Hunter Foster
Senior Attorney
Waterkeeper Alliance

³⁸ Isabel Carrera Zamanill, Covid-19 Gap Analysis, Front & Centered Report (February 2021) available at <https://frontandcentered.org/wp-content/uploads/2021/02/FC-COVID-19-Gap-Analysis.pdf>; Alison Saldanha and Elise Takahama, Graphics tell story of COVID’s unequal toll across WA, Seattle Times (April 12, 2022) available at <https://www.seattletimes.com/seattle-news/health/tracking-covids-unequal-unpredictable-toll-across-washington/>; Brandi Fullwood and Libby Denkmann, Whatcom County in Recovery Braces for More Floods, KUOW (February 3, 2022) available at <https://www.kuow.org/stories/whatcom-county-in-recovery-braces-for-more-floods>.

³⁹ Isabel Carrera Zamanill, Covid-19 Gap Analysis, Front & Centered Report (February 2021) available at <https://frontandcentered.org/wp-content/uploads/2021/02/FC-COVID-19-Gap-Analysis.pdf>; Alison Saldanha and Elise Takahama, Graphics tell story of COVID’s unequal toll across WA, Seattle Times (April 12, 2022) available at <https://www.seattletimes.com/seattle-news/health/tracking-covids-unequal-unpredictable-toll-across-washington/>.

Written public comment submitted by John Worthington to the Environmental Justice Council via email on 5/15/2022 at 10:02pm

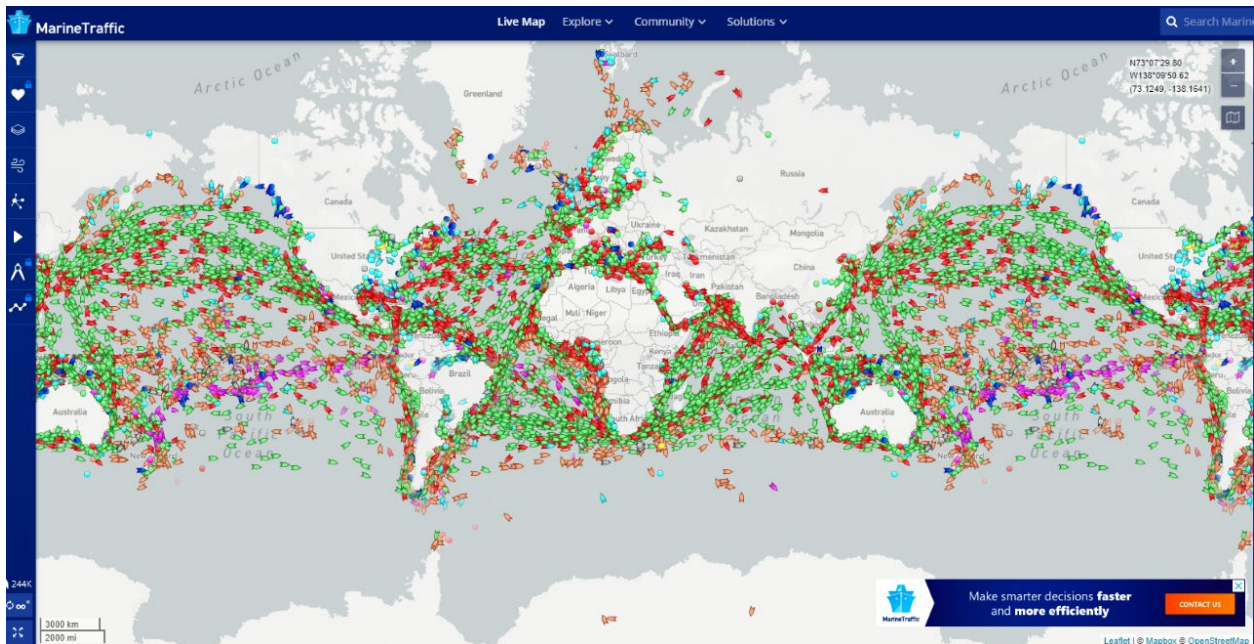
The graphs below and the attached lawsuit are the central piece of my testimony. I would like my lawsuit entered onto the record. Cascade law could not refute my lawsuit ,ran from my motions practice, and obtained a charitable ruling on procedural grounds without ever addressing the merits of the lawsuit against vision 2050.

We have not followed the law. The law required our communities to "centralize economic activity."

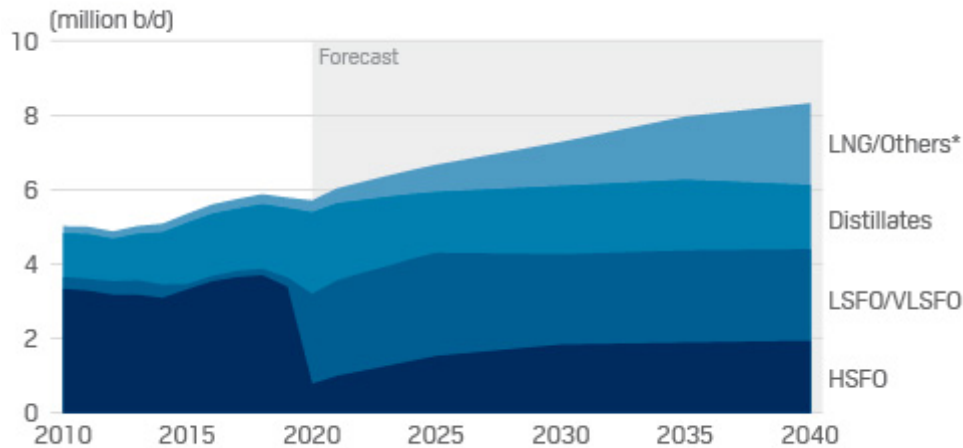
Instead of following the law, we developed over farming and manufacturing and extended our economic activity to as far as 6-8000 miles.

This has created an environmental emergency not our drive to work or the drive to Walmart.

It is time to grow and manufacture a substantial amount of our own goods.



GLOBAL BUNKER FUEL CONSUMPTION MIX



*Others include LPG, methanol, and emerging technologies such as hydrogen, ammonia, etc.
Source: S&P Global Platts Analytics

<https://whatsyourimpact.org/fight-climate-change/buy-local>

Fight climate change: Buy local

Did you know that the food that you eat travels an average of more than 1,500 miles to reach your plate? When you buy local food or products that were manufactured in your country or even more locally, you are helping your nation's economy. You also are supporting farmers directly. Most importantly, you are also reducing how much pollution you are causing indirectly through consumption. Local consumption can really help reduce your greenhouse gas emissions and your impact.

whatsyourimpact.org

our 17,000 farms produce about 25% of the food that we consume in Western Washington. (75 percent comes from over 1500 miles away.)

For example, we currently produce only 6% of the leafy greens that we consume, yet we can grow them practically year-round.

<https://council.seattle.gov/2012/07/03/can-western-washington-feed-itself/>

Council Connection & Can Western Washington Feed Itself?

Council Connection - Seattle City Council Blog
council.seattle.gov

Thanks.

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IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON IN AND FOR THE COUNTY OF KING

JOHN WORTHINGTON,
Plaintiff/ Petitioner,
vs.

Case No. **21-2-00208-7-SEA**

2ND AMENDED COMPLAINT

WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION, (WSDOT),
WASHINGTON STATE TRANSPORTATION
COMMISSION, (WTC)
PUGET SOUND REGIONAL COUNCIL,
(PSRC),
INTERNATIONAL COUNCIL FOR
LOCAL ENVIRONMENTAL
INITIATIVES USA, (ICLEI USA),
“AKA PARTNERSHIP”
Defendants.

INTRODUCTION

1. Plaintiff/Petitioner John Worthington alleges case and controversy regarding a United Nations policy, adopted by the United States of America. This policy is known as Agenda 21, now Agenda 2030. Worthington alleges Visions 2020- 2050, as now set forth by a “Partnership” and “working group” via “contract” with the Puget Sound Regional Council (PSRC)^{1, 2}utilizing federal and

¹ Washington State Metropolitan Planning Organization (MPO)

² In 1998, various units of general government in King, Kitsap, Pierce, and Snohomish Counties, including the counties, entered into an interlocal agreement to create a regional planning agency known as the PSRC. The agency's mission is to preserve and enhance life in the central Puget Sound area. PSRC is funded through a combination of state and federal grants, dues from PSRC members, and other local sources. Under federal law, PSRC has been designated the metropolitan planning organization for King, Kitsap, Pierce, and Snohomish Counties. As a metropolitan planning organization, it must develop long-range transportation plans and transportation

1 state laws, and WSDOT/WTC/MPO/NGO in Washington,³ violates Washington
2 State statutes, The Delegation Doctrine, the Washington State Constitution.⁴ It is

3 improvement programs for its metropolitan planning area to guide the funding and development of
4 future transportation projects. PSRC's metropolitan planning area consists of the 4 counties, more
5 than 70 cities and towns within the region, 4 port districts, the region's transit agencies, the
6 Washington State Department of Transportation, the Washington Transportation Commission, the
7 Muckleshoot Indian Tribal Council, and the Suquamish Tribe. *See* 23 U.S.C. § 134(d). 49 U.S.C.
8 § 5303(c)(1), (i)(2); *see also* 23 C.F.R. § 450.300-.338. Under state law, PSRC is the regional
9 transportation planning organization (RTPO) for the same four-county area. An RTPO is formed
10 through the "voluntary association of local governments within a county, or within geographically
11 contiguous counties." Among other duties, the RTPO must coordinate with the Department of
12 Transportation, transportation providers, ports, and local governments within the region to prepare
13 a regional transportation plan (RTP) that is "consistent with countywide planning policies . . . with
14 county, city, and town comprehensive plans, and state transportation plans."

9 ³ 23 CFR § 450.310. Metropolitan planning organization designation and redesignation.

10 (a) To carry out the metropolitan transportation planning process under this subpart, an MPO shall
11 be designated for each urbanized area with a population of more than 50,000 individuals (as
12 determined by the Bureau of the Census).

12 (b) MPO designation shall be made by agreement between the Governor and units of general
13 purpose local government that together represent at least 75 percent of the affected population
14 (including the largest incorporated city, based on population, as named by the Bureau of the
15 Census) or in accordance with procedures established by applicable State or local law.

14 (c) The FHWA and the FTA shall identify as a TMA each urbanized area with a population of
15 over 200,000 individuals, as defined by the Bureau of the Census. The FHWA and the FTA shall
16 also designate any urbanized area as a TMA on the request of the Governor and the MPO
17 designated for that area.

16 (d) TMA structure:

17 (1) Not later than October 1, 2014, each metropolitan planning organization that serves a
18 designated TMA shall consist of:

18 (i) Local elected officials;

19 (ii) Officials of public agencies that administer or operate major modes of transportation in
20 the metropolitan area, including representation by providers of public transportation; and

20 (iii) Appropriate State officials.

21 (2) An MPO may be restructured to meet the requirements of this paragraph (d) without
22 undertaking a redesignation.

22 (3) *Representation.* (i) Designation or selection of officials or representatives under paragraph
23 (d)(1) of this section shall be determined by the MPO according to the bylaws or enabling
24 statute of the organization.

24 (ii) Subject to the bylaws or enabling statute of the MPO, a representative of a provider of
25 public transportation may also serve as a representative of a local municipality.

25 (iii) An official described in paragraph (d)(1)(ii) shall have responsibilities, actions, duties,
26 voting rights, and any other authority commensurate with other officials described
in paragraph (d)(1) of this section.

1 an inefficient, wasteful, and illegal use of public funds to delegate Washington
2 State authority for the sake of implementing Agenda 21 policy. (3.5. a. Focus on
3 the empowerment of local and community groups through the principle of
4 delegating authority, accountability and resources to the most appropriate level to
5 ensure that the programme will be geographically and ecologically specific.)

6 2. Worthington alleges Agenda 21/ Agenda 2030/Visions 2020- 2050 are also
7 supported in the Puget Sound region in concert with WSDOT/WTC/MPO/NGO in
8 a “partnership” and “working group,” including Non-Governmental Organization
9 (NGO), the International Council for Local Environmental Initiatives USA.⁵
10 (ICLEI USA) ICLEI USA “leverages” PSRC members.

11 3. Worthington alleges there are Washington State statutory, constitutional,
12 and state anti-trust violations by the “partnership” Statewide. Worthington alleges
13 the policies that come forth from the “partnership” “volunteers,” under “contract”
14 collating with other “leveraged” “partners”, trying to hide behind a “special
15 employer,” do not build sustainable developments, centralize economic activity or
16 reduce vehicle lane miles travelled.

17 4. Worthington alleges he was injured by deceitful and fraudulent public
18 policies adopted and implemented by a “partnership” and “working group” of city
19 ,state and federal governments masquerading as “volunteers” sent to a “special

20 ⁴ The "delegation doctrine" prohibits delegation of legislative authority to a nonlegislative branch
21 of government. See WASH. CONST. art. II, § 1; *Sackett v. Santilli*, [146 Wn.2d 498](#), 504, 47 P.3d
22 948 (2002) (“[T]he Legislature is prohibited from delegating its purely legislative functions.”
23 (quoting *Diversified Inv. P’ship v. Dep’t of Soc. & Health Servs.*, [113 Wn.2d 19](#), 24, 775 P.2d 947
24 (1989))).» “Once a court has established that a state constitutional provision warrants an analysis
25 independent of a particular federal provision, it is unnecessary to engage repeatedly in further
26 Gunwall analysis simply to rejustify performing that separate and independent constitutional
analysis.” *Madison v. State*, 161 Wn.2d 85, 94-95 (2007) (internal citations omitted). Because the
Washington State Supreme Court has previously determined that Article I, § 12 of the Washington
State Constitution requires an independent constitutional analysis from the equal protection clause
of the Federal Constitution, the first step of the two step analytical process is satisfied. Id
⁵ <https://icleiusa.org/membership/Washington>: Auburn, Bellevue, Bellingham, Bothell,
Coupeville, Edmonds, Everett, Island County, Issaquah, King County, Kirkland, Lacey,
Lynnwood, Mercer Island, Oak Harbor, Olympia, Port Townsend, Redmond, Renton,
Sammamish, SeaTac, Seattle, Sequim, Shoreline, Snohomish County, Snoqualmie, Spokane,
Tacoma, Tumwater.

1 employer” PSRC, who are “leveraged” by ICLEI USA and the Governor’s office,
2 to develop and decide public policy. Those policies are known as 21/Agenda
3 2030, Vision 2020-2050, which are one and the same.

4 5. Worthington also alleges he was injured by the combination of
5 “partnership,” “working group,” of “volunteers” planning and policy, which
6 consisted of increased road use, for access to manufacturing and agriculture
7 goods, and the simultaneous 21/Agenda 2030, Vision 2020-2050 policies to
8 “coerce a mode shift from SOV to HOV⁶,” and “skirt two thirds of the traffic
9 from using the freeways.” The “partnership,” “working group,” of “volunteers”
10 created toxic and harmful conditions under the guise of improving climate
11 change.

12 6. Petitioner Worthington also seeks writ of mandamus to stop the use of state
13 funds to allow “volunteers” to decide and implement Washington State laws,⁷
14 because Article II Section II and only allows laws to be passed by legislature,
15 referendum, and initiative, and using “volunteer’s is an illegal and
16 unconstitutional delegation of law making authority and violates the Delegation
17 Doctrine. The Washington State Constitution does not allow “volunteers” to
18 decide and develop laws. The lack of meaningful administrative or judicial
19 review invalidates this flawed delegation of power.

20 ⁶ And prevent the kids at the candy store syndrome, while commercial traffic tries to do a job on a
21 freeway the “volunteers’ don’t want you to use.

22 ⁷ The writ must be issued in all cases where there is not a plain, speedy and adequate remedy in
23 the ordinary course of law. It must be issued upon affidavit on the application of the party
24 beneficially interested. RCW 7.16.170. Wash.Const. Art. II, § 1, Wash.Const. Art. II, § 18,
25 Wash.Const. Art. I, § 12. It then adds further express prohibitions that “[n]o law shall be passed”
26 granting special privileges and immunities. legislature has provided standards or guidelines which
define in general terms what is to be done and the instrumentality or administrative body which is
to accomplish it; and (2) that Procedural safeguards exist to control arbitrary administrative action
and any administrative abuse of discretionary power. *Barry & Barry, Inc. v. State Dep’t of Motor
Vehicles*, 81 Wn.2d 155, 159, 500 P.2d 540 (1972). As the Barry court emphasized, the delegation
doctrine retains its purpose “of protecting against unnecessary and uncontrolled discretionary
power.” *Barry*, 81 Wn.2d at 161. Washington law prohibits delegation of uncontrolled
discretionary power. In *Brown v. Vail*, 169 Wn.2d 318, 237 P.3d 263 (2010), the Supreme Court
emphasized the need for agency and judicial review. When reviewing whether authority has been
properly delegated to an agency to promulgate rules subjecting individuals to criminal sanctions,
we have focused on the safeguard requirement. This requirement is satisfied where rules are
promulgated pursuant to the Administrative Procedure Act (APA), chapter 34.05 RCW, and
include an appeal process before the agency, or judicial review is available, and the procedural
safeguards normally available to a criminal defendant remain. *Brown*, 169 Wn.2d at 331.

1 7. Writ of mandamus is necessary because the federal and state laws that set up
2 a “partnership,” “working group,” of “volunteers” the” special employer” PSRC,
3 do not allow clear remedy.⁸ RCW 47.01 contains what appears to be authority for
4 WSDOT yet also contains cooperation requirements and statutory requirements
5 for the PSRC and the Washington State Transportation Committee (WTC).

6 8. More than 178 nations adopted Agenda 21 as official policy during a signing
7 ceremony at the Earth Summit. US president George H.W. Bush signed the
8 document for the US. In signing, each nation pledge to adopt the goals of Agenda
9 21. In 1995, President Bill Clinton⁹, in compliance with Agenda 21, signed
10 Executive Order #12858 to create the President’s Council on Sustainable
11 Development in order to “harmonize” US environmental policy with UN
12 directives as outlined in Agenda 21. The EO directed all agencies of the Federal
13 Government to work with state and local community governments in a joint effort
14 “reinvent” government using the guidelines outlined in Agenda 21. As a result,
15 with the assistance of Non- Governmental Organizations like ICLEI , Sustainable
16 Development is now emerging as government policy in every town, county and
17 state in the nation. President Obama signed Executive order #13575 on June 9,
18 which established the White House Rural Council (WHRC).

19 9. According to the Freedom Advocates online white paper and pamphlet, last
20 revised in 2012, “Understanding Sustainable Development -- Agenda 21: For the
21 People and their Public Officials,” the United Nations accredited more than 2000
22 Non-Governmental Organizations (NGOs) to implement Agenda 21 in America,
23 for which the U.S. government gives them massive tax advantages. The list of
24 NGOs includes the Nature Conservancy, the Sierra Club, the National Audubon
25 Society, the American Planning Association, the National Teachers Association,
26 the U.S. Chamber of Commerce, and the American Farm Bureau Federation

⁹ In 1993 President Bill Clinton ordered the establishment of the President's Council for Sustainable Development, with the express purpose of enforcing the Agenda 21 blueprint into nearly every agency of the federal government to assure it became the law of the land. A year later in 1994, the American Planning Association issued a newsletter supporting Agenda 21's ideas as a "comprehensive blueprint" for local planning.

1 (formerly known as the U.S. Farm Bureau). The map titled “Simulated Reserve
2 and Corridor System to Protect Diversity” shows how the U.S. will be 50%
3 uninhabited after rural control through the Wildlands Network (AKA Wildlands
4 Project) and urban control through Smart Growth (AKA “comprehensive
5 planning” or “growth management”) are in place.

6 10. Starting in 2000 and up until November of 2020, Worthington frequently
7 testified at the Puget Sound Regional Council opposing the “partnership,”
8 “working group,” of “volunteers” policies. Those comments were either lost or
9 ignored. The “partnership,” “working group,” of “volunteers” does not have an
10 Administrative Procedure Act process.

11 11. Worthington alleges it was not possible for “partnership,” “working group,”
12 of “volunteers” to “centralize economic activity” pursuant to 47.80.026, by
13 shutting down local and regional agriculture and manufacturing at a range of 0-
14 2000 miles, to acquire population growth, in favor of markets 6,000 to 8,000
15 miles away.

16 12. Worthington also alleges it was not possible for “partnership,” “working
17 group,” of “volunteers” to plan “sustainable communities” under RCW 36.70A,
18 without planning and acquiring more local and regional agriculture and
19 manufacturing.

20 13. Worthington also alleges the “partnership,” “working group,” of
21 “volunteers”, was responsible for the provisions in RCW 47.01.440 and RCW
22 47.01 in general, because the WSDOT and WTC agreed to “coordinate” with
23 the PSRC as loaned employees” and “borrowed servants” to a “special
24 employer,” and because Results Washington required collaboration so
25 collaboration was no longer optional.

26 14. Worthington alleges the “partnership,” “working group,” of “volunteers” are
developing fraudulent and illegal Agenda 21 and Agenda 2030 policy, that has no
chance to comply with RCW 47.01.440 , RCW 47.80.026¹⁰, RCW 36.70A¹¹, and

¹⁰ <https://app.leg.wa.gov/RCW/default.aspx?cite=47.80>.

¹¹ <https://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>.

1 RCW 43.21C, because it lacked planning and acquisition of local and regional
2 agriculture and manufacturing.

3 15. The “partnership,” “working group,” of “volunteers”, by so acting has created
4 an uncertainty in the conduct of government officials, and plaintiff has been harmed
5 by defendants’ actions. Plaintiff is entitled to the relief sought herein. The
6 Washington Supreme Court has repeatedly allowed taxpayers to assert
7 Category 1 standing to facial challenges to otherwise illegal government
8 activity: *Calvary Bible Presbyterian Church of Seattle v. Board of Regents*, 72
9 Wn.2d 912 (1968).

10 16. Worthington respectfully requests a declaratory judgment that Agenda
11 21/Agenda 2030, Vision 2020-2050, violates the 10th Amendment by
12 commandeering state and local government to create world policy to exploit 3rd
13 world economies, and is an illegal, inefficient and wasteful use of public funds.

14 17. Worthington also respectfully requests a declaratory judgment that
15 “partnership,” “working group,” of “volunteers” Agenda 21/Agenda 2030, Vision
16 2020-2050, does not comply with RCW 47.01.440 , RCW 47.80.026¹², RCW
17 36.70A¹³, and RCW 43.21C, without acquiring more local and regional
18 agriculture and manufacturing, and is an illegal, inefficient and wasteful use of
19 public funds.

20 18. Worthington also respectfully requests a declaratory judgment the use of
21 “partnership,” “working group,” of “volunteers” to develop public policy outside
22 the statutory structure of the Administrative Procedure Acts, is an unconstitutional
23 delegation of law making authority under Article II Section 2 and 18 of the
24 Washington State Constitution,¹⁴ and is an illegal, inefficient and wasteful use of
25 public funds.

26 _____
¹² <https://app.leg.wa.gov/RCW/default.aspx?cite=47.80>.

¹³ <https://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>.

¹⁴ In Washington State laws are made by referendum, initiative and by the legislature.

1 19. Worthington respectfully requests a declaratory judgment, that “partnership,”
2 “working group,” of “volunteers” policies in Vision 2050, continue to develop
3 over local and regional agriculture and manufacturing to acquire population
4 increases, and is forcing more use of the roads and freeways for SOV traffic, to
5 access that same agriculture and manufacturing, while plotting to coerce a mode
6 shift from SOV to HOV, is not good public policy,¹⁵ and is an inefficient waste,
7 and illegal use of public funds.

8 20. Worthington also respectfully requests a declaratory judgment that the use
9 of Amazon officials in the “partnership,” “working group,” of “volunteers”, to
10 advise on all facets of “partnership,” “working group,” of “volunteers” policies
11 including growth management and transportation and the failed policies identified
12 herein, violates state anti-trust laws.

13 21. Worthington also respectfully requests injunctive relief to stop all
14 contracts between the International Council for Local Environmental Initiatives
15 USA, and the members of the Puget Sound Regional Council.

16 22. Worthington also respectfully requests injunctive relief to enjoin Amazon
17 from participating in the “partnership,” “working group,” of “volunteers”,
18 because it enables a monopoly and is an illegal, inefficient and wasteful use of
19 public funds.

20 23. Worthington also respectfully requests a trial under the Uniform Declaratory
21 Judgement Acts, to challenge whether the “partnership,” “working group,” of
22 “volunteers” policies in Agenda 21/Agenda 2030, Vision 2020-2050,
23 “consolidated economic activity,” and complied with RCW 47.01.440, RCW
24 47.80.026¹⁶, RCW 36.70A¹⁷, and RCW 43.21C. Worthington alleges it was not
25 possible to “centralize economic activity” and build “sustainable communities”
26

¹⁵ Creating more need for roads and freeways, while simultaneously sabotaging roads and freeways, is flubber logic.

¹⁶ <https://app.leg.wa.gov/RCW/default.aspx?cite=47.80>.

¹⁷ <https://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>.

1 by drastically cutting local and regional agriculture and manufacturing at a range
2 of 0-2000 miles in favor of markets 6,000 to 8,000 miles away, so they could
3 ‘build capacity’ for 3rd worlds.. Worthington alleges SEPA studies were negligent
4 by not considering additional lane miles for agriculture and manufacturing and
5 “capacity building” for 3rd worlds, and he aims to prove that at trial.

6 JURISDICTION AND VENUE

7 24. This Court has subject matter and jurisdiction over the parties pursuant to
8 RCW 7.24 , RCW 7.16, RCW 2.08, and Wash. Const. Art. XI § 4, for actions
9 of Washington State implementing international, state and federal policy.

10 25. There is a controversy under RCW 7.24, RCW 7.16, RCW 2.08, and this
11 Court may grant declaratory relief, injunctive relief, and other appropriate
12 relief under RCW 7.24, RCW 7.16, RCW 2.08, Wash. Const. Art. XI, § 4, as
13 well as the Court’s equitable powers.

14 26. Venue is proper in this judicial district under RCW 7.24 and RCW 7.16,
15 because Defendants are United States or state governments working under
16 federal grants, whose principal places of business are in this District. A
17 substantial part of the events or omissions giving rise to this Complaint
18 occurred and are continuing to occur within the Puget Sound by executive
19 order, implementing federal laws and state executive and legislative
20 enactments.

21 PARTIES

22 Plaintiff

23 27. **John Worthington** is a citizen of Sequim Washington 90 S.RHODEFER
24 RD E-101, doing business in the Puget Sound region as Outskirts Delivery.
25 Worthington alleges he was impacted by the fraud of Agenda 21/Agenda 2030,
26 Vision 2020-2050 and the use of Non-Government Associations (NGO) to bypass
United States and Washington State Constitutional protections. Specially,
Worthington alleges he was adversely affected by Municipal planning
organizations (MPO) like the Puget Sound Regional Council, and NGO’s whose

1 planning sacrificed significant local and regional farming and manufacturing, to
2 fill in surface transportation systems, transit oriented communities, and smart
3 growth developments. Worthington has two artificial hips and chronic lung
4 problems, as a direct result of Agenda 21/Agenda 30/ Vision 2020-2050 adopted
5 policies which the defendants have implemented through Non-Government
6 Organizations (NGO) and Metropolitan Planning Organizations, and forest
7 management agencies on both a state and federal level.

8 **Defendants**

9 28. **WSDOT, Washington State Department of Transportation**, 310 Maple
10 Park Avenue SE P.O. Box 47300 Olympia, WA 98504-7300 delegated authority
11 to ad hoc committees and had them under contract, in working groups and in
12 partnerships.

13 29 **WTC , Washington State Transportation Commission**, 2404 Chandler Ct.
14 SW Suite 270, 2nd Floor Chandler Plaza Bldg. Olympia, WA 98502-6052, is a
15 “partner,” conducting the ad hoc planning all over the State of Washington.

16 30. **PUGET SOUND REGIONAL COUNCIL**, 1011 Western Avenue Suite
17 500 Seattle WA.98104, is an MPO created to set forth Agenda 21/Agenda 30/
18 Vision 2020-2050 adopted policies authorized by 23 CFR § 450.310, using 23
19 CFR § 450.322.

20 31. **THE INTERNATIONAL COUNCIL FOR LOCAL
ENVIRONMENTAL INITIATIVES**, 1536 Wynkoop St., Suite 901, Denver
21 Colorado, 80202, is an NGO, which has enlisted members all throughout
22 Washington State to help implement Agenda 21/Agenda 30/ Vision 2020-2050
23 adopted policies authorized by Presidential and Governor’s Executive orders.

24 **ALLEGATIONS**

25 32. John Worthington, a citizen of Washington State, alleges he was harmed
26 financially and physically, by the public policy known as Agenda 21/Agenda 30/
Vision 2020-2050), adopted by the United States of America and implemented by
a “partnership,” “working group,” of “volunteers”.

1 33. Worthington alleges he has standing because he was stripped of his ability
2 to maintain vital rural life and his health and was forced into relocation into the
3 Puget Sound Region, causing injury to Worthington, through dishonest public
4 policy by a “partnership,” “working group,” of “volunteers”.

5 34. Worthington alleges he has standing because as a commercial driver, he was
6 crippled by 23 CFR § 450.322¹⁸, which the Puget Sound Regional Council used to
7 develop a congestion management process, to sabotage freeway use and “skirt
8 two thirds of the traffic” from using freeways, so “more freeways did not have to
9 be built.” The “partnership,” “working group,” of “volunteers” added ramp
10 meters to create “High Occupancy Vehicle” (HOV) support systems, so they
11 could create a mode shift from Single Occupancy Vehicle (SOV) to HOV,
12 without regard to collateral damage to Worthington a member of commercial
13 traffic, and obvious ergonomic problems for commercial drivers with stick shift
14 transmissions.

15 35. Worthington also alleges he has standing as a commercial SOV driver, he
16 was crippled by the extra shifting caused by “HOV support systems”, “congestion
17 management”, and Tea-21, which mandated retrofitting overpasses on I-5 in
18 1996, rather than prefabricated construction. MPO and NGO congestion
19 management (CM) decisions and HOV support systems decisions crippled
20 Worthington for life at age 39, because he was stuck in congestion management
21 tactics and TEA-21 retrofitting on I-5 from Tukwila to Tacoma trying to conduct
22 commerce as a commercial driver. Worthington also drove Lyft in 2019-2020 and
23 suffered continued effects of CM.¹⁹ Since the year 2000, Worthington has

24 ¹⁸ (a) The transportation planning process in a TMA shall address congestion management through
25 a process that provides for safe and effective integrated management and operation of the
26 multimodal transportation system, based on a cooperatively developed and implemented
metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under
title 23 U.S.C. and title 49 U.S.C. Chapter 53 through the use of travel demand reduction
(including intercity bus operators, employer-based commuting programs such as a carpool
program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or
telework program), job access projects, and operational management strategies.

¹⁹ At trial or Summary Judgement Worthington will show Seattle’s devious use of congestion
management in the “Seattle Squeeze.”

1 commented regularly at every governmental and “partnership,” “working group,”
2 of “volunteers,” level including the year 2020. Worthington has tax payer
3 standing because he asked the Washington State Attorney General to stop the
4 actions of the MPO, prior to filing suit.

5 36. Worthington also alleges the substantial environmental impact of the “world
6 economy,” sought by Agenda 21/Agenda 2030, Vision 2020-2050, was not
7 properly considered in the SEPA reviews. The “partnership,” “working group,”
8 of “volunteers,” did not warn the public of the substantial environmental,
9 financial, and safety impacts, the additional lane miles food and manufacturing
10 would have to travel would cause on the public and the environment. The
11 substantial environmental impact of losing local and regional agriculture and
12 manufacturing, developed over by the goals and legislative enactments and
13 regulatory devices, to evict local and regional agricultural and manufacturing, to
14 achieve a fill in of the public surface transportation corridor, transit oriented
15 development, smart growth and the Growth Management Act in general, were not
16 properly considered and accounted for in either NEPA or SEPA studies.
17 Worthington and the public were not adequately warned of the health hazards of
18 increased road use, and emissions.

19 37. Worthington also alleges Agenda 21/Agenda 2030, Vision 2020-2050, is an
20 illegal, inefficient, and wasteful use of public funds, because it is a scam to use
21 American tax dollars to ruin Worthington’s American rural life, ruin
22 Worthington’s American urban life, ruin the environment, promote false public
23 safety and environmental hazards, for the benefit of a relative few individuals and
24 associated groups, who capitalized on the United Nations policy adopted by
25 “partnership,” “working group,” of “volunteers”, to exploit 3rd world markets,
26 injuring Worthington and the public at large.

38. Worthington also alleges Agenda 21/Agenda 2030, Vision 2020-2050, set
forth by the U.S. Presidents, U.S. Congress and the Washington State Governor
and their “partnership,” “working group,” of “volunteers”, does not save the
environment or build sustainable communities as falsely advertised, but instead

1 has only built wealth for government transit agencies, residential high rise
2 developers, unions, Amazon and Walmart, and other food and manufacturing
3 importers capitalizing on a world market. This created unjust enrichment for a
4 select few.

4 39. Worthington alleges for over fifty years, the United States of America
5 has known that carbon dioxide (“CO2”) pollution from burning fossil fuels
6 was causing global warming and dangerous climate change, and that
7 continuing to burn fossil fuels would destabilize the climate system on which
8 present and future generations of our nation depend for their wellbeing and
9 survival. “partnership,” “working group,” of “volunteers” also knew the harmful
10 impacts of their actions would significantly endanger Worthington, with the
11 damage persisting for millennia, never to be challenged under the federal or
12 state Administrative Procedure Act.

12 39. Worthington alleges despite this knowledge, “partnership,” “working
13 group,” of “volunteers” adopted the ideals of the United Nations in Agenda 21,
14 which was set forth by acts of congress, Executive orders, including but not
15 limited to TEA-21, and aided by the Growth Management Act RCW 36.70A, to
16 establish a “world economy” for the benefit of a few to exploit 3rd world
17 economies, under the guise of saving the environment, to build allegedly
18 sustainable communities, which were in fact not environmentally sustainable and
19 actually harmful to Worthington and the public.

18 40. Washington State has actually increased or not decreased the use of roads
19 and have not consolidated its economic activity, and complied with the directives
20 of RCW 47.80.026 , RCW 36.70A , and RCW 43.21C , and has injured
21 Worthington and the public.

22 41. The “partnership,” “working group,” of “volunteers” policy is a “world
23 economy” policy to exploit 3rd world economies under the guise of climate
24 change. However, the actual environmental impact of a “world economy” was not
25 properly considered in the SEPA reviews presented by the “partnership,”
26 “working group,” of “volunteers”. The additional lane miles and emissions
created by the “world economy”, when local and regional food and manufacturing

1 were developed over by the goals and legislative enactments and regulatory
2 devices, has only built wealth for government transit agencies , residential high
3 rise developers , unions , Amazon and Walmart , and other food and
4 manufacturing importers capitalizing on 3rd world markets.

4 42. Worthington alleges the “partnership,” “working group,” of “volunteers”,
5 Agenda 21/Agenda 2030, Vision 2020-2050 policy to achieve a fill in of the
6 public surface transportation corridors transit oriented developments, “smart
7 growth” developments, and the Growth Management Act in general, were not
8 properly considered and accounted for in SEPA reviews. That lack of review and
9 has injured Worthington and the public.

10 43. Worthington alleges the “partnership,” “working group,” of “volunteers”,
11 Agenda 21/Agenda 2030, and Vision 2020-2050 policy, had severe adverse
12 environmental, physical and financial impacts on Worthington running a
13 transportation related business and citizen. Worthington was coerced and crippled
14 by discriminant HOV support systems disguised as SOV regulation, into
15 relocation into urban environmental, health and safety hazard zones, having to
16 depend upon roads and ie Amazon, to access questionable food and
17 manufacturing products from worldly locations rather than local or regional.

17 44. Worthington alleges the “partnership,” “working group,” of
18 “volunteers” must adjust policy to re-establish local and regional agriculture and
19 manufacturing, to reverse the severe environmental, health and safety, hazards of
20 Agenda 21/Agenda 2030, Vision 2020-2050, TEA-21, and the Growth
21 Management Act RCW 36.70A, and RCW 47.01.440.

21 45. Worthington alleges “partnership,” “working group,” of “volunteers”,
22 Agenda 21/Agenda 2030, Vision 2020-2050 is a fraud ²⁰ against Worthington and
23

24 ²⁰ Fraud is pleaded with simple particularity based on simple mathematics and space. Worthington
25 alleges it was not possible to achieve a “centralized economy” by converting from local or
26 regional based farming and manufacturing to world farming and manufacturing so they could get
that space to increase a population. It was a fraudulent sales job from the start to make money and
build wealth for government transit agencies²⁰, residential high rise developers²⁰, unions²⁰,
Amazon,²⁰ Walmart²⁰, and other food and manufacturing importers capitalizing on a world market

1 humanity that enables the few to gain power and wealth to exploit 3rd world
2 economies²¹ under the guise of climate change.

3 46. Worthington alleges the “partnership,” “working group,” of “volunteers”
4 have committed a constitutional violation of Article II Section 2 and 18 against
5 Worthington and is using public funds for illegal purposes by using “leveraged”
6 “volunteers” , to implement Agenda 21/Agenda 2030, Vision 2020-2050 which is
7 an illegal delegation of law making authority.(The “Volunteers would not accept
8 interrogatories)

9 ²¹ Agenda 21(1.4. The developmental and environmental objectives of Agenda 21 will require a
10 substantial flow of new and additional financial resources to developing countries) 2.9. In the
11 years ahead, and taking into account the results of the Uruguay Round of multilateral trade
12 negotiations, Governments should continue to strive to meet the following objectives:

- 13 a. To promote an open, non-discriminatory and equitable multilateral trading system that
14 will enable all countries - in particular, the developing countries - to improve their
15 economic structures and improve the standard of living of their populations through
16 sustained economic development;
17 b. To improve access to markets for exports of developing countries;
18 c. To improve the functioning of commodity markets and achieve sound, compatible and
19 consistent commodity policies at national and international levels with a view to
20 optimizing the contribution of the commodity sector to sustainable development, taking
21 into account environmental considerations;

Activities

22 (a) International and regional cooperation and coordination Promoting an international trading
23 system that takes account of the needs of developing countries.

24 a. Halt and reverse protectionism in order to bring about further liberalization and
25 expansion of world trade, to the benefit of all countries, in particular the developing
26 countries;

2.12. Therefore, all countries should implement previous commitments to halt and reverse
protectionism

and further expand market access, particularly in areas of interest to developing countries.

2.13. For developing countries to benefit from the liberalization of trading systems, they should
implement the following policies, as appropriate:

a. Create a domestic environment supportive of an optimal balance between
production for the domestic and export markets and remove biases against
exports and discourage inefficient import-substitution;

b. Promote the policy framework and the infrastructure required to improve
the efficiency of export and import trade as well as the functioning of
domestic markets.

2.35.c. To ensure that the processes of policy coordination take into account the interests and
concerns of the developing countries, including the need to promote positive action to support the
efforts of the least developed countries to halt their marginalization in the world economy.

(b) Capacity-building

2.42. The above-mentioned policy changes in developing countries involve substantial national
efforts for capacity-building in the areas of public administration, central banking, tax
administration, savings institutions and financial markets.

1 47. The “partnership,” “working group,” of “volunteers” have ruined American
2 rural life, ruined American urban life, ruined the environment, promote public
3 safety hazards for the benefit of a relative few individuals and associated groups,
4 who capitalized on the United Nations policy adopted by U.S. Presidents and the
Congress, and Governors.

5 48. Worthington also alleges the combination and effect of Agenda 21/Agenda
6 2030, Vision 2020-2050, does not save the environment or build sustainable
7 communities as falsely advertised, but instead has only built wealth for
8 government transit agencies²², residential high rise developers²³, unions²⁴,
9 Amazon²⁵ and Walmart²⁶, and other food and manufacturing importers
10 capitalizing on “capacity-building in 3rd world markets, rather than capacity –
building on a local and regional level.

11 49. Worthington alleged the best way “partnership,” “working group,” of
12 “volunteers” can reverse the substantial environmental impact of the above public
13 policy, is to rezone Vision 2050 to require more locally produced agriculture and
14 manufacturing products in locations, designated by the “partnership,” “working
15 group,” of “volunteers” as residentially zoned areas, so the public does not
16 increase the lane miles its goods have to travel, and actually decreases road use.

17 50. Worthington alleges the “partnership,” “working group,” of “volunteers” did
18 not respond to Worthington’s public comments outlined above and never made
19 any public attempts to address them. Worthington also alleges the Washington
20 State Attorney General did not respond to Worthington’s request for action.

21 ²² <https://www.soundtransit.org/>.

22 ²³ <https://urbanvisions.com/about> , <https://martinselg.com/>, <https://www.wsp.com/en-US/news/2017/wsp-parsons-brinckerhoff-rebranding-as-wsp>, <https://wrihtrunstad.com/>,

23 ²⁴ <https://www.laborerslocal242.com/mission-statement>, <https://www.wslc.org/>,

24 ²⁵ https://www.amazon.com/?tag=hym sabk-20&hvadid=78065358662961&hvqmt=e&hvbmt=be&hvdev=c&ref=pd_sl_7x6o2sg346_e,

25 ²⁶ <https://www.walmart.com/?adid=22222222224226138098&wmlspartner=wmllabs&wl0=e&wl1=o&wl2=c&wl3=10350711650&wl4=kwd-64003623973&wl5=111638&wl6=&wl7=&wl14=walmart&veh=sem>

1 **CLAIMS FOR RELIEF**

2 **FIRST CLAIM FOR RELIEF**
3 **DECLARATORY JUDGMENT -- RCW 7.24**

4 51. Worthington re-alleges and incorporates the preceding paragraphs as
5 though fully set forth herein.

6 52. For reasons including but not limited to those stated herein, an actual
7 dispute exists between Worthington and Puget Sound Regional Council, Agenda
8 21/Agenda 30/Vision 2020-2050 “partnership,” “working group,” of “volunteers”
9 as loaned employees and borrowed servants..

10 53. It is in Worthington’s, the Cities and Counties of Puget Sound and the
11 public’s interest, to efficiently and fairly resolve the issues of law and
12 constitutional violations raised by Worthington.

13 54. Worthington is therefore is entitled to a declaration that:

14 55. The “partnership,” “working group,” of “volunteers” Agenda 21/Agenda
15 30/Vision 2020-2050 policy violates RCW 47.01.440, RCW 47.80.026²⁷, RCW
16 36.70A²⁸, and RCW 43.21C.

17 56. The “partnership,” “working group,” of “volunteers” Agenda 21/Agenda
18 30/Vision 2020-2050 policy violates the 10th Amendment, the Washington State
19 Constitution, and the United States Constitution.

20 57. The “partnership,” “working group,” of “volunteers”, using Amazon to
21 plan and participate in Agenda 21/Agenda 30/Vision 2020-2050 policy, violates
22 state and federal anti-trust laws.

23 58. It is an illegal, inefficient and wasteful use of Washington State and federal
24 funds to promote world economy over local and regional economy.

25 **SECOND CLAIM FOR RELIEF**
26 **WRIT OF MANDATE**

²⁷ <https://app.leg.wa.gov/RCW/default.aspx?cite=47.80>.

²⁸ <https://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>.

1 59. Petitioner Worthington re-alleges and incorporates the preceding
2 paragraphs as though fully set forth herein.

3 60. The “partnership,” “working group,” of “volunteers” have a non-
4 discretionary duty under RCW 47.01.440, RCW 47.80.026²⁹, RCW 36.70A³⁰,
5 and RCW 43.21C to reduce lane miles, plan sustainable development,
6 centralize economic activity and identify substantial environmental impacts
7 and report those impacts to the public.

8 61. **The** “partnership,” “working group,” of “volunteers” has failed to perform
9 those duties, because they rely on world or otherwise out of area markets to
10 provide the bulk of agriculture and manufactured goods.

11 62. If writ of mandate is not issued, Worthington will be deprived of the right
12 to live in a healthy community and enjoy a healthy life, with freedom to
13 conduct commerce on highways and roads, where uses are not sabotaged,
14 while more uses are inevitable because the bulk of the “partnership,” “working
15 group,” of “volunteers” planning is devoted to population growth not the means
16 to provide for the population.

17 63. Petitioner is beneficial interested because he seeks live a healthy life in a
18 real sustainable community, with a delivery company that seeks freedom to
19 conduct commerce on roads which are not sabotaged, so they are not used,
20 while the lack of local and regional manufacturing does not reduce lane miles,
21 build sustainable communities or centralize economic activity..

22 64. Petitioner has no plain speedy remedy in the ordinary course of law to
23 compel “leveraged” “volunteers,” working for a “special employer” to comply
24 with state and federal law.

25 ²⁹ <https://app.leg.wa.gov/RCW/default.aspx?cite=47.80>.

26 ³⁰ <https://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>.

1 **65. The court should compel** the “leveraged” “volunteers,” working for a
2 “special employer” “partnership,” “working group,” of “volunteers” to comply
3 with RCW 47.01.440, RCW 47.80.026³¹, RCW 36.70A³², and RCW 43.21C.

4 **THIRD CLAIM FOR RELIEF**
5 **NEGLIGENT MISREPRESENTATION**

6 66. Worthington re-alleges and incorporates the preceding paragraphs as
7 though fully set forth herein

8 67. A negligent misrepresentation must actually be false, and a plaintiff must
9 prove by clear, cogent, and convincing evidence that the defendant made a false
10 statement. See *Elliot Bay Seafoods, Inc. v. Port of Seattle*, 124 Wn. App. 5, 7, 98
11 P.3d 491, 495 (2004).

12 68. Washington law recognizes the tort of negligent misrepresentation.
13 *Haberman v. Wash. Pub. Power Supply Sys.*, 109 Wn.2d 107, 161-62, 744
14 P.2d 1032, 750 P.2d 254 (1987). A plaintiff claiming negligent
15 misrepresentation must prove by clear, cogent, and convincing evidence that
16 (1) the defendant supplied information for the guidance of others in their
17 business transactions that was false, (2) the defendant knew or should have
18 known that the information was supplied to guide the plaintiff in his business
19 transactions, (3) the defendant was negligent in obtaining or communicating
20 the false information, (4) the plaintiff relied on the false information, (5) the
21 plaintiff's reliance was reasonable, and (6) the false information proximately
22 caused the plaintiff damages. *Ross v. Kirner*, 162 Wn.2d 493, 499, 172 P.3d
23 701 (2007)

24 69. Worthington drove as a commercial driver from 1995-2003 and 2019-2021.

25 70. The Defendants supplied false information to Worthington. The
26 “partnership,” “working group,” of “volunteers” Agenda 21/Agenda 30/Vision
2020-2050 policy was never going to “centralize economic activity.” The policy

³¹ <https://app.leg.wa.gov/RCW/default.aspx?cite=47.80>.

³² <https://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>.

1 to make better use of the roads, congestion management, traffic demand
2 management, was always intended to hack down American economy, and create
3 dependence on a “world economy,” and wealth for government transit agencies,
4 residential high rise developers, unions, Amazon, Walmart, and other food and
5 manufacturing importers capitalizing on a world market. Every component of
6 “partnership,” “working group,” of “volunteers” policy, was never intended to
7 improve climate or use of roads and freeways. At trial Worthington will expose
8 every policy used as fraud or negligent misrepresentation.³³

9 71. Worthington was justified relying on the misrepresentation that vision
10 2020-2050, was intended to improve the environment and centralize economic
11 activity The “partnership,” “working group,” of “volunteers” Agenda 21/Agenda
12 30/Vision 2020-2050 policy, alleged to be “centralizing economic activity,” for
13 environmental reasons. Research shows the policy is nothing more than sabotage
14 of roads, freeways, local and regional farming and manufacturing. If Worthington
15 would have known this he would not have attempted to be a commercial driver
16 and use the roads and freeways. Absent true intentions, Worthington was justified
17 to rely on the “partnership,” “working group,” of “volunteers” policies. A person
18 relying on a negligent misrepresentation must do so justifiably. See ESCA Corp.
19 v. KPMG Peat Marwick, 135 Wn. 2d 820, 827-28, 959 P.2d 651 (1998).

20 72. Prior to becoming a commercial driver, the defendants failed to disclose to
21 Worthington they were going to create more need for roads and freeways, while
22 they sabotaged use of them.

23 73. If the defendants had disclosed their intentions to skirt use of the roads and
24 freeways while the “partnership,” “working group,” of “volunteers” policy created
25 more need to use roads and freeways to commercial drivers, making roads and
26 freeways ergonomic hazards, Worthington would not have been injured. Non-
disclosure can lead to a negligent misrepresentation claim when the parties have a
fiduciary relationship or a “quasi-fiduciary” relationship. See Colonial Imports,
Inc. v. Carleton Northwest, Inc., 121 Wn.2d 726, 732, 853 P.2d 913 (1993).

³³ Including but not limited to: Ramp Metering, HOV support systems, Congestion management, Traffic Demand Management.

1 Worthington was relying on NGO and MPO transportation planners to use their
2 specialized transportation knowledge. A "quasi-fiduciary" relationship occurs
3 when "a special relationship of trust and confidence" is developed between two
4 parties and one party is relying on the superior, specialized knowledge and
5 experience of the other. *Colonial Imports, Inc. v. Carleton Northwest, Inc.*, 121
Wn.2d 726, 732, 853 P.2d 913 (1993).

6 74. Failure to disclose material information may constitute misrepresentation of
7 that information. A claim of negligent misrepresentation may rest on an omission
8 by one party when that party has a duty to disclose information. *Alexander v.*
9 *Sanford*, 181 Wn. App. 135, 177, 325 P.3d 341 (2014), review granted, 181
10 Wn.2d 1022, 339 P.3d 634 (2014), dismissed. No. 90642-4 (Wash. May 8, 2015).
11 Failure to disclose that information is treated as if the party "had represented the
12 nonexistence of the matter that [it] has failed to disclose." *Richland Sch. Dist. v.*
13 *Mabton Sch. Dist.*, 111 Wn. App. 377, 385, 45 P.3d 580 (2002) (quoting
14 *Restatement (Second) of Torts § 551 (1977)*). Some statutes create such a duty.
Colonial Imports, Inc. v. Carlton Nw., Inc., 121 Wn.2d 726, 732, 853 P.2d
913(1993)

15 75. The false information supplied by Defendants was proximate cause of
16 damage to Worthington. If Worthington would have been supplied with truthful
17 information that the "partnership," "working group," of "volunteers" desired to
18 create more need for roads and freeways, while sabotaging the use of them, he
19 would have stopped driving before he wore out his hip joints shifting and sitting
20 in traffic jams designed to frustrate him into HOV modes or relocation. The false
21 information supplied by defendants was the proximate cause of damage to the
22 plaintiff. See *ESCA Corp. v. KPMG Peat Marwick*, 135 Wn. 2d 820, 827-28, 959
P.2d 651 (1998)

23 **Prayer for relief**

24 76. Worthington respectfully requests the following relief:
25
26

1 1. A Declaratory Judgment setting forth Plaintiff's/Petitioner's rights and
2 Defendants/Respondents responsibilities under RCW 7.24, , not limited to the
3 following:

4 (1) The "partnership," "working group," of "volunteers" Agenda 21/Agenda
5 30/Vision 2020-2050 policy violates RCW 47.01.440, RCW 47.80.026, RCW
6 36.70A, and RCW 43.21C.

7 (2) The "partnership," "working group," of "volunteers" (2) Agenda
8 21/Agenda 30/Vision 2020-2050 policy violates the 10th Amendment and
9 Washington State Constitution.


10 (3) The "partnership," "working group," of "volunteers" Agenda 21/Agenda
11 30/Vision 2020-2050 policy, was negligently and fraudulently misrepresented to
12 Worthington.

13 (4) Such other relief as may flow from the entry of a declaratory judgment,
14 including but not limited to injunctive relief requiring the rezoning in Vision
15 2050, and the suspension of all public funds to the "partnership," "working
16 group," of "volunteers".

17 2. An order or writ under RCW 7.16 that "partnership," "working group," of
18 "volunteers," must comply with RCW 47.01.4 40, RCW 47.80.026, RCW
19 36.70A, and RCW 43.21C, or stripped of its delegated authority, so a real state
20 agency can comply with the statutes.

21 (1). Such further relief as this Court deems necessary and proper.

22 **Respectfully submitted** this 22ND day of March, 2021.

23 BY:// 
24 John Worthington Pro Se
25 90 S.RHODEFER RD. E-101
26 SEQUIM WA.98382

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IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON IN AND FOR THE COUNTY OF KING

JOHN WORTHINGTON,
Plaintiff/ Petitioner,
vs.
WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION, (WSDOT),
WASHINGTON STATE TRANSPORTATION
COMMISSION, (WTC)
PUGET SOUND REGIONAL COUNCIL,
(PSRC),
INTERNATIONAL COUNCIL FOR
LOCAL ENVIRONMENTAL
INITIATIVES USA, (ICLEI USA),
“AKA PARTNERSHIP”
Defendants.

Case No. **21-2-00208-7-SEA**

2ND AMENDED COMPLAINT

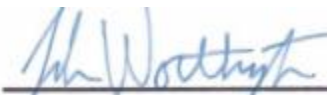
SUMMONS

TO THE DEFENDANTS: A lawsuit has been started against you in
the above entitled court by John Worthington, Plaintiff. Plaintiff’s
claim is stated in the written complaint, a copy of which is served
upon you with this summons. In order to defend against this lawsuit,
you must respond to the complaint by stating your defense in writing,
and by serving a copy upon the person signing this summons within
20 days after the service of this summons, excluding the day of
service, if served within the State of Washington (or within 60 days
after service of this summons, if served outside the State of

1 Washington), or a default judgment may be entered against you
2 without notice. A default judgment is one where Plaintiff is entitled to
3 what he asks for because you have not responded. If you serve a
4 notice of appearance on the undersigned person, you are entitled to
5 notice before a default judgment may be entered. You may demand
6 that the Plaintiff file this lawsuit with the Court. If you do so, the
7 demand must be made in writing and must be served upon the person
8 signing this summons. Within 14 days after you serve the demand, the
9 Plaintiff must file this lawsuit with the court, or the service on you of
10 this summons and complaint will be void.
11
12

13 If you wish to seek the advice of an attorney in this matter, you should
14 do so promptly so that your written response, if any, may be served on
15 time. This summons is issued pursuant to rule 4 of the Superior Court
16 Civil Rules of the State of Washington
17

18 Respectfully submitted this 22ND day of March, 2021.
19

20
21 BY:// 
22 John Worthington Pro Se
23 90 S.RHODEFER RD. E-101
24 SEQUIM WA.98382
25
26

Certificate of Service

I hereby certify that I will mail and email the following documents.

1. Summons and 2nd Amended Complaint

To the following:

Washington State Department of Transportation

310 Maple Park Avenue SE

P.O. Box 47300

Olympia, WA 98504-7300

Washington State Transportation Commission

2404 Chandler Ct. SW

Suite 270, 2nd Floor

Chandler Plaza Bldg.

Olympia, WA 98502-6052

C/O serviceATG@atg.wa.gov.

ICLEI USA,

C/O PAUL TRIESCH

PTRIESCH@KKBMLAWYERS

801 Second AVE

Seattle WA.90104.


PSRC c/o

CASCADIA LAW GROUP PLLC

1201 Third Ave, Suite 320

Seattle Wa. 98101.

Executed this 22ND day of March, 2021.

BY:// 

John Worthington Pro Se
90 S.RHODEFER RD. E-101
SEQUIM WA.98382

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Written public comment submitted by John Worthington to the Environmental Justice Council via email on 5/16/2022 at 8:17pm

I would like to add the following to my public testimony.

1. It is an environmental injustice to disproportionately tax and control the public's use of cars to drive to work, Walmart (ie shopping), and recreational, when the world economy caused at least 4 times the amount of emissions.
2. It is environmental injustice to blame the public's use of cars to drive to work, Walmart (ie shopping) and recreational, for the loss of salmon habitat, when the west coast and east coast shipping from the world economy causes at least 4 times the emissions, and tribes have removed dams to restore flow and sediments when the dams allowed supplemental summertime water levels, net the mouth, harvest shorties, while the cities and counties tell us stormwater flow is bad so we need to build multi mullion dollar stormwater projects to restrict flow and sediments. If the naturalists think you can remove a dam, restore traditional tributaries, and create log jams, and then let them run dry during the summer, net the mouth harvest shorties and restore a salmon run they are smoking crack.
3. If any rules are going to be made in the name of environmental justice, they should: (1) Proportionately tax nautical miles and lane miles of the world economy(2) Proportionately tax Amazon for its road use. Their whole concept relies upon roads and they most of all need to pay use fees. Not me sitting at home under the covid lockdown.(3) Pick a consistent water flow policy for rivers. Either water flow is good and you need sediment to replenish the river mouths and spits or you don't need flow and sediment. Enough of the one foot to the other foot and Bart the bear routine for each project.(4) require the 20 year NGO plans to zone for more agriculture and manufacturing and require the plans be subject to the APA..

I hear you talk about environmental justice and emissions as your purview under the act, but I never hear anyone count world economy emissions into the "local emissions' If a city, county , state that gets 75 percent of its stuff from 1500-6000 miles away, that is "local emissions."

TO DEPARTMENT OF ECOLOGY:

Why did you recommend legislation exempting ocean emissions?

The only reason to exempt ocean emissions is to cover up the reliance and the damage caused by the world economy.

CAP AND TRADE:

Cap and trade policy needs to apply to the world economy 4 times the amount of local business. A straight up nautical mile and lane mile taxes on goods over 1500 miles away should be part of the cap-and-trade formula. To force local and regional business to engage in cap and trade and not the world economy is an environmental **injustice**.

Local business should have a "Grudunza" exemption (Cat and the hat device to clean up after thing 1 and thing 2)that exempts local and regional emissions if technology investments are made to reduce emissions.

CAN'T TRUST NGO'S AND NON-PROFITS ANYMORE:

Our environmental stewards have let us down. They have advocated and built transit oriented communities which rely far too much on the world economy in the form of ships and trucks because they did not zone enough manufacturing and agriculture. Just look at the vision 2050 map.. the developers, transit unions, Amazon, Walmart, Big Box stores all got rich.

The NGO's (Puget Sound Regional Council et al) are not subject to the Administrative Procedure Act. Time for that to stop.

QUIT HIDING RULEMAKING UNDER THE ATTORNEY CLIENT PRIVILEGE.

The AG should not be meeting with tribes in secret and acting as conduit for tribal input or any other input, only to remove the input from the rulemaking file based on the attorney client priv.

QUIT USING "WORKING COPY," AND "FINAL COPY" RULEMAKING FILES .

There is only one rulemaking file. What goes in the file stays in the file. Marijuana rulemaking was rampant with hidden testimony from federal grant recipients who could not participate in rulemaking under the terms of federal grants...so they put their comments in a "working" copy which was used for rules, then extracted to create a "final" copy. I want to see everything from every tribe, Results WA. and their governor's goal council.

DON'T BE AFRAID TO DO NEGOTIATED RULEMAKING:

Working with tribes and non-profits is allowed. It just needs to be noted in the CR-101.

DO A PROPER SEPA AND NEPA.

Excluding the world economy emissions from the SEPA and NEPA reports does not identify all possible environmental hazards.

Thanks

JW

Environmental Justice Council

Date: May 25, 2022

To: Environmental Justice Council Members

From: Rowena Pineda, Environmental Justice Advisor

Subject: Proposed Next Steps for Community Engagement Plans

Background and Summary:

At the April 4th Environmental Justice (EJ) Council (Council) meeting I shared that the HEAL Act requires covered agencies to create and adopt community engagement plans by July 1, 2022. The Community Engagement Subcommittee of the Interagency Work Group (Work Group) created an initial draft guide for covered agencies to use as they develop their community engagement plans.

Council's Role in Developing Community Engagement Plans:

Covered agency community engagement plans must consider guidance and regular updates from the Council and the Work Group.

The Council may also make recommendations to covered agencies about the timing and sequence of community engagement plans.

QUESTION: How can state agencies comply with the July 1, 2022 deadline to adopt community engagement plans *and* conduct a coordinated effort to learn from communities?

BACKGROUND: The intent of the HEAL Act is to transform how state agencies engage with communities. Agencies have heard from communities about the need for coordinated engagement efforts; communities want to inform these efforts. The July 1, 2022 deadline for covered agencies to adopt community engagement plans presents a barrier to agencies' coordinated and informed engagement work.

Council Staff Recommended Action: Council staff recommend the Council review, provide additional guidance, and approve the following:

- I. Agencies adopt DRAFT community engagement plans by July 1, 2022.
- II. EJ Council staff, in partnership with covered agencies staff, conduct community listening sessions statewide during the summer and fall of 2022 to learn from community members about preferred engagement on environmental justice issues, and how to be partners in co-authoring updates/changes to the community engagement guide.

QUESTION: How do agencies develop required consultation frameworks without overburdening tribal governments with multiple requests?

BACKGROUND: Covered agencies need to develop a consultation framework in coordination with tribal governments that include best practices, protocols for communication, and collaboration with federally recognized tribes. There is no timeline for this framework in the HEAL Act, yet it states that covered agencies must offer consultation with federally recognized tribes on the creation and adoption or updating of a community engagement plan.

Council Staff Recommended Action: Council staff recommend the Council review, provide additional guidance, and approve the following:

- I. EJ Council staff work with Tribal Liaisons of HEAL covered agencies, Governor’s Office of Indian Affairs (GOIA), and tribal representatives on the EJ Council to get guidance on next steps for how best to coordinate and collaborate with tribal governments.

QUESTION: What are next steps after hearing back from communities, tribal governments and the EJ Council?

Council Staff Recommended Action: Council staff recommend the Council review, provide additional guidance, and approve the following:

- I. Work with the EJ Council, communities, and tribal governments to update the community engagement guide to reflect what EJ staff heard during listening sessions and tribal consultations.

Staff

Rowena Pineda, Rowena.Pineda@ejc.wa.gov, 360-584-4197

Community Engagement Plans Recommended Action

HEAL Act Requirements for Community Engagement Plans

Covered agency community engagement plans must consider guidance and regular updates from the Council and the Environmental Justice Interagency Work Group.

The Council may also make recommendations to covered agencies about the timing and sequence of community engagement plans.

Recommended Action

QUESTION: How can state agencies comply with the July 1, 2022 deadline to adopt community engagement plans *and* conduct a coordinated effort to learn from communities?

Council staff recommend the Council review, provide additional guidance, and approve the following :

- I. Agencies adopt DRAFT community engagement plans by July 1, 2022.
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Recommended Action

QUESTION: What are next steps after hearing back from communities, tribal governments and the EJ Council?

Council staff recommend the Council review, provide additional guidance, and approve the following:

- I. Work with the EJ Council, communities, and tribal governments to update the community engagement guide to reflect what EJ staff heard during listening sessions and tribal consultations.

Environmental Justice Council

Date: May 25, 2022

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Council Member Discussion of Climate Commitment Act

Background and Summary:

The Climate Commitment Act (CCA) dialogue at the April 4, 2022 Environmental Justice Council (Council) meeting showed many Council members had a strong interest in better understanding the timeline and process for the current CCA rulemaking and how the Council can be involved. For this reason, the Council called two special meetings and invited the Department of Ecology to come and present and engage in a dialogue on this topic.

The special Council meetings were held on Friday May 13, 2022 and Monday May 16, 2022. The meetings covered several details, but two themes arose during the two meetings:

- 1) Several Council members voiced concerns about the timeline for completing the cap and invest rulemaking and what that means for the Council's ability to engage.
- 2) Some members expressed a desire to engage in the cap and invest rules (which are now open for [public comment](#)) on the existing timeline, while also continuing to explore actions the Council could take to ask for more time to engage.

Today's CCA agenda item does not include any presentations but instead provides an opportunity for Council members to bring the conversations from the two special meetings together, discuss how the Council wants to engage in the current cap and invest rulemaking, and discuss any other actions the Council may want to take.

Staff Contact

Sierra Rotakhina, Council Manager, sierra.rotakhina@doh.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@doh.wa.gov or 360-584-4398. TTY users can dial 711.

Environmental Justice (EJ) Council Roles in the Climate Commitment Act (CCA)

Improving Air Quality in Overburdened Communities Initiative (Section 3)

Community Consultation Recommendations

RCW 70A.65.040: The EJ Council must provide recommendations to implementing agencies on meaningful consultation with vulnerable populations including on Ecology's community engagement plan supplement required under RCW 70A.65.020.

Development and Implementation of the Cap and Invest Program

Recommendations on Development and Implementation of the Cap and Invest Program

RCW 70A.65.040: The EJ Council must provide recommendations to Legislature, agencies, and the Governor on development and implementation of the cap and invest program established in the CCA.

Consulting EJ Council on Reducing Offset Credit Limits

RCW 70A.65.170: Offset credit limits can be reduced for a specific entity if the Department of Ecology determines, in consultation with the EJ Council, that the covered entity is likely to contribute substantively to cumulative air pollution burden in an overburdened community (using criteria established by Ecology in consultation with the EJ Council), or to violate any permits required by federal, state, or local air pollution control agency.

Programs Funded by Accounts Created by the CCA

Recommendations on the Development of Investment Plans and Funding Proposals

RCW 70A.65.040: The EJ Council must provide recommendations to Legislature, agencies, and the Governor in the development of investment plans and funding proposals for the programs funded from the Climate Investment Account.

Recommendations on Development and Implementation of Programs Funded by the Accounts Created by the CCA

RCW 70A.65.040: The EJ Council must provide recommendations to Legislature, agencies, and the Governor on development and implementation of programs funded from the Carbon Emissions Reeducation Account and the Climate Investment Account.

Agencies Allocating Funds from the Accounts Created by the CCA

Community Engagement Plans and EJ Assessments

RCW 70A.65.030: Agencies allocating funds from the accounts developed by the CCA must develop community engagement plans and conduct EJ assessments consistent with the HEAL Act even if they are not covered agencies under the HEAL Act. RCW 70A.65.040: The EJ Council is also tasked with providing recommendations to these agencies on issues such as meaningful consultation with vulnerable populations including on these agencies' community engagement plans.

Recommendations on EJ and Environmental Health Goals for Projects Funded from the Climate Investment Account

RCW 70A.65.040: The EJ Council must recommend EJ and environmental health goals for programs, activities, and projects funded from the Climate Investment Account and review agency annual reports on outcomes and progress toward meeting these goals.

Goals, Metrics, and Evaluating the Impacts of the CCA on Environmental Justice and Environmental Health

Forum to analyze policies adopted under the CCA

RCW 70A.65.040: The EJ Council must provide a forum to analyze policies adopted under CCA to determine if they lead to improvements within overburdened communities.

Recommendations for Evaluating Programs, Activities, or Projects

RCW 70A.65.040: The EJ Council must recommend procedures and criteria for evaluating programs, activities, or projects.

Recommendations on EJ and Environmental Health Goals for Projects Funded from the Climate Investment Account

<p>RCW 70A.65.040: The EJ Council must recommend EJ and environmental health goals for programs, activities, and projects funded from the Climate Investment Account and review agency annual reports on outcomes and progress toward meeting these goals.</p>
<p>Co-Pollutant Emissions Reductions Goals</p> <p>RCW 70A.65.040: The EJ Council must recommend co-pollutant emissions reduction goals in overburdened communities.</p>
<p>Evaluate Funding Levels in EJ Communities</p> <p>RCW 70A.65.040: The EJ Council must evaluate the level of funding provided to assist vulnerable populations, low income individuals, and impacted workers and the funding of projects and activities located within or benefiting overburdened communities.</p>
<p>Public Participation</p>
<p>Recommendations to Support Public Participation through Capacity Grants</p> <p>RCW 70A.65.040: The EJ Council must recommend how to support public participation through capacity grants for participation.</p>
<p>Reporting to and Notifying the EJ Council</p>
<p>Department of Ecology Reporting</p> <p>RCW 70A.65.060: Beginning on December 1, 2027 the Department of Ecology must submit a report each year to Legislature and transmit the report to EJ Council. The report must include a comprehensive review of implementation of the cap and invest program, including outcomes.</p>
<p>Reporting for Agencies Allocated Funds from the CCA Accounts</p> <p>RCW 70A.65.030: Agencies allocating funds from the accounts developed by the CCA must report annually to the EJ Council regarding progress toward meeting EJ and environmental health goals.</p>
<p>Auction Notices</p> <p>RCW 70A.65.100: The Department of Ecology must transmit to EJ Council auction notices 60 days prior to each action, and summary results report and post-auction public proceeds report within 60 days of each auction.</p>
<p>Previous Calendar Year Auction Results</p>

RCW 70A.65.100: Beginning in 2024, the Department of Ecology must annually communicate to the EJ Council results of previous calendar years auctions.

Notifying EJ Council of Monetary Penalty

RCW 70A.65.200: An Electric Utility or Natural Gas Utility must notify retail customers and the EJ Council in published form within three months of paying a monetary penalty under RCW 70A.65.200

Appendix A. Examples of Decision-Making Models and Bylaws

Note: The following are just a few examples of bylaws and decision-making processes. Council staff have a folder of different examples on file for Council members or community members who are interested in seeing more examples.

Green New Deal Oversight Boards

Board Responsibilities, Policies, and Procedures

Section I. Purpose

The Green New Deal Oversight Board was established by City Council [Ordinance 125926](#) to advise and make recommendations to the Mayor and City Council related to the Green New Deal for Seattle and monitor progress in meeting intended outcomes and goals.

The City of Seattle Green New Deal Oversight Board is composed of 19 appointed members who are passionate about advancing an equitable transition to renewable energy by centering the expertise of Black, Indigenous, People of Color, immigrants, refugees, people with low incomes, youth, elders and workers harmed first and worse by climate change. Members are appointed by the Mayor, City Council, or the Board itself into one of the following position categories as defined in [Ordinance 125926](#) (section 3.14.979 to the Seattle Municipal Code):

Section II. Membership

GND OB membership is defined by SECTION §2.B. of the [Ordinance](#).

2.1 Number and criteria – The City of Seattle Green New Deal Oversight Board is composed of 19 appointed members :

2.1.1 (§2.C.1); (Positions 1-8) Eight positions designated for community representatives directly impacted by racial, economic, and environmental injustices. These members must be: part of a community-based organization or community group that represents a community that is disproportionately burdened by pollution and environmental hazards and, based on socioeconomic and population health risk factors, is particularly vulnerable to an increased pollution burden; and carry out the majority of their work using a community-based approach in the Seattle area.

- (Positions 4-5) Two of these members should be representatives from tribes whose treaty rights are connected to the lands and waterways of Seattle (or whose usual and accustomed places are in Seattle);
- (Positions 6-8) Two of these members should be between the ages of 16 and 25 at the time of their appointment;

2.1.2 (§2.C.2) (Positions 9-11) Three representatives of organizations engaged in environmental justice work;

2.1.3 (§2.C.3) (Positions 12-15) Four representatives of labor unions;

2.1.4 (§2.C.4) (Positions 16-18) Three individuals with depth of experience in greenhouse gas reduction and climate resiliency strategy relevant to cities and their

residents, in fields such as public health, infrastructure, sea-level rise, or extreme weather events;

2.2.1.5 (§2.C.5) (Position 19) One representative of an organization involved in workforce training.

2.2 Appointments –

- 8 members will be appointed by the Seattle City Council (1 Frontline Representative, 1 Tribal Representative, 1 Youth Representative, 1 Environmental Justice Representative, 2 Labor Union Representative, 2 Greenhouse Gas Reduction / Climate Resiliency Specialist)
- 8 members will be appointed by the Mayor (2 Frontline Representative, 1 Tribal Representative, 1 Youth Representative, 2 Labor Union Representative, 1 Environmental Justice Representative, 1 Workforce Training Specialist)
- 3 members will be appointed by the GNDOB (1 Environmental Justice Representative, 1 Frontline Representative, 1 Greenhouse Gas Reduction / Climate Resiliency Specialist)

2.3 Terms – Members of the GNDOB shall be appointed to three year terms, from May 1 to April 30 three years later, except that the initial terms for positions 1 through 9 shall expire April 30, 2023, and the initial terms for positions 10 through 19 shall expire April 30, 2022. No members shall serve more than two consecutive terms.

2.3.1 No member of the GNDOB shall be appointed to more than two consecutive terms. IF a person is appointed to fill the duration of an unexpired term, then that term shall count as one of the two consecutive terms only if the portion of the unexpired term actually served is at least one year..

2.4 Vacancy – Any vacancy in an unexpired term shall be filled in the same manner as the original appointment. A member whose term is ending may continue on an interim basis as a member with voting rights until such time as a successor for that position has been confirmed by the City Council.

2.5 Resignation – Any member may resign at any time from the GNDOB upon written notice to the appointing authority (Mayor or Council) and the GNDOB. The appointing authority may remove any member for good cause, including unexcused absence from two or more consecutive meetings without cause.

2.6 Compensation – Members of the GNDOB shall serve without pay, except that members may request compensation of \$50 per hour served if participating on the Board presents a financial hardship (§4.E). Requests shall be made to the Green New Deal Advisor no later than September 30 for the following calendar year.

Section III. Leadership/Officers

3.1 Leadership – GNDOB leadership consists of the Executive Committee: Two Co-Chairs (At least one of the co-chairs shall have at least 2 years remaining on their term) and one at large member. If the GNDOB establishes standing committees, standing committee chairs may serve on the Executive Committee at the invitation or request of the Executive Committee. The size of the Executive Meeting shall not meet or exceed a quorum of the GNDOB (see section 5.1).

3.1.1 Nominations for GNDOB leadership roles are encouraged to come from Positions 1-11 in order to center the voices of Black, Indigenous, People of Color, immigrants, refugees, people with low incomes, youth, elders and workers harmed first and worse by climate change.

3.2 Duties of the Executive Committee – The roles and responsibilities of the Executive Committee include:

- Meet regularly, with the City staff coordinator as it deems appropriate, to discuss ongoing business and priorities of the GNDOB and plan GNDOB meetings.
- Set GNDOB meeting agendas, working with City staff coordinator as it deems appropriate.
- Develop proposals and recommendations for GNDOB consideration and review
- Draft official letters and memos for GNDOB review and approval.

3.3 Duties of the Co-Chairs – In addition to their roles and responsibilities as part of the Executive Committee, duties of the Co-Chairs include:

- Preside over and facilitate GNDOB meetings, with an option to delegate meeting facilitation tasks or request assistance, as needed.
- Act as spokespersons for the GNDOB and represent official GNDOB decisions and actions, as noted in the record.
- Serve as a point of contact for media, community, and elected officials Co-chairs may also speak as individuals (i.e. not representing the GNDOB) and shall make it clear when articulating their own views and concerns (e.g. “Although I serve as a Co-Chair for the Green New Deal Oversight Board, today I am speaking as an individual, not on behalf of the Board.”) (see also section 5.3). The Co-Chairs may delegate to any willing GNDOB member performance of any duties described in this section.

3.4 Terms of Office – Executive Committee members will serve for one year terms, from May 1 to April 31. Two consecutive one year terms are allowed.

3.5 Elections – Executive Committee Co-Chairs and the at-large member are determined by an annual vote at a regular GNDOB meeting. The GNDOB staff coordinator will solicit nominations for Co-Chairs and the at-large member. The GNDOB staff coordinator will contact all nominated GNDOB members to ascertain interest and ability to serve. The GNDOB staff coordinator will prepare a slate of all interested candidates for the GNDOB to vote on at a regular GNDOB meeting. Each GNDOB member shall vote for two Co-Chairs and one at-large member at a

regular GNDOB meeting. Voting shall occur at a regular GNDOB meeting, provided there is a quorum (see section 5.1). The two co-chair candidates receiving the largest number of votes will become Co-Chairs. The at-large candidate receiving the largest number of votes will become the at-large member of the Executive Committee. No proxy votes are allowed. If a Co-Chair or at-large member vacates a position prior to completing their term, a special election shall be held to fill that position, at the next regular meeting of the GNDOB, if practicable. Filling a partial term of less than six months shall not count toward a GNDOB member's eligibility to serve as a Co-Chair or at-large member for a full one-year term or renewal term.

3.6 Committees – The GNDOB may establish committees as it determines necessary, including standing or ad hoc committees. Committees shall consist of two or more GNDOB members. Committees may research and develop proposals and recommendations for GNDOB review and approval. Any formal action or decision requires approval from the GNDOB. Committees will work with the Executive Committee to draft a charter for approval by the GNDOB. The committee charter shall include a statement of purpose; type of committee (standing or ad hoc); composition; committee activities, duties and responsibilities; standard committee procedures (including details on frequency of meetings, process for designating a committee chair, decision-making process); and, delegation of authority (i.e. limits to committee's decision making authority without prior approval of the GNDOB).

Section IV. Meetings & Attendance

4.1 Public Meetings – All meetings of the GNDOB shall be open to the public and comply with requirements of the Open Public Meetings Act (RCW 42.30).

4.2 Public Comment – The public may speak on issues which come before the GNDOB. The Executive Committee shall designate the appropriate time for public comment and establish time limits for each speaker (usually two minutes per speaker). Additional rules:

- Public comments made at meetings must be related to the issues on the agenda for that meeting.
- Speakers should address their comments to the GNDOB, not to individual members.
- The GNDOB does not answer question's or engage in discussion during public comment

4.3 Meeting Schedule

4.3.1 Regular meetings – The GNDOB shall meet every month, or as needed.(§2.D). A regular meeting schedule will be established annually, at the end of each calendar year, to start at the beginning of a new year. The Executive Committee may adjust the regular meeting schedule, with approval from a majority of the GNDOB, based on the annual work plan.

4.3.2 Annual retreat – The GNDOB will develop an annual work plan at an annual retreat, usually held in Q4. The work plan will be assessed approximately six months after the retreat and adjusted as necessary to respond to emergent and high priority issues.

4.3.3 Special meetings – A special meeting may be called at any time by the Executive Committee or by a majority of the GNDOB members. Written notice must be delivered by email at least 24 hours before the meeting to each GNDOB member. Notice must be posted on the GNDOB webpage 24 hours in advance of the meeting,

4.4 Regular Meeting Agendas – The Executive Committee, with support from City staff as it deems appropriate, will prepare an agenda for each regular GNDOB meeting. Agendas will be approved by the Executive Committee and shall be sent via email to all GNDOB members and other interested parties and posted to the GNDOB webpage no later than 24 hours in advance of the published start time of the meeting.

Section V. Conduct of Business

5.1 Decision making –

The GNDOB will strive to make decisions by modified consensus whenever possible to assure that the opinions of everyone are heard, discussed, and valued.

The GNDOB will use the following voting system

- 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. Serious concerns.
- f. Stand aside. Recuse myself.
- g. Not present.

a, when there is disagreement, members have the opportunity to stand aside or block consensus.

- Stand asides provide a way for GNDOB members to express concerns, but allow the group to proceed with the decision. ("I can't support this proposal because...But I don't want to stop the group, so I'll let the decision happen without me.")
- Blocks provide a way for GNDOB members to express firm opposition to the issue or proposal. ("I have a fundamental disagreement with the core of the proposal that has not been resolved. We need to look for a new proposal.")

The GNDOB may use Fist to Five to test for consensus. Fist to Five is accomplished by raising hands as in voting, with the number of fingers raised that indicates level of agreement:

- A fist means, "I vote NO." In consensus, this is the same as a block.
- 1 finger means, "I'll just barely go along." Or, "I don't like this but it's not quite a no." Or, "I think there is lots more work to do on this proposal." In consensus, this indicates standing aside, or not being in agreement but not blocking the consensus.

- 2 fingers means “I don’t much like this but I’ll go along.”
- 3 fingers means, “I’m in the middle somewhere. Like some of it, but not all.”
- 4 fingers means, “This is fine.”
- 5 fingers means, “I like this a lot, I think it’s the best possible decision.”

If there are any fists or 1s when using Fist to Five, the Co-Chairs or meeting facilitator will ensure these concerns are heard. If there are many 2s and 3s, this should signal to the Co-Chairs that the issue or proposal would benefit from further discussion, clarification or amendments. Process for making a final decision:

- Clearly state the final proposal and check that everyone understands what is being proposed.
- Check if there are any blocks or stand asides. It takes two blocks to stop the proposal.
- If there are fewer than two blocks, check for active agreement from everyone. This can be done verbally, with show of hands, or using Fist to Five.
- Verbally summarize the result (e.g. number of blocks or stand asides) and be explicit whether a decision has been reached. Two or more blocking votes indicates that consensus has not been attained. If the GNDOB is ultimately paralyzed by the modified consensus process, then action will be approved by majority vote. There will be a minimum of two attempts at reaching consensus. After two attempts, it is up to the Co-Chairs to decide if the consensus process should continue or transition to majority vote. (add backup consensus process, i.e. Robert's Rules of Order / 50% +1 vote)

All final decisions, including results from the consensus process or voting, shall be included in the GNDOB meeting minutes (see section 6.1). Dissenting members may submit a minority report to the Co-Chairs. The minority report will be forwarded to the Mayor, City Council, and the public with any letter, analysis, advice, recommendation or similar transmitted by the GNDOB. If there is a financial conflict of interest by a member with any issue being discussed, he or she shall recuse him/herself from voting on that issue (see section 7.3). No proxy votes are allowed. (members who know ahead of time that they will be in absence of a meeting where a vote is taking place, can share their opinions to board leadership to be shared for the record at the public meeting...but does not count as an official vote”)

A simple majority (more than 50%) of the current GNDOB members constitute a quorum in GNDOB meetings. Provided there is a quorum, the GNDOB may make decisions on proposals, issues, or formal actions (see section 5.2).

5.2 GNDOB actions – GNDOB actions include formal GNDOB positions, reports, statements, letters to government officials (Mayor, Council, department directors, agency directors) and City staff, and other actions it deems necessary to carry out its role and responsibilities. All formal actions or decisions on statements, letters or memos require a final draft to be sent to the GNDOB for review and approval.

5.3 Representing the GNDOB – The Co-Chairs shall act as spokespersons for the GNDOB and represent official GNDOB decisions and actions, as noted in the record (see section 3.3).

Individual GNDOB members may represent the GNDOB (e.g. providing testimony, meetings with Council, Mayor, etc.) if authorized by the Co-Chairs. A GNDOB member may speak as an individual, clearly specifying they are speaking as an individual, or as an individual GNDOB member articulating their own views and concerns (e.g. “Although I am a member of the Green New Deal Oversight Board, today I am speaking as an individual, not on behalf of the Board.”)

Section VI. Records, Publications, and Reports

6.1 All decisions of the GNDOB shall be evidenced in writing.

6.2 Minutes – Minutes of all GNDOB meetings will be promptly recorded and prepared by staff. After approval by the GNDOB, minutes shall be posted on the GNDOB webpage as a public record.

6.3 Annual Workplan – As specified in the Ordinance (§2.A.5), the GNDOB shall publish an annual workplan to the Seattle City Council and the Mayor with the assistance of appropriate City departments. The report shall include the following:

- Define what constitutes a policy, program, or project that advances the Green New Deal for Seattle;
- Identify the board’s annual scope of work, including priorities, goals, outcomes, boards, and commissions whose scope align with those of the Board; and
- Any additional information that the GNDOB deems appropriate for inclusion.

6.4 Other Records – Copies of specific GNDOB documents will be made available to the public upon written request to the staff coordinator.

Section VII. Ethics

7.1 GNDOB members shall conduct themselves in a manner consistent with the Seattle Ethics Code (Seattle Municipal Code ~ SMC 4.16). The Ethics Code sets high ethical standards for members of advisory boards and commissions, whose advice may have a major impact on City policies.

7.2 Disclosure of interests –The Ethics Code requires full disclosure if a GNDOB member engages or has engaged in an activity or transaction that would appear to a reasonable person to impair the member’s independence of judgment. To satisfy the disclosure requirement, GNDOB members must fully disclose the facts on the record of the GNDOB meeting using the Disclosure Form downloadable in PDF version or Microsoft Word version. The GNDOB staff coordinator will file copies of any completed disclosure forms and send a copy to the Seattle Ethics and Elections Commission. Regular disclosures should be filed annually, at the start of the calendar year. Ad hoc disclosures should be made in writing at the GNDOB meeting before or as soon as the relevant matter comes before the GNDOB. The Co-Chairs and staff will ensure there are regular opportunities for ad hoc disclosure of interests in GNDOB meetings.

7.3 Conflict of Interest – GNDOB members are required to disqualify themselves from discussion and decision making if they have a financial interest, direct or indirect, personally or through an immediate family* member, in the matter* before the GNDOB (SMC 4.16.070.G). **“Immediate family”* means a spouse or domestic partner, child, child, child of a spouse or domestic partner, sibling, sibling of a domestic partner, brother in-law, sister-in-law, parent, parent of a spouse or domestic partner, a person for whom the Covered Individual is a legal guardian, or a person claimed as a dependent on the Covered Individual's most recently filed federal income tax return (SMC 4.16.030). **“Matter”* means an application, submission, request for a ruling or other determination, permit, contract, claim, proceeding, case, decision, rulemaking, legislation, or other similar action. Matter includes the preparation, consideration, discussion, or enactment of administrative rules or legislation. Matter does not include advice or recommendations regarding broad policies and goals (SMC 4.16.030). Approved: If the members’ interests are not financial, but if they engage or have engaged in any transaction or activity which would appear to be in conflict with or incompatible with their duties or would appear to impair their independence of judgment, then they must disclose the circumstances publicly to the GNDOB. When individual GNDOB members disclose interests where there is a possibility of conflict of interest that may limit the individual’s participation in a matter which comes before the GNDOB, the GNDOB will decide if the member should be disqualified from participating in the matter. If the GNDOB is uncertain about whether an individual GNDOB member should be disqualified from discussions or decisions, it will seek advice from the Seattle Ethics and Elections Commission. For more information, GNDOB members are encouraged to visit the City’s website that answers Frequently Asked Questions for advisory boards and commissions.

7.4 Recusal procedures – GNDOB members who have recused themselves from a matter before the GNDOB due to a financial conflict of interest will: Refrain from deliberation in forming recommendations or advice on the matter and will not participate in any GNDOB action on the recommendations or advice. Remove themselves from the room during the formation of formal advice or recommendations. Refrain from engaging in conversation or communication with other members of the GNDOB on the matter for which they have recused themselves. GNDOB members may recuse themselves from any matter or activity they choose even if there is not a financial conflict of interest. Section VIII. Responsibilities of the Department Staff The Office of Sustainability & Environment (OSE) shall provide administrative support for the GNDOB. OSE will work with the appropriate City departments to help make the GNDOB’s work successful. OSE staff provides general GNDOB and meeting support, coordination, communication as follows:

- General GNDOB support
- Maintain and distribute member rosters
- Facilitate communication with appointing authorities
- Provide the GNDOB with requested information that it needs to conduct its business Meeting support
- Assist the Executive Committee in developing and distributing meeting agendas
- Provide information or follow-up with department staff on questions or requests by the GNDOB

- Work with department staff to keep the GNDOB updated on City projects or issues
- Manage room reservations, audio-visual equipment needs, and other logistical issues
- Maintain meeting schedule
- Assist in coordinating and communicating with presenters for GNDOB meetings
- Assist in scheduling meetings between the GNDOB and the Mayor and City Council
- Help support special GNDOB events such as annual retreats City Department Coordination
- Keep City departments well-informed of GNDOB's interests in topics or issues related to the implementation of the Jump Start Seattle Tax and its recommendation for allocation of the tax revenues
- Ensure City departments have an opportunity to brief the GNDOB, in a timely manner, on issues that may impact the GNDOB's recommendations and advice • Facilitate ongoing communication between the GNDOB and the City departments Communications
- Field and respond to requests from the public for information about the GNDOB
- Assist with preparing, formatting and distributing GNDOB correspondence and minutes
- Maintain an accurate, up-to-date webpage, including posting meeting agendas, minutes and other materials
- Help the GNDOB assure that internal and external GNDOB communications comply with the Open Public Meetings Act
- Assist with drafting reports, recommendations, advice or correspondence with the Mayor, City Council, and the departments, when assigned by the GNDOB.

Section IX. Amendment to Responsibilities, Policies, and Procedures

This document may be amended by the GNDOB at any regular or special meeting, using the decision-making process outlined in section 5.1.

A PRACTICAL GUIDE FOR CONSENSUS-BASED DECISION MAKING

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WHAT IS CONSENSUS-BASED DECISION MAKING?

Consensus-based decision making is based on a *deliberate process of consensus building*, whereby members of a group actively participate in finding a decision together that all members can feel comfortable with. A consensus decision does not necessarily reflect complete unanimity. However, decisions reached by consensus do reflect the thoughts and feelings of the group *as a whole*¹, rather than just the majority. Effective consensus building results in decisions that have been thoughtfully deliberated, incorporate diverse experience and views, and may produce the best possible decision given the configuration of interests that have come together for a given purpose.

The advantage of consensus-based decisions as compared with majority rule voting is that it avoids a fundamental problem often associated with voting. Voting may unintentionally result in a split or division in a group, a satisfied majority and disgruntled minority, a sense of winners and losers. Moreover, in the interest of efficiency, there may be a propensity to rush to a vote without full deliberation when opinion seems to be going in a certain direction. The consensus-building process is based on thoughtful, respectful, fulsome deliberation and an intention to find the best possible decision that suits the group as a whole.

Consensus decision making is based on the premise that everyone's voice is worth hearing and that all concerns that come from a place of integrity are valid. If a proposal is deeply troubling to even one person, that concern is respected; if it is ignored, the group is likely to make a mistake. Various practical procedures and optional stances that group members can employ in navigating the sometimes unsettled waters of consensus-building are discussed in this document.

A group committed to consensus may utilize other forms of decision making (e.g., executive decision, majority rule) when appropriate; however, a group that has adopted a consensus model will use that process for items of strategic importance, related to core values, or around which there is a common perception that "the stakes are high."

WHEN TO USE THE CONSENSUS MODEL

Making decisions by consensus may be more or less appropriate depending in part on what's at stake with a given decision.

¹ What makes a coherent group different than a mere collection of individuals? Complexity theory suggests that when individuals come together for a common purpose, under favorable conditions a qualitative "phase shift" may occur. The whole becomes greater than the sum of parts. This phenomenon is called "emergence." A collection of individuals becomes a community, as problems are solved, work is accomplished, relationships deepen, common values are affirmed, trust builds, traditions develop, and a story is told. Community members are willing to set aside certain vested interests based on a more encompassing set of values or interests, without sacrificing their core values or individuality. This is neither "collectivism" (in which individuals unthinkingly surrender themselves) nor "individualism" (in which self-interest always remains the overriding consideration).

A full consensus-building process may be most appropriate for:

- Strategic² decisions
- High stakes decisions
- Decisions for which a strong, united front is important

A full consensus-building approach may be unnecessary or less appropriate for:

- Operational or tactical³ decisions
- Decisions which have relatively minor impact and affect relatively few

NECESSARY CONDITIONS

Certain fundamental conditions need to be met in order to conduct an effective consensus-building process, including:

- Agreement on core values
- Willingness of members to both express interests as well as assume a “disinterested”⁴ stance
- Willingness to make it work – belief in the value of consensus-building
- Active listening
- Sufficient time
- Patience
- Trust
- Succinct expression of views and concerns
- Skilled facilitation
- Conducive setting – properly bounded

A group intending to employ consensus-based decision making would do well to carefully consider the extent to which it can meet these conditions. Most formal groups go through foundational exercises when forming, such as

WHAT CONSENSUS-BUILDING IS NOT:

Having worked as a Community Developer in various settings for more than 35 years, I have been part of many groups, teams, and organizations that have nominally adopted “consensus” as their decision-making procedure. Very often when a group decides to use a consensus model, there is little or no discussion of what that means, and little knowledge about how to conduct an effective consensus-building process. What tends to happen in such cases is that the voices of the most assertive individuals or those with the most power (informal or formal) dominate and shape the discussion, often with many voices unheard, and without careful deliberation or full consideration of alternatives. This is especially likely when organizations have full agendas and feel pressure to move quickly to get things done. After brief discussion, a decision is proposed by the chair or other powerful member, who, after glancing around the room asks, “Do we have consensus then?” Showing little receptivity and giving scant time for alternatives to be voiced, “consensus” is quickly declared. At the other end of the continuum are groups that, though seeking to follow the true spirit of consensus, are rudderless and seem to get bogged down in endless conversation loops, rehashing the same material over and over, with little sense of progress or movement to a fruitful decision. This primer seeks to assist groups to avoid these of kinds of *pseudo-consensus* traps, and to practice more effective consensus-based decision making.

² Strategic: of great importance within an integrated whole or to a planned effect.

³ Tactical: of or relating to small-scale actions serving a larger purpose; made or carried out with only a limited or immediate end in view.

⁴ Disinterested: Free from selfish motive or interest: unbiased. (See also comment in footnote ¹.)

developing vision and mission statements, and undertaking exercises to build trust. There are many resources readily available to assess a group's readiness along these lines, and to assist groups with such processes. When consensus-building breaks down, it usually points to an absence or shortage in one or more of these conditions. Further comment with respect to some of these conditions is offered throughout this guide.

THE IMPORTANCE OF CREATING A CONDUCIVE SETTING

I have on occasion quipped after an unsatisfying meeting that community development training programs should include a required course solely devoted to how to arrange chairs for a meeting. The point is to highlight the importance of careful attention to conditions that are conducive to good group process. Just the impact of the type of room and seating arrangement on group dynamics are often overlooked and underestimated. Seating should be arranged so that all participants can make good eye contact and readily hear one another. It is amazing to me how much this one factor affects meeting process. Long, narrow boardroom tables are not conducive. Like good hosts at a dinner party, meeting conveners should welcome and encourage participants to connect informally as they begin to gather. Refreshments help. If participants aren't well known to one another, name tags are important, and newcomers should be introduced and warmly welcomed. Extraneous distractions should be minimized so the group can focus. Almost like a formal ceremony, the facilitator should signal a clear opening to the meeting, which includes welcome and introductions, an overview of the purpose/agenda, and in early stages at least, a reminder about process guidelines. The idea is to deliberately create a "container" of dedicated time, space, and purpose, devoted to evoking the emergent process of consensus building.

Making decisions by consensus can be challenging. It asks participants to be mindful and bring their best intentions to the process. When a group begins to work together in this way it may feel awkward at first and take time to develop a group culture conducive to the process. When it works well, it is a very satisfying and energizing process. As group members begin to experience the difference it can make in terms of creativity, quality, commitment to and enthusiasm for decisions and planned actions, it builds the confidence and strength of the group.

DEVELOPING PARTICIPATION GUIDELINES

Developing participation guidelines is a very useful exercise for any group to undertake when forming itself. When a group collaboratively develops guidelines for how it wishes to conduct itself, intentionality and commitment to the group's efforts increases. Here's a suggestion for how to conduct such a process. Pose the following two scenarios, asking each group member to jot down their ideas individually. 1) *Think of a group you have participated in, that you found to be especially dysfunctional or unproductive. What were the factors that you think contributed to the dysfunction.* 2) *Think of a group you have participated in, that you found to be especially effective,*

productive, and satisfying to be part of. What were the factors that you think contributed to its success? Facilitate a group discussion, seeking to build consensus around a set of participation guidelines. Revisit these guidelines regularly, especially when the group is about to undertake a challenging consensus-building process.

I have distilled the following participation guidelines from many years of experience.

In order for the group process to be:

- Enjoyable
- Constructive
- Productive
- Cooperative
- High Quality

Each member agrees to:

- Take responsibility for helping group achieve a positive outcome
- Listen very carefully to what others are saying
- Monitor his/her level of participation (neither dominate nor withhold)
- Be aware of the purpose, stay on topic
- Engage with, build on, respond to the ideas of others
- Express disagreement or concerns constructively and with respect
- Be aware of how both verbal and non-verbal signals impact group dynamics
- Avoid side conversations when we are conducting business in the group as a whole
- Be fully present, for example avoid unnecessary use of smart phones.

PROCEDURES FOR CONSENSUS DECISION MAKING

Consensus-building does not follow a recipe. It is not a mechanical process – there is no algorithm to guide it. It is a quintessentially *dialogical*, emergent human process that incorporates thought, feeling, knowledge, imagination, and lived experience. Nonetheless, it is a process that can be undertaken deliberately, mindfully, and whose broad contours can be mapped and navigated as follows.

1. An issue will emerge, in a meeting, from an agenda item, from a general discussion, or from a member. First, the people connected with the issue explain it. The facilitator ensures that the issue is stated in clear and positive terms.
2. Those present discuss the issue. The facilitator ensures that everyone has an equal opportunity to speak and that the discussion stays focused on the issue at hand. (See *Comments on Facilitation* section.) Members express their thoughts and feelings honestly and succinctly; rather than repeating what has already been well-expressed, a member can simply indicate agreement with others.
3. A common answer to the issue may emerge during discussion with a self-evident decision presenting itself. The decision is stated in positive terms and the facilitator *canvasses each member* to see whether all questions and concerns have been satisfied to the point that all can agree. If so, consensus has been reached and is noted in the minutes (together with an indication of who will take what actions and when, if appropriate).
4. If consensus is not reached, a round may be initiated by the facilitator. In a round, each member in turn has an equal amount of time to comment on the issue, without interruption and without comments from the others (although questions may be asked for clarification only, when the person is finished).⁵ When the round is over, the facilitator summarizes what was said and clarifies the current status of the issue.
5. Individual differences may have merged during the round into a common answer. If so, the facilitator canvasses the group for agreement and the consensus is noted in the minutes.
6. If consensus is still not achieved, a second round may be undertaken.
7. If consensus is still not achieved, the group has to decide:
 - a. Whether progress is being made and further rounds may result in consensus, or
 - b. Whether one or more of the necessary conditions for consensus are not currently being met and if so whether an adjustment can be made to accommodate, or
 - c. If there is some fundamental split in the group, such as a divergence among some members around core values. The matter under contention would likely point to the value(s) in need of clarification.

⁵ In larger groups (e.g., more than 12 to 15), members need to be particularly disciplined and attentive to good group process. Members need to be as economical as possible in their comments, while still expressing what is essential in their view. Members are encouraged to simply indicate agreement if another member expresses well their view, or briefly qualify a viewpoint previously expressed. If issues arise that seem to require more deliberation, one option is to table the item, and charge a working group to go away and further deliberate and bring options back to the larger group.

THE POWER OF THE ROUND

A “round” (as described in the *Procedures* section) is a simple and amazingly powerful technique that, when utilized at an appropriate moment, can help open-up and move along a discussion that has bogged down, or seems to be bouncing around between just a few of the more assertive members of the group. It is especially useful for bringing into the discussion the perspectives of more introverted group members. Whereas more extraverted individuals develop their ideas and get energized by “thinking out loud,” introverts work their ideas through on the inside. Their thorough internal processing often results in more fully formed, richly nuanced perspectives. Introverts tend to need to have some space deliberately opened up for their views to be expressed in the group discussion. More introverted participants can be encouraged to assert themselves and extraverted members reminded to contain themselves as part of the general process guidelines, but it is also incumbent upon the facilitator to be attentive to this dynamic. This is not to disparage extraverts. Both energies are needed, but without deliberate attention to this dynamic, extraverts tend to dominant, and introverts’ contributions are often lost. I have found that deliberately slowing things down and making space for quieter voices by using a “round” has introduced the new idea or creative element that breaks the logjam, synthesizes divergent threads of the discussion, and reconciles apparent contradictions.

OPTIONAL STANCES MEMBERS CAN TAKE

A critical ingredient for success in consensus decision making is the conscious intention of members to participate in a spirit of consensus building. This process is greatly facilitated when members keep in mind and deliberately express themselves in terms of the following optional stances.

Expression of concern: Rather than taking a hard-and-fast negative position, members express their concerns and the reasons for them. This allows room for proposals to be modified to meet the concerns.

Reservations: After fulsome deliberation, one or more members may find a concern has not been satisfactorily addressed, but that they consider that concern relatively minor. The member(s) would then indicate that they have reservations. They might say “I still have some unresolved concerns; I have reservations but I can live with it.”

Non-support or standing aside: This stance allows a member to be clear that they do not agree with or support the proposed decision, without leaving or blocking the group from proceeding. The member might say, “I personally don’t support this, but I won’t stop others from doing it.” The member explicitly states that they are *standing aside* and this is noted in the minutes. If two or more members stand aside, perhaps additional work is required to conceive a more mutual solution.

Blocking or withdrawing from the group: Blocking means "I cannot support this or allow the group to support this. I perceive it to be in contradiction of our core values and/or unethical or immoral." Blocking can only be used very rarely without threatening the viability of the group. It should be a last resort. For blocking to be a viable option, an individual taking such a stand must be very clear, operating from deep conviction, and enjoy the trust and respect of the group. An individual may decide they do not feel justified in blocking the group, but neither can they continue to be a member based on the direction the group has taken.

If consensus breaks down: If several people express non-support, stand aside or leave the group, it may not be a viable decision even if no one directly blocks it. Some groups decide to take "blocking" as an optional stance off the table, and instead opt for a steep super-majority decision rule, such as two-thirds or three-quarters majority, in the event the consensus process seems to have become intractable. Some practitioners of consensus-building argue that to allow this option negates the spirit of consensus. In some situations (e.g., a group or team operating within a hierarchical organizational structure), failure to achieve consensus may result in the decision-making authority defaulting to a "higher authority." Either way, the group needs to decide what they will do if it is unable to achieve consensus. It must be emphasized however, that if the necessary conditions are met, and procedures described in this guide are followed, the prospects for success are very good!

COMMENTS ON FACILITATION

The role of facilitator is very important in consensus-based decision making. Facilitation is a learned skill that can be cultivated with practice, though some people seem to have a knack for it. Personal characteristics of good facilitators may include: experienced with group process, strong intuition, sensitivity and empathy, ability to summarize and synthesize elements of the discussion in clear and succinct terms, humour, and appropriate assertiveness.

The group may have among its membership, and choose to call on to serve the group, someone who is a highly skilled facilitator. If a number of members are skilled facilitators, or if the group wants to assist members to cultivate facilitation skills, it may want to experiment with co-facilitation or rotating the role.

The Role of Facilitator:

- Create a safe and conducive environment for group process – physical space, opening the meeting, providing context, setting tone, establishing participation guidelines.
- Use the agenda to frame discussion points, manage time and help group achieve the meeting's objectives.
- Facilitate the process without unduly influencing the content of the discussion.

- Moderate the discussion as necessary with the “right touch” to ensure everyone has a fair opportunity to participate.
 - Use a “lighter touch” in earlier or emerging phases of a discussion
 - Use more assertive interventions as discussion gets more energetic
- Track and periodically articulate the terms of the discussion as it evolves, seeking validation from the group that the issue is being framed accurately.
- Notice and articulate for the group at opportune moments, points of convergence and divergence in the ongoing group deliberation.
- Stay aware of and remind the group if necessary about consensus procedures, optional stances members may take, and participation guidelines.
- Make appropriate use of the “round” or other instant feedback techniques⁶ as a means of getting a reading on the developing sense of the group.
- Keep the meeting focused and moving at an appropriate pace –
 - Use intuition, pay attention to the energy associated with a discussion point.
 - Make group aware of time, check in to determine whether to continue on a point, table it for later discussion, or move on.
- Reinforce and support both “expression of concerns” and efforts by members to accommodate concerns through propositions that incorporate and synthesize divergent threads.
- Articulate and test for elements of consensus as it begins to emerge.
- If necessary, conduct one or more “rounds,” reminding members to speak economically while encouraging them to express all views relevant and essential to the decision.
- At the decision point, summarize the discussion, formulate the consensus statement in positive terms, and test for consensus.
- If the facilitator feels too emotionally involved in a particular discussion and has difficulty remaining neutral, s/he should ask someone to take over the task of facilitation for that agenda item. (Any group member may suggest that the facilitator consider yielding the chair for a particular discussion or decision point if the facilitator is perceived to be too personally invested in the outcome.)

⁶ For example, ask participants to indicate how they are leaning on a question using by show of hands for pro, con, or noncommittal; thumbs up/down; “clicker” polling technology, etc.

LEARNING THE SKILL OF FACILITATING CONSENSUS BUILDING

Probably the best way of becoming a skilled facilitator of consensus building is to attentively observe the process being conducted by an already experienced and skilled practitioner, while vividly imagining oneself in the role. And then, practice, practice, practice. Early in my career I had the good fortune of observing several skilled consensus builders. The most memorable instance was at the North American Bioregional Congress, which was held in the Grand Traverse Bay area of Michigan in August 1986. A group of about 80 ecological activists from across North America met daily over the course of a week to deliberate and come to consensus on a set of principles and actions to advance the Bioregional movement. Our facilitator was Caroline Estes, who had learned consensus building over the course of 25 years as a practicing Quaker and social activist. In an article published about that time that is still available on-line (<http://www.context.org/iclib/ic07/estes/>), Caroline describes the origins and history of the practice, including a long history and ongoing tradition within indigenous communities. Another excellent practical guide to assist in learning consensus building can be found on the website of the Wiccan social activist Starhawk (<http://starhawk.org/short-consensus-summary/>).

CONCLUSION

In this guide I have tried to offer practical suggestions as well as some more philosophical reflections on the process of consensus-based decision making, based on 35 years experience as a Community Developer.

Whereas a full, formal, consensus-based decision making process is not always necessary or appropriate, the spirit underlying consensus building can be brought by any individual to any group process. In my experience, these attitudes, skills, and stances applied in virtually any setting tends to help a group move in a more creative, inclusive, and healthful direction.

Please direct any comments or feedback on this guide to j.madden@sympatico.ca.

The Basics of Consensus Decision Making

By Tim Hartnett, PhD

<http://www.groupfacilitation.net>

The Definition of Consensus

Consensus is defined by Merriam-Webster's Dictionary as "general agreement" or "the judgment arrived at by most of those concerned."

The Principles of Consensus Decision Making

Consensus decision making is a process used by groups seeking to generate widespread levels of participation and agreement. There are variations among different groups regarding the degree of agreement necessary to finalize a group decision. The process of group deliberation, however, has many common elements that are definitive of consensus decision making. These include:

- **Inclusive:** As many stakeholders as possible are involved in group discussions.
- **Participatory:** All participants are allowed a chance to contribute to the discussion.
- **Collaborative:** The group constructs proposals with input from all interested group members. Any individual authorship of a proposal is subsumed as the group modifies it to include the concerns of all group members.
- **Agreement Seeking:** The goal is to generate as much agreement as possible. Regardless of how much agreement is required to finalize a decision, a group using a consensus process makes a concerted attempt to reach full agreement.
- **Cooperative:** Participants are encouraged to keep the good of the whole group in mind. Each individual's preferences should be voiced so that the group can incorporate all concerns into an emerging proposal. Individual preferences should not, however, obstructively impede the progress of the group.

An Alternative to Common Decision Making Practices

Consensus decision making is an alternative to commonly practiced non-collaborative decision making processes. Robert's Rule of Order, for instance, is a process used by many organizations. The goal of Robert's Rules is to structure the debate and passage of proposals that win approval through majority vote. This process does not emphasize the goal of full agreement. Nor does it foster whole group collaboration and the inclusion of minority concerns in resulting proposals. Critics of Robert's Rules believe that the process can involve adversarial debate and the formation of competing factions. These dynamics may harm group member relationships and undermine the ability of a group to cooperatively implement a contentious decision.

Consensus decision making is also an alternative to “top-down” decision making, commonly practiced in hierarchical groups. Top-down decision making occurs when leaders of a group make decisions in a way does not include the participation of all interested stakeholders. The leaders may (or may not) gather input, but they do not open the deliberation process to the whole group. Proposals are not collaboratively developed, and full agreement is not a primary objective. Critics of top-down decision making believe the process fosters incidence of either complacency or rebellion among disempowered group members. Additionally, the resulting decisions may overlook important concerns of those directly affected. Poor group relationship dynamics and decision implementation problems may result.

Consensus decision making addresses the problems of both Robert’s Rules of Order and top-down models. The goals of the consensus process include:

- **Better Decisions:** Through including the input of all stakeholders the resulting proposals can best address all potential concerns.
- **Better Implementation:** A process that includes and respects all parties, and generates as much agreement as possible sets the stage for greater cooperation in implementing the resulting decisions.
- **Better Group Relationships:** A cooperative, collaborative group atmosphere fosters greater group cohesion and interpersonal connection.

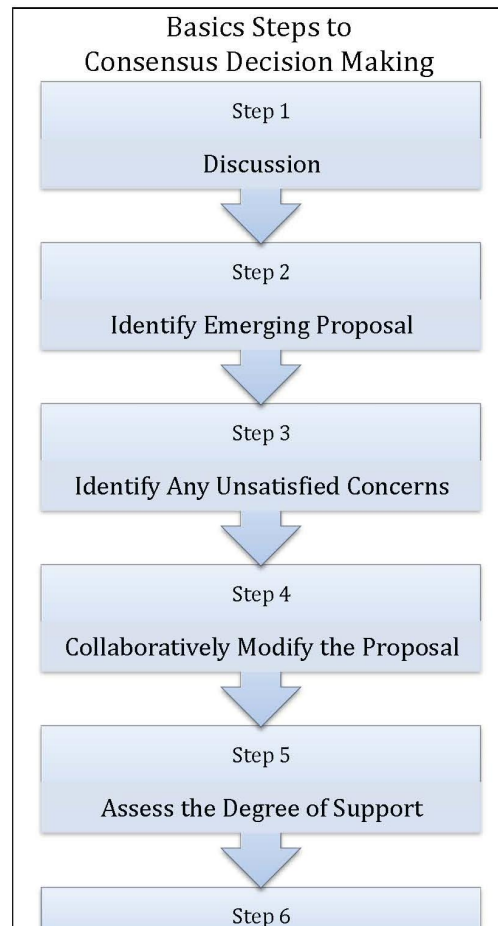
The Process of Consensus Decision Making

There are multiple stepwise models of how to make decisions by consensus. They vary in the amount of detail the steps describe. They also vary depending on how decisions are finalized. The basic model involves collaboratively generating a proposal, identifying unsatisfied concerns, and then modifying the proposal to generate as much agreement as possible.

Finalizing a Decision

The level of agreement necessary to finalize a decision is known as a *decision rule*. The range of possible decision rules varies within the following range:

- Unanimous agreement
- Unanimity minus one vote
- Unanimity minus two votes
- Super majority thresholds (90%, 80%, 75%, two-thirds, and 60% are common).
- Simple majority



- Executive committee decides
- Person-in-charge decides

Some groups require unanimous consent (*unanimity*) to approve group decisions. If any participant objects, he can *block consensus* according to the guidelines described below. These groups use the term *consensus* to denote both the discussion process and the decision rule. Other groups use a consensus process to generate as much agreement as possible, but allow decisions to be finalized with a decision rule that does not require unanimity.

Consensus Blocking

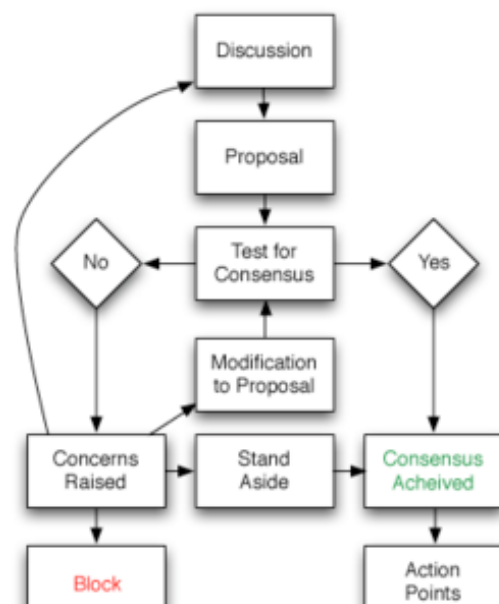
Groups that require unanimity allow individual participants the option of blocking a group decision. This provision motivates a group to make sure that all group members consent to any new proposal before it is adopted. Proper guidelines for the use of this option, however, are important. The ethics of consensus decision making encourage participants to place the good of the whole group above their own individual preferences. When there is potential for a group decision to be blocked, both the group and any dissenters in the group are encouraged to collaborate until agreement can be reached. Simply vetoing a decision is not considered a responsible use of consensus blocking. Some common guidelines for the use of consensus blocking include:

- Limiting the option to block consensus to issues that are fundamental to the group’s mission or potentially disastrous to the group.
- Providing an option for those who do not support a proposal to “stand aside” rather than block.
- Requiring two or more people to block for a proposal to be put aside.
- Require the blocking party to supply an alternative proposal or a process for generating one.
- Limiting each person’s option to block consensus to a handful of times in one’s life.

A basic outline of consensus decision making that allows consensus blocking is outlined in this flow chart.

Agreement vs. Consent

Unanimity is achieved when the full group *consents* to a decision. Giving consent does not necessarily mean that the proposal being considered is one’s first choice. Group members can vote their consent to a proposal because they choose to cooperate with the direction of the group, rather than insist on their personal preference. Sometimes the vote on a proposal is framed,



“Is this proposal something you can live with?” This relaxed threshold for a *yes* vote can help make unanimity more easily achievable. Alternatively, a group member can choose to *stand aside*. Standing aside communicates that while a participant does not necessarily support a group decision, he does not wish to block it.

Debate Over Decision Rules

Critics of consensus blocking object to empowering individuals to block otherwise popular proposals. They believe this can result in a group experience of widespread disagreement, the opposite of a consensus process’s primary goal. Further, they believe group decision making may become stagnated by the high threshold of unanimity. Important decisions may take too long to make, or the status quo may become virtually impossible to change. The resulting tension may undermine group functionality and harm relationships between group members.

Defenders of consensus blocking believe that decision rules short of unanimity do not ensure a rigorous search for full agreement before finalizing decisions. They value the commitment to reaching unanimity and the full collaborative effort this goal requires. They believe that under the right conditions unanimous consent is achievable and the process of getting there strengthens group relationships.

Conditions that Favor Unanimity

The goals of requiring unanimity are only fully realized when a group is successful in reaching it. Thus, it is important to consider what conditions make full agreement more likely. Here are some of the most important factors that improve the chances of successfully reaching unanimity:

- Small group size
- Clear common purpose
- High levels of trust
- Participants well trained in consensus process
- Participants willing to put the best interest of the group before their own
- Participants willing to spend sufficient time in meetings
- Skillful facilitation and agenda preparation

Using Other Decisions Rules with a Consensus Process

Many groups use a consensus decision making process with non-unanimous decision rules. The consensus process can help prevent problems associated with Robert’s Rules of Order or top-down decision making. This allows majority rule or hierarchical organizations to benefit from the collaborative efforts of the whole group and the resulting joint ownership of final proposals. For instance, a small business owner may convene a consensus decision making discussion among her staff to generate a proposal for changes to the business. After the proposal is developed, however, the business owner may retain the authority to accept or reject it.

The benefits of consensus decision making are lost, however, if the final decision is made without regard to the efforts of the whole group. When group leaders or majority factions reject proposals that have been developed with widespread agreement of a group, the goals of consensus decision making will not be realized.

More Elaborate Models of Consensus Decision Making

As the field of group facilitation has evolved, more detailed models of consensus decision making have been developed. One example is the CODM model (consensus-oriented decision making). Newer models focus on the process of group collaboration, increasing understanding within the field of how collaboration can be best fostered and what facilitation techniques can promote it.

Origins of Consensus Decision Making

Historical examples of consensus decision making include the Iroquois Confederacy Grand Council, or Haudenosaunee, who finalized decisions with a 75% majority. Modern usage is often traced to the Quakers, or Religious Society of Friends, who practice unanimity. Activists groups, intentional communities, collective businesses have all developed and refined the process. Professional group facilitators now use the process in a large variety of settings, further developing the model and its effective application.



<http://www.groupfacilitation.net>

WASHINGTON STATE BOARD OF HEALTH BYLAWS

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ARTICLE I: MEMBERSHIP

Members

- The Governor appoints nine members of the Washington State Board of Health (the Board) as described in RCW 43.20.030.
- The Secretary of Health or a designee is the tenth member of the Board.

Terms of Office

- A term of office is three years. The Governor may re-appoint members to additional terms.
- A member whose term has expired may continue to serve until the Governor appoints his or her successor.
- A Board member may resign if he or she is no longer able to participate in Board meetings or complete his or her term, the member must submit a letter of resignation to the Board Chair, and complete the Governor's on-line resignation form.
- As vacancies occur on the Board by resignation, death, incapacity, etc., the vacancy shall be filled by appointment by the Governor for the remainder of the term.

Reimbursement for Expenses

- Board members appointed by the Governor may receive \$50 for each day they attend official Board or committee meetings, or participate in other Board-approved activities. This will be done in accordance with RCW 43.03.240.
- A Board member who works full-time for any federal, state, or local government agency may not be paid for a day of service if they are also paid by their employer for working that day. Appointed

Board members may be reimbursed for expenses associated with Board-approved meetings or activities. Reimbursements will be made consistent with RCW 43.03.050 and 43.03.060.

- As resources allow, meetings or activities for which members may be paid include participation in ad hoc committees; meetings with other government agencies, stakeholders and community groups; or testifying or presenting on behalf of the Board, at legislative meetings or professional conferences.

ARTICLE II: BOARD OFFICERS

Officers

- The officers of the Board consist of the Chair, Vice Chair, and the Chair Pro-Tem.

Elections/Terms of Office

- The Governor will appoint the Chair from among the nine appointed members consistent with RCW 43.20.030.
- The Chair shall serve for the duration of his or her appointment, or until the Governor appoints a successor.
- The Board shall elect a Vice Chair from the remaining eight appointed members. The election shall take place at a Board meeting, by a vote of the Board, preceding the end of the term or resignation of the sitting Vice Chair.
- The Vice Chair's term starts upon election and continues until the end of his or her appointment, until the Vice Chair resigns, or upon the request for replacement by the Chair that receives the concurrence of a majority of the Board.
- If both the Chair and Vice Chair are absent or have recused themselves from a meeting or agenda item, Board members shall elect one of the remaining members present to serve as Chair Pro-Tem.
- The Chair Pro-Tem shall serve for the duration of the absence or recusal.

correspondence that reflects the Board's position on matters that aren't purely administrative in nature. This includes correspondence with the Legislature and other government agencies on matters of policy. The Chair may ask the Executive Director to sign correspondence as appropriate.

- The Vice Chair acts in the capacity of the Chair when the Chair is absent or recused because of a conflict of interest, or is otherwise unable to serve.
- The Chair Pro-Tem presides during Board meetings when the Chair and Vice Chair are absent or are otherwise unable to preside.

Duties of Officers

- The Chair provides overall leadership to the Board, presides at all meetings and has all powers and duties conferred by law and these bylaws. The Chair or a designee shall represent the Board at official functions. The Chair shall approve and sign

ARTICLE III: MEETINGS OF THE BOARD

Regular Board Meetings

- All Board meetings are subject to the Open Public Meetings Act Chapter 42.30 RCW.
- The Board shall adopt an annual schedule of dates and locations for regular meetings for each calendar year, and shall file it for publication with the Code Reviser. Agendas for regular meetings shall be posted to the Board's website 24 hours in advance, as required by RCW 42.30.077
- Regular meetings will generally take place on the second Wednesday of the month. As resources allow, meetings will occur at locations across the state.
- Any changes to the annual schedule shall be made at the discretion of the Board Chair, with the approval of the Board.
- The Chair or Executive Director may cancel a regular Board meeting for justifiable reasons, including the lack of sufficient agenda items.
- If the Board is unable to meet at a meeting location due to natural disaster including but not limited to fire, flood, earthquake, or other emergency, and the Board needs to meet to address the emergency, the Chair may move the meeting site to a place other than the published meeting site. Board staff will post the new meeting location to the Board's website and will send notice to interested parties at least one day before the meeting at the new site.

Special Board Meetings

- The Chair may call a special meeting of the Board at any time.
- Notice of a special meeting shall be provided in accordance with the Open Public Meetings Act, Chapter 42.30 RCW. Board staff will post the meeting announcement on the Board's website and will send notice by electronic mail to interested parties, 24 hours in advance of the meeting. The public notice will include a brief description of the meeting topics and specify the time and place.
- The Board may not take final action on any item that is not listed in the public notice.

Adjournment

- The Board may postpone a portion of any meeting already in progress and reconvene at another time and/or place by adopting a motion to adjourn. The motion must specify where and when the meeting will resume.
- A majority vote of the Board members at a meeting can approve a motion to adjourn even if there is not a quorum present. If all members are absent from a meeting, the Chair or Board staff may adjourn the meeting to a stated time and place.
- Whenever the Board adjourns a meeting, a notice of adjournment shall be conspicuously posted immediately on or near the door of the room where the meeting was held. The notice should include when and where the meeting will resume.

ARTICLE III: MEETINGS OF THE BOARD (CONT'D)

Hearing Continuances

- The Board may continue any hearing to a subsequent meeting by adopting a motion to continue consistent with RCW 42.30.100.
- For rulemaking, the Board must specify the place and time of a continued hearing in the motion to continue consistent with RCW 34.05.325(5).
- The Board must provide notice on the subsequent meeting agenda whether it is continuing public testimony or comment, or whether there will only be Board member discussion and possible action. Based on Board discussion, the Chair may choose to take additional comment or testimony.
- The Board will provide notice of a continuance consistent with RCW 42.30.090.

Meetings to be Open and Public

- All meetings of the Board, except for executive sessions are open to the public.
- The Board may meet in executive session, and exclude the public only under special circumstances listed in RCW 42.30.110. Before convening in executive session, the Chair will publicly announce the reason for excluding the public and the time when the executive session will end. If the meeting continues beyond the stated time, the Chair must publicly announce the extension and a new ending time.
- The Board may adopt a resolution, rule, order, or directive only in an open public meeting that has been properly noticed.
- The Board shall hold all meetings in facilities that are accessible to individuals with disabilities.
- The Board may not require a member of the public to register his or her name and other information, complete a questionnaire, or perform any other action as a precondition for attending a Board meeting.

Meetings Interrupted by Group or Groups of Persons

- If the disorderly conduct of a person or group of people makes it impractical to continue a Board meeting, the Chair of the Board should first order that the individuals interrupting the meeting leave the room. If that action fails to restore order, the Chair of the Board can clear the room. It can also adjourn the meeting and reconvene at another place selected by a majority vote of the Board members.
- If the Board clears the room or adjourns to another location, it may only act (vote) on matters that appeared on the approved meeting agenda.
- Representatives of the press or other news media, except those participating in the disturbance, must be allowed to attend even if the room has been cleared or the Board has reconvened elsewhere.
- The Board may determine how it might readmit any individuals who were not disrupting the meeting.

Meeting Minutes and Agendas

- Board staff shall take written minutes of all regular and special Board meetings. Board staff shall accurately capture the action of the Board on each question, and shall prepare the minutes for Board approval at the next regularly scheduled meeting.
- Board staff shall retain meeting minutes, agendas and materials consistent with record retention schedules and shall then transfer these records to the State archives for permanent retention.
- Board staff shall post a preliminary draft of the agenda for the next regularly scheduled Board meeting on the Board's website at least 14 days prior to meeting.
- Board staff shall post the final proposed agenda for the next regularly scheduled Board meeting on the Board's website at least seven days prior to the meeting.

ARTICLE III: MEETINGS OF THE BOARD (CONT'D)

- Board staff shall post minutes for the previous Board meeting and materials for the next regular meeting to the website at least five days prior to the next regular Board meeting date.
- Board members should review all posted meeting materials prior to the meeting.
- Minutes approved by the Board shall be made available on the Board's web site and distributed on request within three business days of adoption.
- Public notices and agendas regarding Board meetings shall include a statement that accommodations may be provided with advance written notice to Board staff. The public notice shall include contact information for making such requests.

Meeting Attendance

- All Board and Committee meetings should be attended by at least one member of the Board staff.
- Board staff taking the minutes shall record member attendance.

ARTICLE IV: MEETINGS PROCEDURES

Quorum

- A quorum is six (6) members of the Board.
- The Board may discuss issues and deal with administrative matters in the absence of a quorum, but it may adopt any resolution, rule, order, or directive during a meeting only if a quorum is present.
- The Board may entertain a motion to adjourn without a quorum.
- Anyone participating in the meeting, including a member of the public in the audience, may call for a roll call at any time after a quorum has been established. If a quorum is not present at the time of the roll call, no further actions can be taken by the Board unless additional members enter the room and re-establish a quorum.

Order of Business

- The final agenda will detail the order of business. The Chair has discretion to modify the agenda during the meeting to manage time. The Chair may not eliminate items from the agenda without concurrence of the Board.

Public Comment

- The Board Chair may solicit public comment on any agenda items during regular Board meetings.
- The Chair may determine the amount of time for public comment by each speaker based on the number of speakers, time available, and topics to be addressed.
- All regular meeting agendas shall include an item allowing for public comment. During these public comment periods, speakers may address any issue related to the Board's authority or public health.

ARTICLE IV: MEETINGS PROCEDURES (CONT'D)

Motions, Resolutions, and Rules

- All Board actions must be expressed by motion.
- To be accepted (passed), a motion must receive a majority of votes of the Board members present to be valid.
- Staff shall record all motions in the minutes.
- In the event that the Board takes an action that directly impacts a specific person or organization (such as a complaint, petition for rulemaking, or request for variance), staff shall notify the person or organization impacted in writing.
- No Board member or staff may use his or her position with the Board to endorse or oppose an issue unless a majority vote of the members of the Board approve of the position on the issue.
- The Board may adopt a policy that authorizes the Chair or a designee to represent the Board on issues before the Legislature.

Manner of Voting

- All votes, including those for elections, motions, and resolutions shall be voice vote.
- In lieu of voice vote, a Board member may request a roll call or show of hands vote.

Rules of Procedure

- The procedures used to conduct Board business will be determined by these bylaws, the Administrative Procedures Act, the Open Public Meetings Act, and the Board's authorizing statute, Chapter 43.20 RCW.
- If a procedural issue arises that is not covered by these bylaws and applicable state laws, and the Board cannot reach consensus on how to proceed, the Board will follow the procedures contained in the most current version of Robert's Rules of Order.
- Board staff shall provide a copy of Robert's Rules of Order at all Board meetings.

ARTICLE V: COMMITTEES OF THE BOARD

Policy Committees

- The Board may establish policy committees to help execute its work. Committees are advisory in nature and may make recommendations to the Board for Board action.
- Policy committees may consist of up to five Board members who volunteer to serve on the committee. Standing committees do not include members of the public as members.
- Each policy committee must select a Committee Chair.
- The Executive Director shall identify a lead staff person to support each policy committee.
- Board staff shall create a written summary of each policy committee meeting, and shall prepare the summary for policy committee approval at the next committee meeting.
- Board staff shall retain the summary and agendas consistent with record retention schedules, and shall then transfer these records to the State archives for permanent retention.

Ad Hoc Committees

- The Board may establish Ad-Hoc Committees to fulfill specific tasks.
- Ad-Hoc Committees shall be comprised of members recommended by Board members or staff.
- The committee must disband when it completes its assigned task(s).
- Each Ad-Hoc Committee shall select a Committee Chair unless one is selected by the Board.
- Ad-Hoc Committees may include subject matter experts or members of the public.
- All committee meetings are open and will be conducted as special meetings under the Open Public Meetings Act in accordance with RCW 42.30.080.

ARTICLE VI: AMENDMENTS

Amendment to the Bylaws

- Board Bylaws may be amended upon a two-thirds majority vote of the Board.

ARTICLE VII: CONSTRUCTION

Liberal Construction of Rules

- The Board will interpret these bylaws in a manner that best protects the public's health and furthers the intents of Chapter 43.20 RCW.