

# African American Environmentalist Association

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Testimony of Norris McDonald

President

African American Environmentalist Association

Before the

THE NEW YORK CITY COUNCIL

COMMITTEE ON ENVIRONMENTAL PROTECTION

COUNCILMEMBER COSTA CONSTANTINIDES, CHAIRMAN

Public Hearing On

Int. No. 886 Environmental Justice Law

Int. No. 359 Environmental Justice Study

January 28, 2016, Time: 1 p.m.

Location: 250 Broadway, 16th Floor

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1629 K Street, NW, Suite 300, Washington, DC 20006

**New York**

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## Introduction

My name is Norris McDonald and I am the founder and president of the African American Environmentalist Association (AAEA). We are the nation's oldest African American-led environmental group and we are dedicated to protecting the environment, promoting the efficient use of natural resources, enhancing human, animal and plant ecologies, promoting increased African American ownership of energy resources and infrastructure and increasing African American participation in the environmental movement.

We support both bills and recommend that the New York City Council pass both bills immediately. Passage of these bills will represent a historic leap forward in protecting vulnerable communities that currently have no protection from environmental injustice. We are making recommendations to improve both bills. We seek a balance. Some promoters of black business development are concerned that such EJ legislation could restrict business development in minority communities. Other industries and industry representatives will fret that business will be restricted by such legislation. Our recommendations include a provision that protects the interests of business developers while protecting vulnerable communities.

I would like to thank Environmental Protection Committee Chairman Costa Constantinides, former New York City Councilman Charles Barron and New York City Councilwoman Inez Barron for their efforts in guiding this legislation to approval so that it can protect vulnerable communities.

## Background

I drafted the Environmental Justice Bill for Councilman Charles Barron in 2003 and Councilmember Charles Barron introduced the bill (Int. No. 404) in 2004 with seven cosponsors. After meeting with Councilwoman Inez Barron in 2014 to request re-introduction of the legislation and after much review and

revisions by the Committee on Environmental Protection, Councilwoman Barron introduced the legislation that we are considering today. The legislation has numerous cosponsors and I sincerely hope that the legislation will be passed by the council and signed into law by the mayor.

The New York EJ legislation is patterned after a national EJ bill I drafted that we still need to get passed in the U.S. Congress. I formed the Environmental Justice Coalition to work for the passage of the national legislation. The national bill, New York bill, Maryland bill and Mt. Vernon bill are listed in the Environmental Justice Coalition blog.<sup>1</sup>

I drafted EJ legislation that would applied to the City of Mount Vernon at the request of then Mt. Vernon Councilman Richard Thomas in 2014. Mr. Thomas is now the Mayor of Mount Vernon and I encouraged him to testify at the hearing today. He will comment in support of the legislation. It is our hope that Mount Vernon Mayor Richard Thomas will encourage the Mt. Vernon City Council to pass EJ legislation for that city. The New York City EJ legislation could serve as an important template for the Mt. Vernon legislation.

### The Bills

Int. No. 886 is a local law to amend the administrative code of the city of New York, in relation to identifying and addressing environmental justice issues. Int. No. 886 sets up an interagency task force to develop agency-wide plans to assure that environmental justice is incorporated into the planning and implementation of agency duties. The legislation also creates an associated environmental justice advisory board, reflecting geographic balance, comprised of pertinent committee chairs or their designees, appointments from environmental justice community boards health or environmental committees, at least seven appointees who are directors, members or employees of environmental justice organizations and at least two appointees who are

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<sup>1</sup> <http://ejcoalition.blogspot.com/>

directors, members or employees of organizations engaged in research related to human health.

Int. No. 359 is a local law to amend the New York City charter and the administrative code of the city of New York, in relation to requiring a study of potential environmental justice communities in New York City and the publication of the results of such study on the city's website. Int. No. 359 calls for a study of potential Environmental Justice communities in New York City, an identification of pollution sources, recommendations to mitigate adverse environmental impacts and a publication of the results of the study on the City's website.

### Recommendations

AAEA supports both bills and we have specific recommendations that would improve the legislation. Although we like the Environmental Working Group and the Advisory Board provisions of Int. No. 886, the bill needs additional protections for vulnerable communities. The additional protections from our national legislation that should be included in Int. No. 886, include:

Providing a citizen lawsuit provision to allow potential victims of environmental race discrimination to enforce the EJA and the regulations promulgated thereunder.

Providing a citizen endorsement provision to allow potential beneficiaries of nonpolluting economic development to enforce the EJA and the regulations promulgated thereunder.

Establishing the criteria for determining potential violations and endorsements based on comparative community health statistics, comparative community pollution sources and comparative community economic development.

Addressing: acts of discrimination and investigating all community complaints and recommendations related to development projects, whether filed before or after issuance of construction and operating permits.

Empowering citizens, and DEP at the request of citizens, to obtain injunctions to prevent construction and operation of discriminatory polluting facilities and operations that violate

the EJA regulations.

Empowering citizens, and DEP at the request of citizens, to endorse the construction and operation of nondiscriminatory nonpolluting facilities and operations that do not violate EJA regulations.

Providing a definitive permitting process regarding demographics for citizens, developers, government agencies and investors.

Directing the DEP to develop EJA regulations.

Int. No. 359 should include types and amounts of pollution at the sources called for by the bill. AAEA produced pollution studies<sup>2</sup> for Washington, DC that included types and amounts of pollution at each facility listed as an emitter. It will be very helpful to affected citizens to have this sort of information at their disposal.

### Conclusion

We support both bills and recommend that the New York City Council pass both bills with all deliberate speed. Int. No. 886 and Int. No. 359 are historic bills that will serve to protect communities that, to date, have absolutely no protection from environmental injustice. Federal, state and city laws do not currently protect these communities and the leadership exhibited by the supporters of this legislation is groundbreaking. We salute you all.

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<sup>2</sup> Our Unfair Share 3: Race and Pollution In Washington, DC, 2000, <https://static1.squarespace.com/static/57f9842a37c5814489122d1a/t/58b86b46a5790a60fd00b3d1/1488481103261/OUS3.pdf>