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Dear DOJ and EPA leadership,

We, the undersigned individuals and organizations, write to express deep dismay over the United States Environmental Protection Agency's (EPA) abrupt [termination](#) of three complaints filed under Title VI of the Civil Rights Act of 1964 (Title VI) by Louisiana residents, as well as EPA's subsequent wholly inadequate [settlement](#) of a Title VI complaint filed by residents of Flint, Michigan.

The United States Department of Justice (DOJ) and the EPA have a duty under Title VI to ensure that states comply with their statutory obligations to administer federal funds without discrimination. Louisiana state officials have long sacrificed the health, lives, and livelihoods of Black communities between Baton Rouge and New Orleans and in other industrialized areas in service of housing a quarter of this country's petrochemical production. Michigan officials have resisted complying with past informal resolution agreements even after EPA issued formal findings of discrimination against the state's environmental agency. Further, Michigan's environmental agency has continued to issue permits that contribute to the cumulative burden in marginalized communities such as Flint, a community that suffered one of the worst public health crises this country has ever known. Neither state's actions meet the requirements of Title VI.

The Biden-Harris Administration has committed to advancing civil rights for communities long bearing the brunt of the cumulative impacts of racial segregation and extractive polluting

industries. Notably, [Executive Order 14096](#), *Revitalizing Our Nation's Commitment to Environmental Justice for All*, issued on April 21, 2023, orders that the federal government

must advance environmental justice for all by implementing and enforcing the Nation's environmental and civil rights laws, preventing pollution, addressing climate change and its effects, and working to clean up legacy pollution that is harming human health and the environment[.]

The EPA and DOJ have each made similar commitments to strengthening the enforcement of environmental and civil rights laws “to ensure violations in environmental justice communities don’t go unpunished[.]” [as stated](#) by EPA Administrator Michael Regan to the White House Environmental Justice Advisory Council in 2021.

In spite of these commitments, the EPA’s disposition of these complaints occurred without providing meaningful relief to residents of St. John the Baptist and St. James Parishes in Louisiana and Flint, Michigan. Residents in these frontline communities have been advocating for decades to redress the cumulative impacts of legacy pollution in their communities. Together, EPA’s recent decisions send a message to state and local agencies and other recipients of federal funds that they can continue to ignore their obligations under Title VI and avoid accountability for their discriminatory actions.

St. John the Baptist Parish, St. James Parish, and the Louisiana Industrial Corridor

In January 2022, Concerned Citizens of St. John and the Sierra Club filed a Title VI [complaint](#) against the Louisiana Department of Environmental Quality (LDEQ) and the Louisiana Department of Health (LDH) for actions that subjected Black residents of St. John the Baptist Parish to disproportionate air pollution, including ethylene oxide and chloroprene, both of which are carcinogenic. One month later, Stop the Wallace Grain Terminal, Inclusive Louisiana, RISE St. James, and the Louisiana Bucket Brigade filed a second Title VI [complaint](#) against LDEQ for failing to consider disproportionate pollution impacts on majority Black communities when issuing new and modified air permits.

On April 6, 2022, EPA accepted both complaints filed against LDEQ and initiated an investigation. On October 12, 2022, the EPA issued a [“Letter of Concern”](#) “to present significant evidence suggesting that [LDEQ’s and LDH’s] actions or inactions have resulted and continue to result in disparate adverse impacts on Black residents of St. John the Baptist Parish, St. James Parish, and the Industrial Corridor[.]” Subsequently, LDEQ, LDH, and EPA began an informal resolution agreement (IRA) process to resolve the complaints. During the course of the continued IRA negotiations, EPA put forth a draft IRA agreement that would have transformed the air permitting process in Louisiana; under the draft IRA agreement, LDEQ would agree to consider potential discrimination that would result from a proposed permit before it reached a decision, including determining whether a community is already exposed to disproportionate levels of pollution.

Then, on May 24, 2023, the State of Louisiana [sued](#) the federal government, challenging the legality of the EPA’s regulations implementing Title VI, and in particular, the disparate impact standard. In response, on June 27, EPA abruptly closed the three civil rights complaints and

ongoing investigation into the State of Louisiana, without making any findings or providing relief. In its [notice](#) to the court, EPA promised to “not initiate under Title VI or other civil rights laws any further action, enforcement or otherwise, in response” to the complaints.

Flint, Michigan

In November 2021, the Environmental Transformation Movement of Flint, Flint Rising, and St. Francis Prayer Center (“Flint Complainants”) filed a [complaint](#) alleging that the Michigan Department of Environment, Great Lakes, and Energy (EGLE)’s decision to authorize the Ajax Materials Corporation Hot Mix Asphalt Plant in an overwhelmingly Black and low-income community in North Flint violated Title VI of the Civil Rights Act. The Flint Complainants also alleged that EGLE’s entire air permitting program discriminated on the basis of race. They also filed a Title VI and Title VIII complaint with the Department of Housing and Urban Development (HUD) alleging that the Genesee Township permitting that EGLE relied upon to justify its permit approval to Ajax was motivated by racial animus and caused an adverse disparate impact.

After the EPA accepted the complaint for investigation, the agency invited the Flint Complainants to participate in a new “IRA Plus” process. While historically EPA has negotiated informal resolution agreements with state environmental agencies through closed-door meetings, EPA has recently piloted a program permitting Title VI complainants to participate in the negotiations. The Flint Complainants were hopeful that this process would be fruitful in producing an IRA that would transform EGLE’s air permitting program to prevent discrimination against environmental justice communities like Flint and achieve greater public health and environmental protection. Complainants participated in weekly negotiations for months, working through important proposed changes to EGLE’s administration of the CAA that would assess and address the cumulative burdens. Unfortunately, at the eleventh hour and shortly after EPA closed the Louisiana complaints, EGLE scratched the draft of many months and replaced it with a new agreement that eliminated changes to the air permitting program and the addition of air monitoring in the community.

Rather than defend the agreement that was the product of months of community engagement, EPA accepted EGLE’s watered-down agreement.

Ongoing State Hostility to Title VI Requires Decisive Action, Not Retreat.

Given the Biden-Harris Administration’s commitment to advancing environmental justice, environmental justice and frontline communities in Louisiana, Michigan, and across the nation expect that EPA and DOJ will aggressively enforce our nation’s civil rights laws, including Title VI. We know from history that aggressive enforcement of federal civil rights laws will be met with resistance. We acknowledge mounting state and local governments’ hostility to civil rights obligations. We also acknowledge the very real concerns presented by a federal judiciary that has rolled back civil rights protections and begun to dismantle the administrative state.

In light of state and local governments' resistance to the enforcement of civil rights laws, Black residents of St. John the Baptist and St. James Parishes and Flint sought redress from EPA—expecting the agency would use its full power and authority to hold state officials to account.

Sadly, rather than using that power and authority, EPA and DOJ capitulated to challenges to both EPA's enforcement authority and the validity of EPA's Title VI regulations themselves. Environmental justice and frontline communities need EPA and DOJ to ensure that violations of federal civil rights and environmental laws do not go unpunished, by taking decisive action to defend and enforce Title VI, and obtaining meaningful relief to remedy unlawful racial discrimination against individuals and communities.

On behalf of the undersigned organizations and individuals, we urge the EPA and DOJ to follow through on the Biden-Harris Administration's stated commitment to advance racial equity throughout the federal government and take the following steps to ensure strong enforcement of civil rights and environmental laws:

Defend EPA's authority to investigate and resolve Title VI complaints with active involvement of complainants.

- Do not dismiss meritorious complaints or water down resolution agreements in response to political pressure or fear of litigation.
- Defend against any challenges to EPA's authority to involve complainants in the investigation and resolution of Title VI complaints.

Fully enforce and monitor compliance with civil rights laws in environmental justice communities.

- Initiate and complete investigations under Title VI and other civil rights laws, including pursuing cases involving intentional discrimination and/or disparate impacts.
- Issue "Dear Colleague" letters to federal funding recipients to alert them that if they are not complying with Title VI, they will risk the loss of federal funding.
- Demonstrate to federal funding recipients that violating Title VI has serious consequences and will be met with findings of discrimination and termination, suspension, or denial of federal funding. Alternatively, EPA and DOJ should pursue enforcement actions against any federal funding recipient unwilling to comply with civil rights obligations.
- Conduct consistent pre- and post-award affirmative compliance reviews.
- Release legal guidance on civil rights, including on civil rights compliance in the permitting and enforcement context and how to consider the impacts of cumulative burdens on environmental justice and frontline communities when evaluating disparate impacts and intentional discrimination under civil rights law.
- Ensure that DOJ's Federal Coordination and Compliance Section is actively engaged in enforcement and compliance matters where multiple federal agency Title VI complaints have been filed against a jurisdiction.
- Require federal funding recipients to engage in meaningful ways with frontline communities in permitting and enforcement. While public hearings are one engagement tool, they are not a substitute for meetings and question and answer sessions where the federal funding recipients provide information to the affected communities.
- Secure the necessary staffing so that EPA and DOJ can fulfill their obligations to enforce Title VI and E.O. 14096.
- Do not prioritize enforcement of environmental laws at the expense of, or as a replacement for, the enforcement of civil rights laws. The EPA must recognize that environmental laws, as written, are necessary but insufficient to address the cumulative impacts of multiple

environmental and public health burdens or to correct for systemic discrimination in permitting and enforcement.

Fully enforce and monitor compliance with environmental statutes in environmental justice communities.

- Use all of EPA’s available enforcement tools to protect communities that experience disproportionate exposure to environmental harm. For example, EPA should increase the frequency with which it employs imminent and substantial endangerment provisions in environmental laws.
- Address the threats to civil rights posed by allowing states to lead on permitting and enforcement authority under federal environmental laws.
- Enhance monitoring under every environmental law. For instance, in the context of the Clean Air Act, EPA should (1) ensure each state’s ambient air monitoring network provides adequate monitoring in frontline communities; (2) provide impacted residents with access to all needed air monitoring tools; and (3) use its authority under Section 114 of the Clean Air Act to require facilities to add fence-line monitors with publicly available results when there are concerns about the facilities’ compliance.
- Integrate a civil rights lens in EPA’s oversight role implementing environmental statutes. For example, in its Clean Air Act role, EPA can demand substantive policy changes to satisfy civil rights issues through states’ necessary assurances demonstrations when EPA approves State Implementation Plans (SIPs) and EPA can demand strict compliance with SIPs by using highway funding sanctions to compel states to protect EJ communities.

Make systemic changes to empower community stakeholders in enforcement.

- Actively include the community residents most impacted by environmental burdens in the initiation, investigation, and resolution of civil rights and environmental enforcement efforts. Ensure that impacted community members have a role in the enforcement of any Title VI resolution agreement.¹

Address systemic deficiencies in federal enforcement power.

- Exercise rulemaking authority to promulgate strong requirements under the Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act, among other statutes, to require the comprehensive consideration of preexisting and cumulative impacts.
- Articulate vocal support for the passage of the Environmental Justice for All Act, a legislative proposal developed in close collaboration with environmental justice leadership designed to address systemic gaps in environmental justice and civil rights enforcement authority.

In sum, we call on the EPA, DOJ, and all federal agencies obligated under Executive Order 14096, to advance environmental justice by engaging in robust enforcement of civil rights and environmental laws across the nation—not simply in states willing to cooperate with federal interventions. The Biden-Harris Administration must take seriously the obligation to defend the

¹ While EPA does not regularly engage impacted complainants in the resolution of civil rights enforcement actions, other federal agencies, such as the U.S. Department of Housing and Urban Development, have long resolved civil rights complaints with complainants directly at the table during negotiations. See e.g., FHEO 2023-21-01, 5-6.

hard-fought wins of the Civil Rights Movement and advance an agenda of racial and environmental justice for the future. We are eager to meet with you to discuss next steps.

Signatories:

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