

FRN to Modernize Civil Works

Comments Summary Document

ENVIRONMENTAL JUSTICE

This section contains summaries of both oral and written comments on the Army's FRN to Modernize Civil Works outreach effort that are related to the policy initiative on environmental justice.

1.0 General Comments on Environmental Justice

1.1 *General support.*

A majority of commenters stated that the positive impact of this modernization on environmental justice cannot be understated, and I strongly encourage the USACE to move forward with the proposal. The act of recognition of these communities is a large step in the right direction. All of the Modernize Civil Works policy initiatives are related to environmental justice.

1.2 *Implementation.*

Policy initiative on environmental justice is useless unless it is implemented. There is no environmental justice unless there is a consequence for not following the policy. There should not be loopholes or too much flexibility allowing for it to not be applied. It should not be viewed as a regulatory hurdle or a check-box exercise.

2.0 Climate Change

2.1 *Climate change is an environmental justice issue.*

A few commenters stated that the Corps must consider climate change and sea level change throughout their processes as an environmental justice issue.

2.2 *Climate-forced displacement.*

A few commenters stated that Tribes are experiencing human rights violations as a consequence of the government's failure to protect, promote and fulfill each Tribe's right to self-determination to protect Tribal members from climate impacts. Climate-forced displacement threatens the full enjoyment of a wide range of human rights.

3.0 Projects and Process

3.1 *The Corps' projects have been harming environmental justice communities.*

A commenter stated that the Corps is harming marginalized communities in Corpus Christi and the Coastal Bend as it has historically this should not be allowed to continue. Another commenter noted that Tribal voices have not been heard or accounted for in Corps actions.

3.2 *Transparency and FOIAs*

A commenter expressed concerns regarding being forced to either submit Freedom of Information requests or travel all the way to Galveston to look at the EIS for projects in their area. Some other commenters noted there was a lack of transparency from the Corps on their actions, in particular on effects/impacts to EJ communities. One commenter also requested more transparency from the Corps on internal process reviews.

3.3 *Funding.*

A few commenters expressed that the Corps should provide funding to Tribes and communities harmed by Corps projects to restore their lands. Assist the Tribes in protecting and restoring their homelands to the extent possible. Others stated the Corps needs to provide funding to Tribes when they share information that assists on a project or provides Indigenous knowledge or conducts surveys.

3.4 *Federal relocation.*

A few commenters stated that the Corps should create a Federal relocation institutional framework that is based in human rights protections to adequately respond to the threats facing Tribal Nations. Allocate funding for adaptation measures for Tribes experiencing increased sea-level rise; Respect the inherent sovereignty of the resettlement decisions of the Tribal communities by implementing and upholding their decisions relating to resettlement.

3.5 *Shared land ownership.*

One commenter provided that the Corps should work with the State government of Louisiana to explore and develop models of shared land ownership that would ensure the protection of land and the promotion of healthy ecosystems and land rejuvenation.

3.6 *For all citizens.*

One commenter provided that the Corps should promote a healthy SAFE environment in which to live, work and play for ALL our nation's citizens not just potentially disparaged communities from ill effects of industrialization of our offshore waters.

3.7 *Consider fishermen and other local economic communities when authorizing offshore projects.*

A commenter stated that the Corps should consider fishermen and other local economic communities when authorizing offshore projects.

3.8 *Account for EJ in all stages of decision-making.*

Several commenters stated that the Corps should account for potential effects on EJ communities throughout all stages of the decision-making process. Also should be a comprehensive look, not just a narrow focus. Tribes view the environment as having no bounds and effects are not just limited in impact.

3.9 *Natural and nature-based solutions.*

A few commenters stated the Corps should prioritize natural and nature-based solutions, when possible, in order to provide co-benefits to affected communities that would not flow from structural measures.

3.10 *WRDA Pilot Programs.*

A commenter provided that the Corps should take steps to implement the Pilot Programs for Economically Disadvantaged and Rural Communities as soon as possible. This would provide much needed resources to the communities that are most threatened by flooding and the increased frequency of natural disasters that has accompanied climate change.

3.11 *Equitable allocation of resources.*

A few commenters provided that the Corps should ensure that Civil Works resources are allocated equitably to the communities and populations with the greatest need, as determined by physical, environmental, and social vulnerability.

3.12 *Retroactive consideration of harms.*

Several commenters stated that the Corps should emphasize that enjoying the same degree of protections today requires proactive redress of past unequal access to the benefits of Civil Works services and unequal burdens from past infrastructure decisions. Section 10 of the interim guidance should specify that project planning should involve examination not only of the impacts of current and future USACE projects, but also disparate benefits and burdens of past USACE planning and investment.

3.13 *Cost-sharing.*

A few commenters provided that the Corps should maximize the use of flexibility available under existing authorities to help underserved communities meet cost-share obligations. USACE should offer guidance and training on match eligibility (in-kind, etc.), highlight programs with favorable rates for Tribes or underserved communities, and provide maximum flexibility in allowing other sources of funding to serve as match.

3.14 *Missouri River*

A few commenters stated that the Pick Sloan program in the Missouri River Basin is an environmental justice nightmare. The costs and injuries continue to accrue. The Corps does not consider the costs to Tribal equities and relocations or the long-term social economic impacts to Tribal Nations. Corps water supply and reservoir management is an environmental justice issue for economics, health and safety, cultural and Tribal resources. The Corps should host a series of meetings with the Tribes to discuss the operations. We have treaty rights to fish, gather, garden, etc., and those are not being upheld. It is a continued environmental injustice. Consider co-management with Tribes.

4.0 Engagement

4.1 *Engage with frontline communities and Indigenous people.*

A commenter stated that the Corps must engage frontline communities and Indigenous people where projects are proposed. Ensure Indigenous knowledge is considered in engagement, consideration of impacts, and solutions. Tribal Nations bring the respect of what the Earth means to them as a Mother

and when we are not listened to or respected that is an environmental injustice. Tribal Nations should come first above states/local agencies, etc., in communication materials.

4.2 *More robust engagement.*

A number of commenters expressed concerns that the Corps employ more robust analysis methods to identify and engage with environmental justice communities. Corps should take a more proactive approach to EJ issues by engaging with communities before plans are developed, in order to incorporate community concerns into all of the potential alternatives. A few other commenters noted that there was siloed communication at the Corps which was harmful to Tribal Nations.

4.3 *The Corps should devote funding to witness impacts of the expansion of oil infrastructure in the Gulf Coast region and speak directly with community and Tribal leaders about these impacts.*

A commenter stated that the Corps should devote funding to send staff and decision makers to Tribal lands and frontline communities to witness impacts of the expansion of oil, gas, and petrochemical infrastructure in the Gulf Coast region and speak directly with community and Tribal leaders about these impacts.

4.4 *Increase accessibility.*

One commenter stated that increased accessibility could look like direct community outreach, placing of advertisements and information in local papers, and engagement with community and Tribal social media accounts. Underserved populations are less able to participate in or have been previously excluded from public engagement processes and are less likely to have their needs considered in infrastructure planning processes.

4.5 *Language justice.*

A few commenters stated that there are a diverse set of communities, who do not all consider English as their primary language. The Corps should ensure that public communications are translated into locally spoken languages.

4.6 *Collaboration with Tribes, states and local governments.*

Several commenters stated that the Corps should ensure efficient collaboration with states and territories on shared regulatory, resource management, and restoration missions. USACE should support Districts and Divisions to partner with coastal programs to sustain long-term engagement and technical assistance to underserved communities. Districts and Divisions should coordinate with coastal programs to learn about existing outreach, resilience, conservation, and restoration effort in target communities. Coastal programs can provide coordination assistance to ensure that USACE investments integrate with and augment existing efforts, maximizing cost effectiveness, multiplying beneficial impacts, and avoiding duplication.

4.7 *Local empowerment.*

A few commenters stated that USACE should provide consistent, reliable funding for local planning efforts led by trusted community-based organizations so that historically underserved communities can define for themselves their infrastructure or community needs. USACE should develop methods for

District staff to meet the community where they are, addressing the needs prioritized by the community. Where Districts cannot adjust internal procedures and policies to meet these engagement needs, USACE should fund third-party contracting to fulfill these needs.

5.0 Identification

5.1 *CEQ CEJST Tool is inadequate.*

A commenter stated that the current definition of Environmental Justice Communities of Concern in the CEJST tool is lacking.

5.2 *CEQ CEJST and EPAs EJScreen Tool are acceptable.*

One commenter stated that the CEJST and EPA EJScreen tools are acceptable for Corps use in identifying and describing EJ communities.

5.3 *Census tract data.*

One commenter stated that disadvantaged communities should be tracked down to the census tract level. Failure to apply the disadvantaged community tracking down to the census level would underserve these communities and is not consistent with the goals of Justice40.

5.4 *Corps Regulatory permit decisions should be considered in Civil Works and EJ screening and vice versa.*

A commenter expressed concerns that the Corps does not include Regulatory Program-issued permit decisions in environmental justice considerations for Civil Works projects and that permit decisions and their impacts should be included in the EPA EJ Screen Tool. Another commenter stated that Regulatory and Civil Works actions must be considered cumulatively when considering impacts to EJ communities.

5.5 *Recommended EJ Methodology.*

One commenter provided a methodology for identification of EJ communities: The three steps were 1) A Block Group analysis –now standard in EJ Screen, although lacking in the CEJST. 2) Examining the difference between Block Group and Demographics of the Parish or County. a) Counties and Parish governments are often the mechanism for discrimination in public expenditures. 3) Assessing disparate adverse impact.