

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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December 13, 2022

The Honorable Kathy Hochul
Governor
State of New York
Washington Avenue and State Street
Albany, NY 12224

Dear Governor Hochul:

I write to applaud New York’s “Cumulative Impacts” bill (S.8830/A.2103D), which has passed through the state legislature. As Chair of the House Committee on Oversight and Reform and a House Member representing New York City’s Asthma Alley, I have elevated the importance of cumulative impacts policies on the national stage and demonstrated the need for legislative solutions like the one under consideration in our state.

On July 21, 2021, I held a hearing on the Justice40 Initiative, President Biden’s program to direct at least 40% of the benefits of federal climate and environmental investments to overburdened and underserved communities. At this hearing, Ms. Raya Salter, a member of the New York State Climate Action Council, testified that thousands of New Yorkers die each year due to the cumulative burdens of nearly 100 peaker power plant units and other major sources of pollution.¹

On August 26, 2021, I opened an investigation into the unjust placement of peaker power plants in vulnerable and overburdened communities that my colleague, Rep. Alexandria Ocasio-Cortez, and I represent. At a field roundtable in Astoria, Queens, on “Tackling Peak Pollution,” experts testified that the cumulative impacts of multiple-pollution sources must be immediately addressed to save lives.² On that same day, I testified at a Department of Environmental Conservation (DEC) public meeting to oppose a Clean Air Act permit for a new peaker plant in

¹ Committee on Oversight and Reform, *Hearing on Building Back with Justice: Environmental Justice Is Central to the American Jobs Plan* (July 21, 2021) (online at <https://oversight.house.gov/legislation/hearings/building-back-with-justice-environmental-justice-is-central-to-the-american>).

² Committee on Oversight and Reform, *Roundtable on Tackling Peak Pollution: Achieving Environmental Justice for Frontline Communities* (Aug. 26, 2021) (online at <https://oversight.house.gov/legislation/hearings/full-committee-hybrid-roundtable-on-tackling-peak-pollution-achieving>).

Rep. Ocasio-Cortez’s district, which would significantly add to the pollution my constituents are forced to breathe, particularly residents of Astoria Houses.

On October 27, 2021, DEC denied the permit. In doing so, DEC cited the same concerns raised by experts at the Committee’s August 26, 2021, roundtable, namely regarding the total impact of dozens of peaker plants in a single community and the inconsistency of the plan with the state’s statutory emission-reduction goals and its obligation to invest in clean energy that does not pollute environmental justice communities. DEC determined that a new peaker plant would violate state climate and environmental justice law by “disproportionately burden[ing] disadvantaged communities” with pollution and continuing to emit greenhouse gas.³

Building on DEC’s October 21, 2021, decision, a cumulative impacts law will bolster faithful implementation of the Climate Leadership and Community Protection Act (CLCPA). Your Administration announced that at least 35% of direct, environmentally beneficial investments in disadvantaged communities are needed to comply with the CLCPA, which inspired President Biden’s Justice40 Initiative.⁴ As an environmental-justice lens is being applied to investments, so too should an environmental-justice test be considered across permitting decisions and rulemakings.

By promulgating a cumulative impacts standard in relevant processes, New York will lead the nation with a coherent approach to climate-justice funding and permitting. The Cumulative Impacts bill (S.8830/A.2103D) on your desk will do just that by taking into consideration the effect of all pollution harming a community during the State’s Environmental Quality Review.⁵

Funding zero-pollution alternatives while permitting new fossil fuel infrastructure is inconsistent with the United States’ Nationally Determined Contributions under the Paris Agreement.⁶ In September 2020, Committee majority staff published a report entitled “The Urgent Need for Climate Action,” which also found that limiting carbon emissions in line with the Paris Agreement would save the lives of 423,000 New Yorkers over the next 50 years. In fact, the report highlighted that by remaining consistent with the Paris Agreement through 2030 by “eliminating fossil fuel combustion,” “nearly 40% of the premature deaths due to air pollution

³ NRG Astoria Decision Letter from Daniel Whitehead, Director, Division of Environmental Permits, New York State Department of Environmental Conservation, to Andrew Scano, Plant Manager, Astoria Gas Turbine Power, LLC, Re: Notice of Denial of Title V Air Permit (Oct. 27, 2021) (online at www.dec.ny.gov/docs/administration_pdf/nrgastoriadecision10272021.pdf).

⁴ New York State Energy Research and Development Authority, *December 13, 2021 Climate Justice Working Group Meeting*, YouTube (online at www.youtube.com/watch?v=K2FL1wKZjqw) (accessed Dec. 12, 2022).

⁵ WE ACT for Environmental Justice, *Webinar for the New York State Cumulative Impacts Bill* (online at www.weact.org/event/rally-for-the-new-york-state-cumulative-impacts-bill/) (accessed Dec. 12, 2022).

⁶ Carbon Brief, *New Fossil Fuels “Incompatible” with 1.5C Goal, Comprehensive Analysis Finds* (Oct. 23, 2022) (online at www.carbonbrief.org/new-fossil-fuels-incompatible-with-1-5c-goal-comprehensive-analysis-finds/).

in the state could be eliminated.”⁷ The report called the ability of state and local governments to “save lives, reduce illnesses, and save trillions of dollars now” by preventing fossil-fuel pollution a “key finding” because hitting climate targets results in significant, immediate co-benefits in New York’s most overburdened neighborhoods.⁸

For these reasons, I was proud to introduce the Justice in Power Plant Permitting Act (H.R. 6548) to combat the disproportionate burdens experienced by environmental justice communities inundated with polluting power plants, boilers, and generators. The House Committee on Oversight and Reform also partnered with the House Committee on Natural Resources to bring attention to cumulative impacts policies that deny permits based on the combined harm of all pollution in the area.

In a series of events in New York City on March 11, 2022, Rep. Raúl Grijalva, Chairman of the House Committee on Natural Resources, and I worked with your Administration’s top energy and environmental officials, as well as environmental justice leaders on the Climate Justice Working Group, to create momentum for place-based environmental investments and cumulative-impacts laws. During a meeting with the leadership of Rise Light and Power, the owner of the Ravenswood Generating Station—the largest fossil fuel power plant in the state—our Committees also urged the plant, which is across the street from Queensbridge Houses—the largest public housing development in the country—to convert to clean power and protect good jobs.⁹ By July 2022, Rise Light and Power made this commitment.¹⁰ However, the plan to repower the plant renewably is in danger if state agencies, regulators, and the grid operator fail to prioritize clean-electricity transmission lines or force the largest polluting units, like the infamous “Big Allis,” to remain operational. A cumulative impacts law would help address this issue by clarifying for regulators and industry alike that harmful major sources of pollution must give way to clean alternatives, thus spurring forward a rapid transition away from fossil fuel combustion in the Downstate region.

Cumulative impacts policies are gaining momentum nationally. In July, my Justice in Power Plant Permitting Act and Chairman Grijalva’s Environmental Justice for All Act (H.R. 2021) were positively reported out of the House Committee on Oversight and Reform and the House Committee on Natural Resources, respectively.¹¹ Under President Biden, reducing disproportionate pollution burdens are also being addressed with cumulative impact assessments in National Environmental Policy Act review and in support of racial equity and environmental

⁷ Committee on Oversight and Reform, *The Urgent Need for Climate Action: Health Benefits for the State of New York if the United States Meets the Goals of the Paris Agreement* (Sept. 2020) (online at <https://maloney.house.gov/sites/maloney.house.gov/files/NY%20State%20Climate%20Report.pdf>).

⁸ *Id.*

⁹ Committee on Oversight and Reform, *Press Release: Chairs Maloney and Grijalva to Hold Press Conference on Advancing Environmental Justice* (Mar. 9, 2022) (online at <https://oversight.house.gov/news/press-releases/chairs-maloney-and-grijalva-to-hold-press-conference-on-advancing-environmental>).

¹⁰ Rise Power and Light, *Press Release: Rise Light & Power Unveils Plans for “Renewable Ravenswood”:* *Transforming NYC’s Largest Fossil Fuel Power Plant into a New Clean Energy Hub* (July 12, 2022) (online at <https://riselight.wpengine.com/wp-content/uploads/2022/09/Renewable-Ravenswood-Press-Release-071222.pdf>).

¹¹ H.R. 6548; H.R. 2021.

justice executive orders.¹² This also means that a statewide cumulative impacts law could better position New York to compete for federal funds that reward proposals that seek to redress historic harms in environmental justice communities and communities of color.¹³

I thank you, the Climate Action Council, the New York State Senate and Assembly, the New York State Energy Research & Development Authority, and DEC for your ambitious steps on climate change and environmental justice. The statutory goals in the CLCPA are the ceiling; a cumulative-impacts policy will provide the launch pad to rise to the occasion.

If you have any questions regarding this letter, please contact Oversight Committee staff at (202) 225-5051.

Sincerely,


Carolyn B. Maloney
Chairwoman

cc: The Honorable James Comer, Ranking Member

¹² *Biden Restores Climate Safeguards in Key Environmental Law, Reversing Trump*, Washington Post (Apr. 19, 2022) (online at www.washingtonpost.com/climate-environment/2022/04/19/biden-nepa-climate-trump/).

¹³ Environmental Protection Agency, *Cumulative Impacts Research* (online at www.epa.gov/healthresearch/cumulative-impacts-research) (accessed Dec. 12, 2022).