

# ENVIRONMENTAL JUSTICE COUNCIL

October 17, 2023  
9:30 a.m. – 1:30 p.m.

## Webinar Public Meeting Agenda

This public meeting will be conducted as a virtual meeting. Written testimony can be submitted in advance, to [van.nguyen@deg.oregon.gov](mailto:van.nguyen@deg.oregon.gov). Written comments received will be distributed to the Council.

### **Zoom Webinar Registration:**

[https://us02web.zoom.us/webinar/register/WN\\_rR-l7K40RV2ZExvvnj5O9Q](https://us02web.zoom.us/webinar/register/WN_rR-l7K40RV2ZExvvnj5O9Q)

The Council makes every attempt to hold strictly to the sequence of the distributed agenda. Times and topics may change up to the last minute. This agenda is available on the Environmental Justice Council website: [Governor of Oregon : Environmental Justice Council : Policies : State of Oregon](#).

<b>9:30 a.m.</b>	<b>Item 1:</b>	<b>Call to Order</b> – Chair Joel Iboa
<b>9:40 a.m.</b>	<b>Item 2:</b>	<b>Chair Report</b> – Chair Joel Iboa (Oral Report) Briefing: The Board will not be asked to consider an action on this item
<b>10:10 a.m.</b>	<b>Item 3:</b>	<b>Staff Report</b> – EJC Coordinator Hoang-Van Nguyen, DEQ Rachel Saltzman, OHA Eric Main, and DAS Melissa Foltz Briefing: The Council will be asked to take an action on this item
<b>11:10 a.m.</b>	<b>Item 4:</b>	<b>EJ Mapping Tool Subcommittee Report</b> – Chair Joel Iboa Briefing: The Council will be asked to take an action on this item
<b>11:50 a.m.</b>	<b>Item 5:</b>	<b>Governance Subcommittee Report</b> – Chair Joel Iboa Briefing: The Council will be asked to take an action on this item
<b>12:20 p.m.</b>	<b>Item 6:</b>	<b>Critical Energy Infrastructure Hub Follow-up</b> – Staff Briefing: The Council will not be asked to take an action on this item
<b>1:00 p.m.</b>	<b>Item 7:</b>	<b>Public Comment</b>
<b>1:30 p.m.</b>	<b>Item 8:</b>	<b>Council Adjourn</b>

## **PLEASE NOTE**

### **AGENDA**

The public portion of the Council meeting will begin at 9:30 a.m. and proceed chronologically through the agenda. Times listed on the agenda are approximate. At the discretion of the chair, the time and order of agenda items—including addition of intermittent breaks—may change to maintain meeting flow.

### **PUBLIC TESTIMONY**

Written comments will be accepted until 5:00 p.m. the evening prior to the meeting by emailing [van.nguyen@deg.oregon.gov](mailto:van.nguyen@deg.oregon.gov) and indicate your comments as EJC Testimony with the meeting date on the subject line. Other testimony will be received during the public comment portion of the meeting.

### **REASONABLE ACCOMMODATION OF DISABILITIES**

Please contact us at least three business days prior to the meeting to let us know if you need reasonable accommodation. Contact the Environmental Justice Coordinator Hoang-Van Nguyen at [van.nguyen@deg.oregon.gov](mailto:van.nguyen@deg.oregon.gov) to make your request.

# Staff Report and Memorandum

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To: Chair and members of the Environmental Justice Council

From: Joel Iboa, Chair of Environmental Justice Council

Date: October 12, 2023

**Regarding: Agenda Item 2 – Chair Report**

The Council will not take action on this agenda item.

***Proposed Board Action: None***

# Staff Report and Memorandum

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To: Chair and members of the Environmental Justice Council  
From: Hoang-Van Nguyen, EJC Coordinator and EJ Mapping Tool Staff  
Date: October 12, 2023

**Regarding: Agenda Item 3 – Staff Report**

The Council will not take action on this agenda item.

*Attachment: Agenda Item #3 Attachment EJ Mapping Tool Project Plan\_10112023*

***Proposed Board Action: None***

The Council will have the opportunity to engage in a panel discussion with state staff at the end of the presentation.

Environmental Justice Council Coordinator, Hoang-Van Nguyen

**Scheduling**

Below is a list of Council meetings until the end of 2023. This list also includes subcommittee meetings that are optional for Environmental Justice Council members to attend.

**2023 Environmental Justice Council Upcoming Meeting Schedule**

1. *Tentative* EJC Meeting Webinar: November 8, 2023
  - a. Virtual: Zoom Webinar
  - b. Time: 9:30-1:30 p.m.
2. EJ Mapping Subcommittee Webinar: November 13, 2023
  - a. Virtual: Zoom Webinar
  - b. Time: 2:00-3:30 p.m.
3. EJC Meeting Webinar: December 5, 2023
  - a. Virtual: Zoom Webinar
  - b. Time: 9:30-1:30 p.m.

This is list of meeting dates the Environmental Justice Council voted on September 5, 2023. They can be changed at the discretion of the Chair, or by another Council vote.

**Agency Annual Reports**

Natural resource agency liaisons have initiated preparing their annual reports for the Environmental Justice Council, and they intend to submit their reports by January 15, 2024. Annual Report workshops to assist agencies with preparing their annual reports are being hosted on October 30, 2023 and December 19, 2023.

These reports will allow the natural resource agencies to assess their implementation of environmental justice at their agencies per House Bill 4077. The Council will evaluate the

annual reports and prepare their biannual report to the Governor. Once agencies submit their reports, the Council will have the opportunity to decide which agencies to further engage to help them prepare their biannual report.

DEQ EJ Mapping Tool Project Manager, Rachel Saltzman

### **Environmental Justice Mapping Tool Project Plan**

The EJ mapping tool leadership team has developed a comprehensive project plan to guide the EJC and agency partners to complete the mapping tool and associated deliverables by the September 2025 deadline set in HB 4077. The project plan is intended to be a working document and can be updated throughout the project as the EJC and agency staff see fit. The full workplan includes detailed information on the project deliverables, roles and responsibilities, timeline, and risk management. A high-level summary is provided below.

#### Major Deliverables

The table below provides a high-level overview of the major project deliverables outlined in HB 4077. Completing each deliverable will require several subtasks, which are described in detail, including an estimated timeline, in the full project plan document.

<b>Deliverable</b>	<b>Due</b>	<b>Description</b>
<b>Community Engagement (Listening Sessions)</b>	Ongoing	Six listening sessions in different regions of the state, including at least one meeting in a remote community
<b>Data Inventory*</b>	Mid-2024	Comprehensive list of EJ-related datasets across Oregon natural resource agencies. Though not explicitly required under HB4077, this is a critical element of the mapping tool development process.
<b>Progress Report</b>	September 2024	A mid-project progress report summarizing the status of the EJ mapping tool development and community input received.
<b>Environmental Justice (EJ) Index*</b>	Mid-2024	The development of a statewide EJ index is not explicitly named in HB 4077, but is an implicit element of the EJ mapping tool. The index will combine multiple environmental, human health, climate change, and socioeconomic indicators to provide a summary of community conditions for the purpose of comparisons or rankings.
<b>Online EJ Mapping Tool</b>	September 2025	The mapping tool will be available to the public online, hosted on Oregon Explorer.
<b>Implementation Report</b>	September 2025	The implementation report will include guidance for how to use the mapping tool, as well as recommendations for how to best meaningfully consult and engage with EJ communities.

\*Not explicitly named in HB 4077

## Roles and Responsibilities

HB 4077 directs the EJC to develop an environmental justice mapping tool with staff support from the Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA), and to establish technical collaboration with the Department of Administrative Services Office of Enterprise Information Services (DAS EIS), the Institute for Natural Resources at Oregon State University (OSU INR), and the Population Research Center at Portland State University (PSU PRC). The roles and responsibilities of these entities is as follows:

<b>Entity</b>	<b>Responsibilities</b>
<b>Environmental Justice Council (EJC)</b>	Provides oversight and guidance; serves as primary decision-makers in each step of mapping tool development process (see below)
<b>Department of Environmental Quality (DEQ)</b>	Project management; collects, assesses, and provides environmental burden data layers; provides technical support in development of mapping tool methodology
<b>Oregon Health Authority (OHA)</b>	Collects, assesses, and provides human health burden data layers; provides technical support in development of mapping tool methodology
<b>Department of Administrative Services Enterprise Information Services (DAS EIS)</b>	Inventories existing datasets and identifies needed data development; recommends data quality standards and assesses data gaps and reliability
<b>Oregon State University Institute for Natural Resources (OSU INR)</b>	Develops and tests alpha, beta, and final versions of mapping tool; hosts and maintains mapping tool through Oregon Explorer
<b>Portland State University Population Research Center (PSU PRC)</b>	Collects, assesses, and provides demographic and socioeconomic data layers; supports development of EJ index and methodological approach

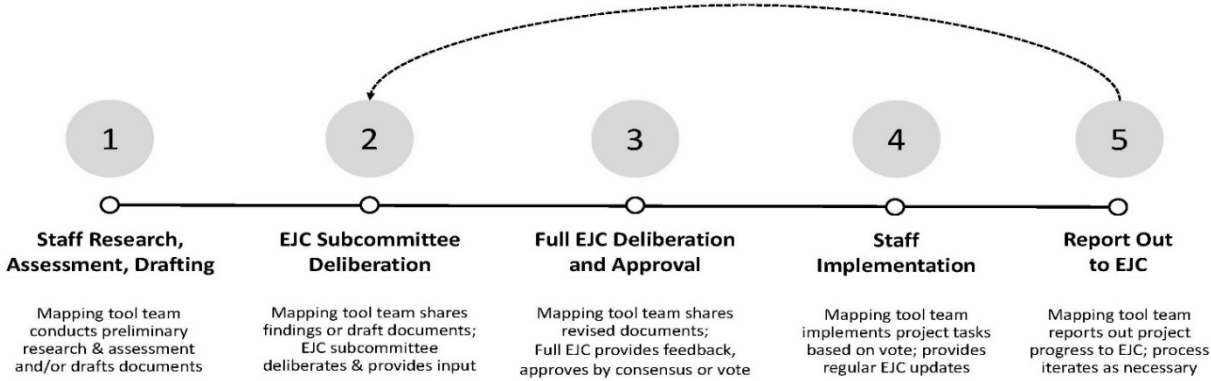
## *EJC Engagement*

As noted above, the EJC serves as the primary decision-makers in the mapping tool development process. The below table provides an outline of the role of the EJC throughout the general stages of the project.

<b>Project Stage</b>	<b>Timeframe</b>	<b>Role of EJC</b>
<b>Define audience, establish listening sessions</b>	Sept.-Dec. 2023	Deliberates and votes on listening session proposal, including selecting listening session locations, and determining questions and other facilitation details
<b>Define intent</b>	Sept. 2023 – Early 2024	Deliberates users and use cases; hosts listening sessions with Oregon communities; deliberates results and votes on intent
<b>Assess data (data inventory)</b>	Aug 2023 – May 2024	Reviews monthly updates; deliberates results of gap analysis and data limitations to inform indicator selection process

<b>Prioritize and select indicators, define methodological approach, develop EJ index</b>	Early-Mid 2024	Deliberates indicator selection based on listening session feedback and data inventory results; reviews and approves proposed methodological approach to develop EJ index
<b>Submit progress report</b>	Sept. 15 <sup>th</sup> , 2024	Reviews outlines and drafts and approves final progress report
<b>Create mapping tool</b>	Mid 2024 – Sept. 2025	Reviews/approves alpha, beta, and final versions of tool; hosts focus group community listening sessions
<b>Develop implementation plan</b>	Mid 2025	Reviews monthly updates and provides feedback; deliberates and approves final implementation plan
<b>Submit implementation report</b>	Sept. 15 <sup>th</sup> 2025	Reviews outlines and drafts and approves final implementation report

The project staff will regularly engage with the EJC throughout the project during the mapping subcommittee and full EJC meetings. The process by which project tasks will be developed, approved, and executed upon is summarized below.

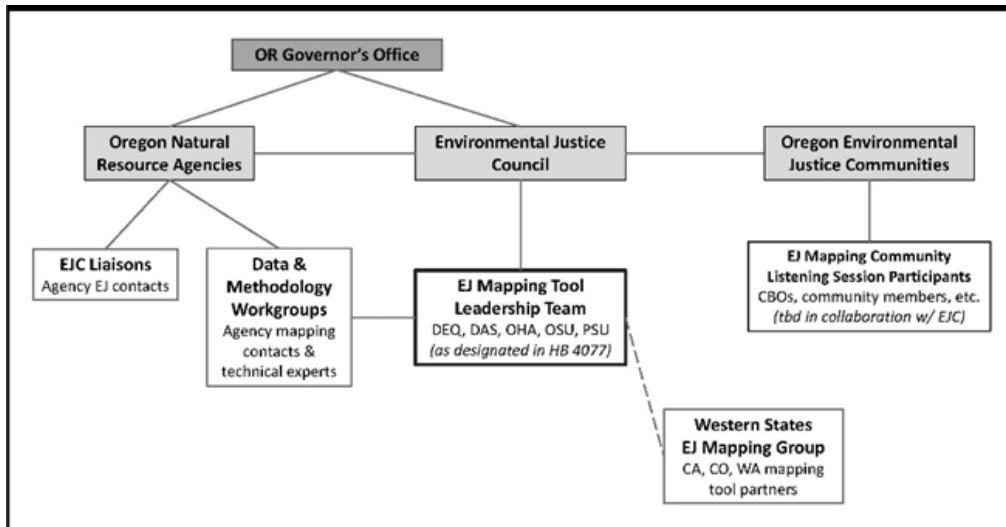


To provide an example of this process, the table below outlines the development of the project plan, including how staff engaged with the EJC and incorporated Councilmember feedback into the document, as well as how the EJC will be involved in the implementation phase moving forward. Implementation of the project plan will be an iterative process, as any updates or modifications will be brought to the EJC for deliberation and approval.

Process Stage	Project Plan Development
<b>1) Staff Research, Assessment, Drafting</b>	Based on the requirements outlined in HB 4077, project staff drafted a working version of the project plan.
<b>2) EJC Subcommittee Deliberation</b>	<p>Elements of the working draft were shared with Councilmembers for consideration during the following subcommittee meetings:</p> <ul style="list-style-type: none"> <li>• <u>August 29<sup>th</sup></u>: EJC and staff discussion on past listening sessions, applying lessons learned to the mapping tool project planning.</li> <li>• <u>September 18<sup>th</sup></u>: Discussion on design principles, listening session planning, use cases, and user groups.</li> </ul>
<b>3) Full EJC Deliberation &amp; Approval</b>	<p>Elements of the working draft were shared with Councilmembers for consideration during the following full EJC meetings:</p> <ul style="list-style-type: none"> <li>• <u>July 26<sup>th</sup></u>: Mapping subcommittee established; staff presentations and EJC feedback on mapping tool deliverables, timeline, utility, community engagement, and methodological considerations.</li> <li>• <u>September 5<sup>th</sup></u>: Staff presentations and EJC feedback on project plan preview, data inventory timeline, methodology stages, and listening session lifecycle.</li> </ul> <p>EJC feedback from the subcommittee and full EJC meetings was incorporated into the project plan.</p> <ul style="list-style-type: none"> <li>• The document was shared with EJC on October 12<sup>th</sup></li> <li>• A high-level overview will be presented during the October 17<sup>th</sup> meeting.</li> </ul>
<b>4) Staff Implementation</b>	The project staff will incorporate EJC feedback on the project plan and will implement subsequent tasks in collaboration with agency and other project partners.
<b>5) Report Out to EJC</b>	<p>Regular updates on project progress will be shared with the EJC, both in the form of written updates as well as during EJC meetings.</p> <p><i>Based on the implementation stage, the project plan may require updates throughout the project. If the need arises, project staff will bring project plan updates to the EJC subcommittee for deliberation, and subsequent approval with the full EJC.</i></p>

*Process is iterative and may return to stage 2 as needed.*

## Project Partner Engagement



Beyond the EJC and the mapping tool leadership team staff, the project will involve collaboration with additional partners, including Oregon communities and natural resource agencies. HB 4077 directs the EJC to conduct an inclusive community engagement process to solicit input to inform the mapping tool development process. The bill also calls for collaboration with natural resource agencies, who are providing data layers for the mapping tool. The mapping tool leadership team is also consulting with EJ mapping colleagues who have contributed to similar tools in other states, including California, Colorado, and Washington.

DAS Geospatial Data Governance Coordinator Melissa Foltz

### **EJ Data Inventory Status Update**

The Department of Administrative Services (DAS) coordinated with all natural resource agencies as defined in HB 4077 Section 10(8) requesting each agency to submit a data inventory of relevant environmental justice data each agency uses or relies on for business needs.

The initial deadline for submission was mid-September. Since this date, DAS has been working on indexing data layers and compiling a comprehensive inventory. DAS has also been coordinating with agencies who have not yet submitted to better understand any outstanding issues or concerns. At this time, DAS has received submissions for 12 out of 16 agencies. Table 1 outlines to submission status of each agency.



*Table 1. Environmental Justice Data Inventory Submission Status by Agency*

<b>Agency</b>	<b>Inventory Submission Status</b>
Department of Environmental Quality	Submitted
State Department of Agriculture	Submitted
Water Resources Department	No relevant layers to submit at this time*
State Department of Fish and Wildlife	Submitted
State Parks and Recreation Department	Submitted
State Department of Energy	Submitted
Oregon Watershed Enhancement Board	No relevant layers to submit at this time*
State Forestry Department	Submitted
Department of State Lands	Submitted
State Department of Geology and Mineral Industries	Submitted
Department of Land Conversation and Development	Submitted
State Marine Board	Currently in Progress.
Public Utility Commission	Currently in Progress.
Department of Transportation	Submitted
State Fire Marshal	Submitted
Oregon Health Authority	Submitted

\* *Oregon Watershed Enhancement Board and Water Resources Department have recently participated in the Open Water Data Portal in response to HB 5006. More information about the Oregon Water Data Portal can be accessed at <https://www.oregon.gov/deq/wq/Pages/owdp.aspx>.*

In addition to the agencies listed in HB 4077, DAS has also initiated conversations with Occupational Safety and Health Administration (OSHA) and Oregon Department of Human Services (ODHS) to participate in the data inventory effort.

The data inventory currently includes 135 data layers. Agencies were asked to categorize each dataset with a data type based on the four main categories of data defined in HB 4077 (human health, population characteristics, environmental burdens, or climate change). Figure 1 shows the preliminary analysis of data type from agency submissions.

Figure 1. Data Type Categorization from Agency Submissions

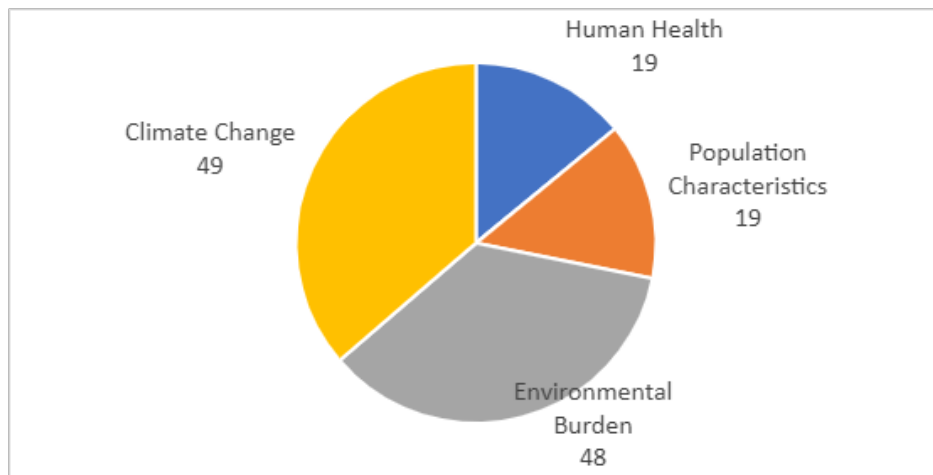


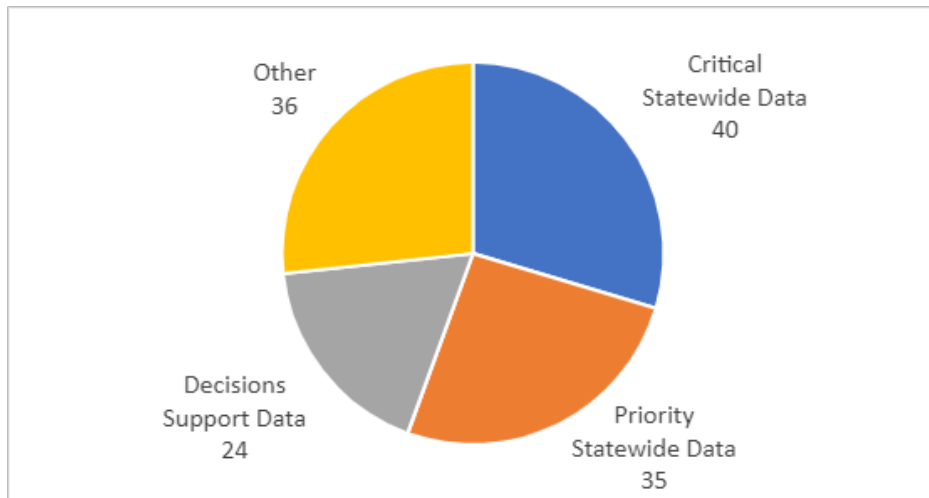
Figure 1 shows a preliminary high-level overview. At this point the data is skewed towards climate change and environmental burden datasets as a result of our initial data collection focusing on natural resource agencies defined in HB4077. Data from Portland State University's Population Research Center (PSU-PRC) and ODHS have not yet been incorporated into the inventory. The addition PSU-PRC and ODHS would largely account for the human health and population characteristics data sets. However, a more directed request is likely necessary to avoid an onerous effort to gather data population and health datasets.

In the inventory template agencies were also requested to make a priority recommendation for each data set based on the following categories and descriptions:

- **Critical Statewide Data**- Data is available statewide and can be nested at the Census Tract level and *should strongly be considered* for use in Environmental Justice tool.
- **Priority Statewide Data** - Data is available statewide and can be nested at the Census Tract level and *should be considered* for use in Environmental Justice tool.
- **Decisions Support Layer** - Non-statewide data. Can not necessarily be aggregated at Census Tract Level, but could be used as decision-making support in specific areas.
- **Other** - Data is useful, but may not be considered a top priority.

Figure 2 is the resulting priority recommendations received from initial agency submissions.

Figure 2. Initial Priority Recommendations from Agency Submissions



### *Data Inventory Workgroup*

DAS held a check-in with the Data Inventory Workgroup in early October. The Data Inventory workgroup consists of self-identified technical experts from a variety of backgrounds who have expressed interest in the process. The workgroup is intended to meet regularly working on assessing the inventory and work on assessing readiness, completeness, and identify gaps. It was clear during the initial check-in that more information would be required prior to moving to next steps. At this time the data inventory work group will hold setting up meetings with a regular cadence until the EJC narrows in on intent of the tool and has a chance to receive feedback from listening sessions.

### *EJ Inventory Next Steps*

DAS will continue working with the remaining agencies on the data inventory submissions.

DAS will cross-check the inventory with the Oregon Open Data portal to verify readiness for publication and flag any datasets that contain personal information to prepare for next steps with the Data Inventory Workgroup.

DAS will also continue working with agencies as needed to help review the work and follow up with any additional data requests from the Council.

# Staff Report and Memorandum

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To: Chair and members of the Environmental Justice Council  
From: Joel Iboa, Chair of the Environmental Justice Council  
Date: October 17, 2023

**Regarding: Agenda Item 4 – EJ Mapping Tool Subcommittee**

The Council will take action on this agenda item.

***Proposed Council Action: Decide listening session regions and primary and secondary users.***

The Council discussed design principles to help guide intent development for the environmental justice mapping tool when they met on September 18, 2023. Chair Iboa, Amanda Sullivan-Astor, Katie Murray, Tiffany Monroe, Jim Kreider, and Ben Duncan attended this subcommittee meeting.

*Listening Session Locations*

Six listening sessions will be hosted throughout Oregon in 2024. These meetings would ideally be hosted in person in collaboration with CBOs with relationships with the communities visited. The Council will need to decide the Regions to visit in 2024, and staff can follow-up with recommendations regarding the CBO’s that could cohost. CBO engagement will provide the following benefits: recruitment for the listening sessions, staffing assistance for the meetings, and a mechanism to provide compensation for participants. If the Council votes for the regions on October 17, 2023, staff will be able to provide initial logistics plans for 2024 during the December 5, 2023 Environmental Justice Council meeting.

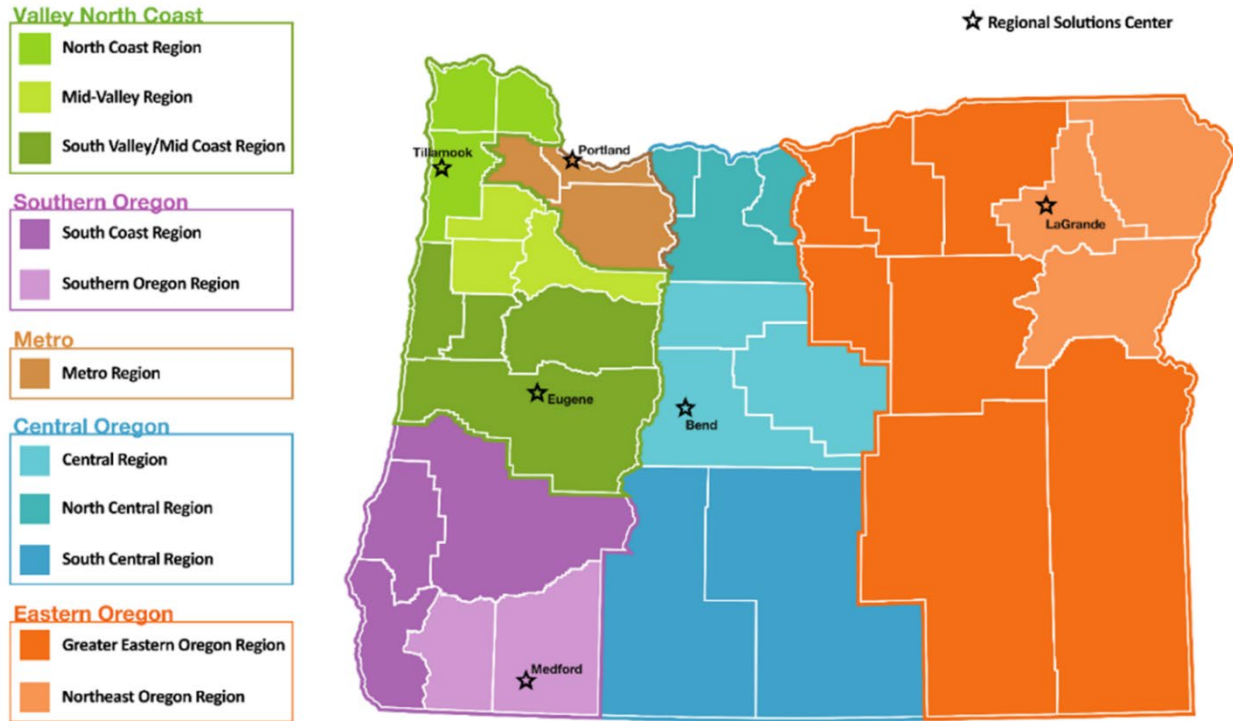
Early planning is necessary to recruit CBOs and determine locations that will create the best opportunities for participation engagement. This will also allow logistical planning for agency participation.

Potential listening session locations were provided to the Environmental Justice Mapping Tool subcommittee, and the Council members in attendance provided their recommendations which are provided to the below:

Location	Regional Solutions
Prineville	<a href="#">Central</a>
Boardman	<a href="#">Greater Eastern</a>
Hermiston	<a href="#">Greater Eastern</a>
Portland	<a href="#">Metro</a>
Salem	<a href="#">Mid Valley</a>
Astoria	<a href="#">North Coast</a>

<b>Le Grande</b>	<a href="#">North Eastern</a>
<b>Medford</b>	<a href="#">Southern</a>
<b>Klamath Falls</b>	<a href="#">South Central</a>
<b>Brookings</b>	<a href="#">South Coast</a>
<b>Coos Bay</b>	<a href="#">South Coast</a>
<b>Eugene</b>	<a href="#">South Valley/Mid Coast</a>

Regional Solutions Center not represented: [North Central](#).



Source:

<https://olis.oregonlegislature.gov/liz/2013R1/Downloads/CommitteeMeetingDocument/3406>

Environmental Justice Council members also received a survey which allowed them to rank the regions that they believe the Council should visit in 2024.

### *Mapping Tool User Groups*

The Council also discussed potential user groups and use cases for the mapping tool, suggesting state agencies and community members as the primary and secondary user groups, respectively. Identifying probable use cases and primary users is necessary to ensure that the tool is useful for intended audiences. The Environmental Justice Council members received a survey which allowed them to rank the user groups they believe should be prioritized in the development of the mapping tool. The groups included in the survey are listed below.

<b>Potential User Groups</b>
State Agencies
Local Governments
Tribal Governments
Community-Based or Nonprofit Organizations
Youth Advocates
Local Public Health Authorities
Academia
Community Advocates or Members
Industry
Legislature
Other

## *Mapping Tool Intent & Use Cases*

The environmental justice (EJ) mapping tool will serve as an educational and informational resource to gather, share, and visualize environmental, human health, climate change, and socioeconomic data to bolster environmental justice throughout Oregon. The tool could be used to support various environmental justice-related efforts across stakeholder groups. It is up to the Environmental Justice Council to prioritize potential intents, or use cases, to guide the development and ultimate technical capabilities of the EJ mapping tool.

The following intent options are based on language from HB 4077 (Section 14), which outlines potential use cases for state agencies. It is important to note that state agencies represent only one of the many potential user groups (see above). The intended use of the mapping tool may vary depending on the EJC's prioritization of user groups.

Additionally, though not explicitly named in the bill, the framing of HB 4077 and proposed use cases implies the inclusion of an environmental justice index, a single value combining multiple environmental, human health, climate, and socioeconomic indicators to provide an overall summary of community conditions for the purpose of comparisons or rankings.

The tool can be prioritized for one or more of the following intended uses:

### **1. Identify Environmental Justice Communities**

- HB 4077: “*Identify environmental justice communities [affected by agency programs].*”
- Based on the mapping tool EJ index, users could designate communities above/below a certain threshold as areas for concentrated environmental, public health, and social action or activism. Designating certain geographic areas could guide agencies, CBOs, community members, and other stakeholders to direct attention to those communities and identify what interventions are taking place and/or where gaps exist. The tool could be used to identify environmental, human health, and/or social burdens, as well as highlight community resiliency.
- Examples from other state EJ tools:
  - CalEnviroScreen: CalEPA designated the top 25% of census tracts in CalEnviroScreen as disadvantaged communities for the purpose of investing cap-and-trade proceeds (SB 535).
  - Washington Environmental Health Disparities Map: The Washington State Department of Health uses their mapping tool to identify ‘highly impacted communities’ if they meet one or both of two criteria: 1) the area (census tract) ranks a 9 or 10 on the mapping tool’s index score; 2) the area is covered or partially covered by ‘Indian Country’ as defined in and designated by statute.

## 2. Prioritize Funding/Resource Allocation

- HB 4077: “Prioritize [agency] funding to help address identified impacts on environmental justice communities.”
- The mapping tool could be used to ensure that resources are invested in the areas where they are needed most. This could be done by specifying designated EJ communities to receive funding, by scaling a resource investment proportional to an EJ index score, or through other strategies based on the mapping tool data and/or index/indices.
- Examples from other state EJ tools:
  - Washington Environmental Health Disparities Map: Washington’s Climate Commitment Act uses their mapping tool to identify ‘overburdened’ communities to receive at least 35% of the investments in the clean energy transition, clean transportation, and climate resiliency projects.
  - California Healthy Places Index: Public health leaders used the HPI tool to direct resources to communities experiencing the disproportionate impacts of COVID-19.

## 3. Bolster Community Engagement and Advocacy

- HB 4077: “Conduct outreach and engagement activities with environmental justice communities to inform:
  - *the development, adoption, implementation **OR** enforcement of environmental laws, administrative rules **OR** agency policies.*”
- The mapping tool could be used to target improved community engagement in geographic areas designated as environmental justice communities, including prioritizing areas for agency outreach related to permitting and rulemaking. The tool could be used in the initial planning stages of community engagement to build demographic and environmental context and ensure outreach is accessible and accurately reflects community concerns. The mapping tool data could also support and validate community testimony to address environmental justice concerns in their area.
- Examples from other state EJ tools:
  - CalEnviroScreen: A community organization in California reached out to CalEPA to collaborate on collecting water quality data to improve the CalEnviroScreen data for their community.
  - CalEnviroScreen: CalEPA enhances existing environmental justice efforts related to compliance and enforcement initiatives in disproportionately impacted areas identified using CalEnviroScreen. The tool is used across multiple agencies to identify communities in which to prioritize community consultations, inspections, and enforcement coupled with compliance assistance.



#### 4. Inform Policy and Program Development

- HB 4077:
  - *“Establish measurable goals for reducing environmental health disparities [within agency programs]”;*
  - *“...inform the development, adoption, implementation **OR** enforcement of environmental laws, administrative rules **OR** agency policies.”*
- The mapping tool could be used to inform data-driven decision-making related to agency, CBO, and other stakeholder policy and program development. The mapping tool could be used to assess how designated environmental justice communities may be positively and/or negatively affected by a proposed policy, program, project, or activity.
- Examples from other state EJ tools:
  - Washington Environmental Health Disparities Map: The Healthy Environment for All (HEAL) Act recommends state agencies use the EHD map to conduct environmental justice assessments for decisions that impact overburdened communities and vulnerable populations.
  - CalEnviroScreen: SB 1000 requires jurisdictions that have one or more disadvantaged community, designated using CalEnviroScreen, to integrate environmental justice goals, objectives, and policies into their General Plans.

# Staff Report and Memorandum

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To: Chair and members of the Environmental Justice Council

From: Joel Iboa, Chair of the Environmental Justice Council

Date: October 12, 2023

**Regarding: Agenda Item 5 – Governance Subcommittee**

The Council will not take action on this agenda item.

*Attachment: Agenda Item #5 Attachment EJC Charter Draft*

***Proposed Board Action: None***

Council members Chair Joel Iboa, Valentin Sanchez, Amanda Sullivan-Astor, and Jim Kreider met on October 3, 2023 to participate in the Governance subcommittee. During this meeting the group discussed the questions in the Environmental Justice Council Engagement Survey. There was also discussion regarding adoption bylaws vs charters.

The draft charter was distributed to Environmental Justice Council members on October 2, 2023, and it is included as an attachment to this agenda.

To guide governance discussions, the Environmental Justice Council engagement survey was sent to solicit feedback. This survey may help Council members understand fellow members' desires to engage and the depth of commitment to environmental justice work, and the results will be shared with Chair Iboa for review and consideration.

The survey was circulated to Environmental Justice Council members on October 3, 2023 with a deadline to provide responses by October 11, 2023.

# Staff Report and Memorandum

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To: Chair and members of the Environmental Justice Council

From: Matthew Davis, Department of Environmental Quality

Date: October 12, 2023

**Regarding: Agenda Item 6 – Critical Energy Infrastructure Hub**

The Council will not take action on this agenda item.

*Attachments: Agenda Item #7 Attachment Zenith ACDP Letter and Agenda Item #7 Attachment DEQ Zenith Response Letter*

## ***Proposed Board Action: None***

At its September meeting, the council heard a presentation by the Portland Youth Climate Strike Organization. In this staff report, the Department of Environmental Quality responds to several requests made of the agency:

- *“PYCS asks the DEQ to deny Zenith Energy’s Air Contaminant Discharge Permit
  - We ask the Department to review the investigation of Zenith Energy’s contamination of the surrounding communities”*
- *PYCS calls on the DEQ to prioritize the cleanup and just transition of the Portland Harbor Superfund Site (2068)”*

In September, DEQ also received a letter from Breach Collective, Willamette Riverkeeper, Portland Audubon, Portland Harbor Community Coalition and Columbia Riverkeeper, with requests similar to those delivered at the September EJC meeting. The letter to DEQ, and the agency’s response are attached to this staff report. DEQ developed materials to be responsive to both the aforementioned letter and the presentation by Portland Youth Climate Strike.

## **Zenith**

### Background

The Zenith facility currently operates under a Title V air quality operating permit, which must periodically be renewed. In January 2021, upon reviewing Zenith’s renewal application, DEQ determined that it required an updated land use compatibility statement (LUCS) that reflected the facility’s transition from an asphalt refining facility to a facility primarily engaged in the trans-loading of liquid fuels and other materials. In response, Zenith submitted a LUCS application to the City of Portland reflecting its current activities at the site. On August 27, 2021, the City denied Zenith’s LUCS application, which meant that Zenith did not have a complete Title V permit application submitted to DEQ. Therefore, on September 1, 2021, DEQ proposed to deny renewal of the Title V permit. Zenith appealed

DEQ's decision not to renew the permit, which meant the denial of permit coverage was not final until the appeal could be resolved.

Zenith submitted a revised LUCS application to the City, which was approved on October 3, 2022. Zenith then submitted the approved LUCS to DEQ. With a LUCS that matched the activities described in Zenith's Title V permit application, DEQ determined the application was complete and withdrew its proposed denial of the permit renewal (additional detail on this review below). Zenith submitted the ACDP application to DEQ on November 11, 2022 and is currently being reviewed. If an ACDP is issued by DEQ, the Title V permit will be terminated and Zenith will no longer have authorization to operate the asphalt refinery—the activity that required a Title V permit due to its higher emissions.

#### *Air Quality Permit Application*

DEQ is currently evaluating the ACDP application submitted by Zenith on November 11, 2022. Under OAR 660-031-0026(2)(b)(B), an applicant may demonstrate compliance with the required land use review process by obtaining a determination of land use compliance that includes written findings from the affected local government. That is the provision that DEQ relies on, in the vast majority of cases, to demonstrate that its permitting decisions are consistent with land use requirements.

One of the basic premises of DEQ's state agency coordination program, and particularly its reliance on LUCS, is that the interpretation and application of local land use laws is primarily a responsibility of local governments. There is an established system of local government land use decision making in Oregon, including an appeals process designed to ensure that those decisions comply with applicable statewide requirements and are made consistent with applicable local comprehensive plans, zoning and other land use requirements. Those who believe that a local government land use decision is unlawful, and that either participated in the local process or are adversely affected by the decision, may appeal the decision to the Land Use Board of Appeals (LUBA) as provided in ORS 197.830(2).

The LUCS approved by the City of Portland includes conditions requiring Zenith to immediately cease using eight rail car spots for unloading crude oil, and to cease all storage and handling of crude oil at the facility by 2027, remove 30 storage tanks, and construct new storage tanks only if related to renewable fuels and non-fuel projects. The LUCS also required Zenith to apply for an Air Contaminant Discharge Permit with a lower (40 tons/year) plant site emission limit for volatile organic compounds.

DEQ evaluated and accepted the LUCS issued by the City of Portland to Zenith on the basis that it fully includes the activities that would be regulated by the ACDP (if issued), and that that the city's determination includes findings of land use compliance and is final.

DEQ is currently reviewing Zenith's ACDP application. Once the technical work is complete, a draft permit will be shared for public input. All comments DEQ receives will be evaluated and considered before a final decision is made.

### Environmental hazards not regulated by an air quality permit

DEQ shares concerns regarding environmental and human health hazards associated with spills, releases and other potentially catastrophic events. In recent years, DEQ has worked with the legislature to strengthen laws and programs to address these issues, such as for risks associated with fuel tank systems vulnerable to seismic activity and oil transport by railroads.

In 2022, Senate Bill 1567 gave the DEQ the authority to develop a program that evaluates the vulnerability of fuel tank systems to earthquakes and requires facilities in Lane, Multnomah and Columbia counties to develop a plan to minimize risk. On September 14, 2023, the Environmental Quality Commission adopted the new rules that require facilities to develop plans that include actions to protect public health, life safety, and environmental safety within the facility, in areas adjacent to the facility, and in other areas that may be affected as a result of damages to the facility. Facilities must conduct vulnerability assessments, reviewed and approved by DEQ, and then take actions to mitigate those vulnerabilities. Zenith is among the facilities regulated under this new program.

In addition, in 2019, the Oregon Legislature passed House Bill 2209, giving DEQ the authority to create rules requiring railroads transporting oil to prepare spill response plans. These rules apply to railroads considered to be "high hazard rail" because they are within a quarter mile of waters of the state and have trains traveling over them with:

- More than 20 tank cars loaded with oil in a continuous block, or
- 35 tank cars loaded with oil distributed through the length of a train.

In Oregon, the definition of oil includes gasoline, crude oil, bitumen, synthetic crude oil, natural gas well condensate, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product; and liquefied natural gas. Since the [approval of the rules](#) in May 2021, DEQ has been working with BNSF Railway and Union Pacific Railroad, which own all of the high hazard rail areas in Oregon.

Both BNSF and Union Pacific have submitted plans to DEQ. DEQ has reviewed and approved those plans. The plans were also reviewed by Tribes along the high hazard rail routes as well as the Oregon Department of Fish and Wildlife, Oregon State Fire Marshal and Oregon Department of Land Conservation and Development. DEQ has been testing the plans through spill drills and exercises.

Additionally, the High Hazard Rail program is working on creating geographic response plans along the rail corridors. These plans are meant to address geographically specific areas and identify ahead of time, important resources that must be protected in the event of a spill.

## **Portland Harbor Superfund site**

Portland Harbor is a heavily industrialized stretch of the Willamette River, extending from Portland's Broadway Bridge to Sauvie Island. Due to decades of industrial activities, riverbed sediment and some adjacent riverbanks are contaminated with pollutants.

The U.S. Environmental Protection Agency listed Portland Harbor as a Superfund site in 2000. EPA is designated as the lead agency for investigating and cleaning up contamination in riverbed sediment. That means, EPA oversees cleanup of the actual Superfund site in the Willamette River, often referred to as the in-water cleanup. DEQ is the designated state support agency for EPA's in-water cleanup. This role ensures the state's involvement in the cleanup by requiring EPA to work with the state during technical studies to determine cleanup options, selection of the final cleanup option and its implementation.

DEQ is the lead agency for overseeing cleanup of the upland, meaning properties adjacent to the river, and upriver areas that may contribute pollution to Portland Harbor. We call this source control, because it is the work of controlling the sources of pollution to Portland Harbor. If there is contamination either upriver or on adjacent properties that could travel to the river, DEQ's job is to identify and address it before the Portland Harbor Superfund Site gets cleaned up.

DEQ works with current and former property owners to control contamination that presents risks to wildlife and people, or that could result in re-contaminating sediment after the in-river cleanup occurs. The cleanup and control of upland and upriver contamination is vital to success of the larger cleanup of Portland Harbor.

There are multiple groups including the Portland Harbor Community Advisory Group and the Portland Harbor Community Coalition as well as other groups and individuals engaged in both the Portland Harbor cleanup and source control work. If anyone is interested in learning more and/or engaging in this work, DEQ would be glad to make the connections with EPA and the community organizations.