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Thank you for inviting me to provide testimony about my knowledge and understanding of the environmental justice aspects of the Flint water crisis. I have been on the faculty at the University of Michigan since 1987 and nearly throughout that entire period I have been studying racial and socioeconomic disparities in the distribution of environmental hazards, in the city of Detroit, the State of Michigan, and nationally. I am a quantitative researcher and many of my studies have involved linking environmental data with census or survey data and then analyzing the demographic composition of the neighborhoods in the vicinity of environmentally hazardous sites. I have published numerous articles on the subject of environmental justice, some of which are listed in the Reference section below. I also teach classes at the University of Michigan on environmental justice and have been doing so since 1989.

During my career I have often been asked for my advice about matters pertaining to environmental inequalities and environmental justice, including by activists, nonprofit organizations, both state and federal agencies, and the U.S. Congress. I co-organized with Professor Bunyan Bryant the 1990 Michigan Conference on Race and the Incidence of Environmental Hazards, which was credited by the U.S. Environmental Protection Agency (U.S. EPA 1992) as one of two events that brought the issue of environmental injustice to the Agency's attention. Professor Bryant and I also founded the Environmental Justice Program at the University of Michigan in 1992, the first to offer degrees in the field of Environmental Justice. In addition I have served on the U.S. EPA's National Environmental Justice Advisory Council (NEJAC) from 2007 to 2013, the State of Michigan's Environmental Justice Working Group which was charged with developing an implementation plan for the Governor's Environmental Justice Executive Directive from 2008 to 2010, and on other advisory bodies.

I have been asked to respond to a number of questions concerning what "environmental justice" and "environmental racism" are and in what ways the Flint water crisis is an example of both injustice and racism. I begin with defining "environmental justice".

What is "environmental justice"?

Environmental justice can be and has been defined as a right. For example, the Asian Pacific Environmental Network (APEN) defines it as "the right to a decent, safe quality of life for people of all races, incomes and cultures in the environments where we live, work, play, learn and pray" (http://archive.apen4ej.org/issues_what.htm).

Another way of saying this is that: "Environmental justice is the right of everyone to a clean, healthy, and safe environment in which to live, work, learn, play, and pray."

The 17 Principles of Environmental Justice

Environmental justice as a right was recognized by delegates to the First National People of Color Environmental Leadership Summit held in October 1991 in Washington, D.C. (<http://www.ejnet.org/ej/principles.html>). At this Summit, environmental justice leaders from across the U.S. elaborated and articulated this right into "17 Principles of Environmental Justice", a list of which I am attaching to the end of my testimony. Half of the 17 Principles explicitly incorporate the term "right" into

them. For example, Principle 1 states that: “1) **Environmental Justice** affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction. Principle 8 states that: “**Environmental Justice** affirms the right of all workers to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.” Principle 10 states: “**Environmental Justice** considers governmental acts of environmental injustice a violation of international law, the Universal Declaration on Human Rights, and the United Nations Convention on Genocide.” See also Principles 3, 4, 5, 7, and 9. Environmental injustice occurs when these rights and principles are violated.

The U.S. EPA’s Definition of Environmental Justice

The U.S. Environmental Protection Agency (EPA) also provides a working definition of environmental justice that is consistent with the 17 Environmental Justice Principles, although EPA’s definition is not as broad. The EPA states that (<https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>):

“Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

Meaningful involvement means: a) People have an opportunity to participate in decisions about activities that may affect their environment and/or health, b) The public’s contribution can influence the regulatory agency’s decision, c) Community concerns will be considered in the decision making process, and d) Decision makers will seek out and facilitate the involvement of those potentially affected.”

Thus, EPA’s definition of “fair treatment” affirms that there should be fairness in the distribution of environmental quality for all, while “meaningful involvement” affirms that those who would be affected by decisions impacting their neighborhoods and quality of life should be given a meaningful voice in those decisions.

EPA’s notion of “fair treatment” is consistent with the 17 Principles of Environmental Justice. For example, Principle 6 states that: “**Environmental Justice** demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.” Principle 8 states that: “**Environmental Justice** affirms the right of all workers to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.” Principle 12 states that: “**Environmental Justice** affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and provided fair access for all to the full range of resources.”

EPA’s notion of “meaningful involvement” is also consistent with the 17 Principles. For example, Principle 2 states that: “**Environmental Justice** demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.” Principle 5 states that: “**Environmental Justice** affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.” Principle 7 states that: “**Environmental Justice** demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning, implementation, enforcement and evaluation.”

Kuehn's Taxonomy of Environmental Justice

In 2000, Professor Robert Kuehn, former Director of the Environmental Law Clinic at Tulane University and currently a Professor at the University of Alabama Law School, developed a "Taxonomy of Environmental Justice" in which he discussed the ideas of: 1) distributive justice, 2) procedural justice, and 3) corrective justice (Kuehn 2000).

Professor Kuehn's idea of distributive justice is consistent with EPA's notion of "fair treatment" and with Principles 6, 8, and 12 of the 17 Principles of Environmental Justice. Specifically, Professor Kuehn states that distributive justice is:

"... the right to equal treatment, that is, to the same distribution of goods and opportunities as anyone else has or is given." (Kuehn 2000: 10683).

Likewise, Professor Kuehn's idea of "procedural justice" is consistent with EPA's notion of "meaningful involvement" and with Principles 2, 5, and 7 of the 17 Principles of Environmental Justice. Specifically, he states that procedural justice is:

"... the right to treatment as an equal. That is the right, not to an equal distribution of some good or opportunity, but to equal concern and respect in the political decisions about how these goods and opportunities are to be distributed. ... It involves justice as a function of the manner in which a decision is made, and it requires a focus on the fairness of the decision making process, rather than on its outcome." (Kuehn 2000: 10688)

Note that Professor Kuehn's idea of procedural justice focuses not only fairness in the decision making process, but also on the right of those involved to equal concern and respect.

A third important dimension of environmental justice addressed by Professor Kuehn and the 17 Principles of Environmental Justice, but not addressed by the U.S. EPA, is the notion of "corrective justice". Specifically, Professor Kuehn states that corrective justice involves:

"... fairness in the way punishments for law breaking are assigned and damages inflicted on individuals and communities are addressed. ... it attempts to restore the victim to the condition she was in before the unjust activity occurred. Corrective justice involves not only the just administration of punishment to those who break the law, but also a duty to repair the losses for which one is responsible."

Professor Kuehn's definition of "corrective justice", is consistent with Principle 9 of the 17 Principles which states that: "**Environmental Justice** protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care."

The Flint Water Crisis Task Force Report

The principles of environmental justice as described above are recognized in the 2016 *Flint Water Crisis Task Force Report*. On page 54 of its report, the Task Force states:

"Environmental justice embraces two fundamental principles: (1) the fair, non-discriminatory treatment of all people; and (2) the provision for meaningful public involvement of all people—regardless of race, color, national origin or income—in government decision-making regarding environmental laws, regulations and policies. Environmental justice or injustice, therefore, is not about intent. Rather, it is about process and results—fair treatment, equal protection, and meaningful participation in neutral forums that honor human dignity.

Environmental injustice is not about malevolent intent or deliberate attacks on specific populations, nor does it come in measures that overtly violate civil rights. Environmental injustices as often occur when parties charged with the responsibility to protect public health fail to do so in the context of environmental considerations.

The facts of the Flint water crisis lead us to the inescapable conclusion that this is a case of environmental injustice. Flint residents, who are majority Black or African American and among the most impoverished of any metropolitan area in the United States, did not enjoy the same degree of protection from environmental and health hazards as that provided to other communities. Moreover, by virtue of their being subject to emergency management, Flint residents were not provided equal access to, and meaningful involvement in, the government decision-making process.

The occurrence of environmental injustice in the Flint water crisis does not indict or diminish other public and private efforts to address Flint's many challenging circumstances. However, irrespective of the intent of the parties involved, the simple reality is that the Flint water crisis is a case of environmental injustice."

I agree with the Task Force's assessment. However, to it I would also add Professor Kuehn's and the 17 Principle's emphasis on corrective justice. Given that the damage has been done and the Flint's water supply has been poisoned and many people have fallen ill and their property values have been negatively impacted, environmental injustice will be compounded if the problems are not fixed as expeditiously as possible and if those who have fallen ill, lost the value of their homes and other properties, and suffered other quality of life impacts are not restored and adequately compensated.

What is the role of race? What constitutes environmental racism?

Professor Robert D. Bullard, perhaps the most prolific writer and best known and influential national and international leader on the issue of environmental justice, has defined "environmental racism" as "any policy, practice, or directive that differentially affects or disadvantages (whether intended or unintended) individuals, groups, or communities based on race or color" (Bullard, 1993-94: 1037). This definition focuses on the actions ("policy, practice, or directive"), not attitudes and intentions, which lead to differential environmental outcomes ("differential affects"), and specifically focuses on the racial aspects of these outcomes.

That race plays a role in differential environmental outcomes has been supported by numerous empirical research studies over the past several decades. Specifically, these studies have demonstrated that the racial composition of communities is a statistically significant predictor of where environmental burdens are concentrated, even when controlling for other factors.

For example, the influential 1987 United Church of Christ study *Toxic Wastes and Race in the United States* found that, among multiple variables examined, race was the best predictor of which areas in the U.S. contain hazardous waste facilities and which do not, even when controlling for income, property values, and the amount of hazardous wastes generated. Since *Toxic Wastes and Race*, there have been at least three systematic reviews of empirical studies examining racial and socioeconomic disparities in the distribution of environmental hazards that have shown similar patterns (Mohai and Bryant 1992; Goldman 1994; Ringquist 2005). With the development and availability of Geographic Information Systems (GIS) and improved methods for conducting environmental inequality analyses, more recent studies have shown that racial and socioeconomic disparities in the distribution of environmental burdens are even greater than previously found (Bullard et al. 2007; Chakraborty et al. 2011; Collins et al. 2016; Mohai and Saha 2006, 2007, 2015b). Furthermore, these and subsequent empirical studies continue to demonstrate that racial and socioeconomic disparities in the distribution of environmental burdens exist, and when multivariate statistical methods are employed that control for confounding variables, race tends to remain a statistically significant predictor of the location of environmental hazards of a wide variety (Ash and Fetter 2005; Bullard et al. 2007; Mohai et al. 2009; Pais et al 2014; Zwickl et al. 2014).

In addition to these statistical studies, over the years many in-depth case studies of specific environmental justice controversies have been conducted (Bullard 2000; Bullard and Wright 2012; Cole and Foster 2001; Kemberling and Roberts 2009; Lee 1992; Lerner 2012), such as those in New Orleans, LA, Chester, PA, Convent, LA, Dickson, TN, Kettleman City, CA, Port Arthur, TX, Ocala, FL, Warren County, NC, and others. See the Reference section of this testimony for the articles that discuss these cases. See also the Environmental Justice Organization, Liability, and Trade (EJOLT) Atlas of Environmental Justice Conflicts (<https://ejatlas.org/country/united-states-of-america>), which identifies the “40 Most Influential Environmental Justice Conflicts in U.S. History” as determined from a survey of environmental justice leaders in the U.S. (Grafton et al. 2015). It is often found in these case studies that the residents of impacted communities are predominantly people of color and poor.

Why does race tend to play such an important role in environmental justice controversies? It is believed by many researchers that people of color communities are targeted for hazardous waste sites, polluting industrial facilities, and other locally unwanted land uses (LULUs) because they lack the resources and political clout to fend off the siting of such facilities. They are often seen as the “paths of least resistance” by industry and government (Bullard and Wright 2012; Mohai and Saha 2015; Pastor, Sadd, and Hipp 2001; Taylor 2014). At the same time, when their communities are found to be contaminated with unacceptable levels of pollution and toxins, low priority is given to addressing their concerns (Bryant and Mohai 1992; Bullard and Wright 2012; Lerner 2012).

In addition, because of past zoning decisions that turned African American and other people of color neighborhoods into mixed and industrial zoned areas, their communities have become the places where new industrial facility sitings are made, adding to the pollution burdens (Cole and Foster, 2001; Taylor 2014). Furthermore, policies that have resulted in the segregation of the races have made it difficult for people of color to move from communities that have become burdened by environmental pollution.

Is the Flint water crisis an environmental justice issue?

The Flint water crisis is an extraordinary example of all three types of environmental injustices mentioned above: a) distributive, b) procedural, and c) corrective.

Distributive Justice: Flint’s contaminated water is a severe environmental and health burden afflicting the city. This extraordinary burden is an environmental injustice by itself. On top of this burden, we see a city that is predominantly African American (57%) and whose poverty rate (40%) is more than double that of the state as a whole. The presence of significant environmental and health burdens and the overrepresentation of poor people and people of color where such burdens occur are the typical characteristics of cases of environmental injustice.

Procedural Justice: Procedural justice means that residents are given a meaningful voice in the decisions that affect their communities and their lives. Most communities around the country are given the opportunity to vote for local officials to make decisions for the community on their behalf. These officials live in the community and are accountable to those who elected them. Perhaps the single most important violation of the principle of procedural justice in the case of the Flint water crisis was the imposition of the Emergency Managers – which have affected mostly African Americans in the State (Lee et al. 2016). For example, Lee et al. (2016) found that of all Michigan residents who have lived under Emergency Management between 2008 and 2013, 71% have been African Americans. This is at the same time that African Americans make up only 14% of the State.

Flint’s Emergency Managers have not been from the community, have not been elected by the community, have not been accountable to the community, and have not lived in the community. Yet an Emergency Manager made the decision to switch the drinking water supply from the Detroit Water System to the corrosive and insufficiently treated Flint River water (Flint Water Crisis Task 2016). Even after residents complained about the quality of the water and expressed concerns about possible health impacts, even when the evidence mounted that water quality had been impacted and that the deteriorated

water quality was linked to the lead poisoning of the children in Flint, the presiding Emergency Manager, even as late as March of last year, refused to switch back to the Detroit Water System. Of course, by the time the switch was made, the damage was done. The lack of local democratic representation, the ignoring of citizen complaints, the discounting of the scientific evidence, the disrespectful treatment of the citizens concerned about the water quality and health impacts, are all evidence that the principle of procedural justice in Flint was violated.

Corrective Justice: To achieve corrective justice, it would be important to compensate the residents of Flint for the harms that have been created. These include the harms to the lead poisoned children and families, to those who may have died or were sickened by Legionnaires' disease due to the contaminated water, and to others whose health and lives have been impacted. It would also be important to compensate those whose property (plumbing, water heaters, wash machines, dish washers and other household items) has been damaged and whose housing and property values have been negatively affected by the contaminated water. Where are the plans for providing compensations for these damages? Where will the money come from and where is the time line for achieving these goals?

Furthermore, where are the plans to compensate residents for the psychological trauma of not knowing if their water is safe and who have had to subsist on bottled water for many months? Where are the plans to reimburse the residents who have had to pay for the poisoned water? What will the State and Federal governments do about these matters?

Is the Flint water crisis an environmental justice issue involving race?

First, I doubt that we will find anyone who will confess that there was an intent to do harm in Flint because of the presence of a large number of poor people and African American residents. What stands out in the Flint water crisis, however, is the apparent lack of concern that harm might be created. And even after the harm was created and finally acknowledged, there has been an apparent lack of sense of urgency to fix the problem. Are the racial and socioeconomic characteristics of the city of Flint a factor in explaining such a weak response from public officials?

What we have seen in Flint is a part of a larger pattern seen elsewhere in Michigan and the U.S. where communities are disproportionately burdened by environmental contamination and health risks. These places, like Flint, tend to be where poor people and people of color are concentrated (Bullard et al. 2007; Cole and Foster 2001; Lerner 2012; Mohai and Bryant 1992; Saha and Mohai 2005). They are also places where residents' are not given meaningful say in the decisions that affect their communities and quality of life, where their concerns about pollution and the health impacts are minimized, discounted, or dismissed, and where residents are treated disrespectfully and shown they have little influence or clout. Flint follows these patterns. Given the magnitude of the problem, the role that public officials' decisions played that led to the poisoning of the city's water, their slow pace at acknowledging and responding to the problem, and the fact that Flint is a city of almost 100,000 people, makes this one of the most egregious examples of environmental injustice and racism I have come across in my nearly three decades of studying this issue.

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The 17 Principles of Environmental Justice

Delegates to the First National People of Color Environmental Leadership Summit held on October 24-27, 1991, in Washington DC, drafted and adopted 17 principles of Environmental Justice. Since then, *The Principles* have served as a defining document for the growing grassroots movement for environmental justice.

PREAMBLE

WE, THE PEOPLE OF COLOR, gathered together at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to respect and celebrate each of our cultures, languages and beliefs about the natural world and our roles in healing ourselves; to ensure environmental justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice:

- 1) **Environmental Justice** affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.
- 2) **Environmental Justice** demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.
- 3) **Environmental Justice** mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
- 4) **Environmental Justice** calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.
- 5) **Environmental Justice** affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
- 6) **Environmental Justice** demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.
- 7) **Environmental Justice** demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning, implementation, enforcement and evaluation.
- 8) **Environmental Justice** affirms the right of all workers to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.
- 9) **Environmental Justice** protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.
- 10) **Environmental Justice** considers governmental acts of environmental injustice a violation of international law, the Universal Declaration on Human Rights, and the United Nations Convention on Genocide.
- 11) **Environmental Justice** must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.
- 12) **Environmental Justice** affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and provided fair access for all to the full range of resources.
- 13) **Environmental Justice** calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.
- 14) **Environmental Justice** opposes the destructive operations of multi-national corporations.
- 15) **Environmental Justice** opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.
- 16) **Environmental Justice** calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.
- 17) **Environmental Justice** requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.

The Proceedings to the First National People of Color Environmental Leadership Summit are available from the **United Church of Christ Commission for Racial Justice**, 475 Riverside Dr. Suite 1950, New York, NY 10115. <http://www.ejnet.org/ej/principles.html>