

Annex A

Letter from Human Rights Watch to US Environmental Protection Agency

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October 18, 2023

The Honorable Michael Regan
Administrator
US Environmental Protection Agency
Office of the Administrator 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460



HRW.org

Sent by email and Postal Service

Dear Administrator Regan:

I am contacting you on behalf of Human Rights Watch, an independent, nongovernmental organization that monitors violations of human rights and non-state actors in more than 90 countries around the world. We write now to request information about Environmental Protection Agency (EPA) policies and activities. We hope that the EPA will respond to the questions below so that the department's views are accurately reflected in our reporting. We will make every effort to reflect responses we receive within 2 weeks of the date of this letter, by 5pm CDT, October 31, 2023.

Human Rights Watch is preparing a report on the human rights impacts of the fossil fuel and petrochemical industry operating in the area commonly referred to as "Cancer Alley" (and which the Louisiana government identifies as "the Industrial Corridor" of Louisiana). "Cancer Alley" is an 85-mile stretch of communities living along the banks of the Mississippi river in Ascension, East Baton Rouge, Iberville, Jefferson, Orleans, St. Charles, St. James, St. John the Baptist, and West Baton Rouge Parishes. It is the site of some 200 industrial operations which are primarily fossil fuel and petrochemical operations.

Human Rights Watch examined the extensive scientific literature on risks and rates of cancer and other health harms reported in Cancer Alley and interviewed elected officials and other government representatives, including current and former officials from the US EPA and Centers for Disease Control and Prevention (CDC). Human

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Rights Watch also spoke with physicians, academics, lawyers, health care providers, advocates, members of nongovernmental organizations (NGO) in the region, and also interviewed 37 Cancer Alley residents.

Our research to date has documented serious human rights concerns in Cancer Alley experienced by those living and working in closest proximity to fossil fuel and petrochemical operations, with a disproportionate burden on the area's Black residents.

The prevalence of harm indicates that authorities at both the state and federal level are failing to respect, protect, and fulfil the human rights to life, health, freedom from discrimination on the basis of gender and race, and access to information, as well as specific children's rights.

In line with existing evidence linking fossil fuel and petrochemical pollution with increased risk of from cancer, maternal and reproductive health harms, and severe respiratory ailments (among other health harms), residents of Cancer Alley interviewed by Human Rights Watch shared cancer diagnoses, including breast, prostate, and liver cancers. All of those interviewed reported being impacted by cancer, which they describe as harming their immediate families, loved ones, and communities. Women shared their personal stories of maternal and reproductive health harms, as well as those of immediate family members, friends, or neighbors, including low-birth weight, preterm birth, miscarriage, stillbirths, high risk pregnancy and birth, and infertility. Severe respiratory ailments were extremely common, including chronic asthma, bronchitis and coughs, childhood asthma, and persistent sinus infections. Residents shared how these ailments added stress to already at-risk pregnancies, resulted in children being rushed to emergency rooms and kept inside to avoid polluted air, missed days of work and school, sleepless nights due to wracking coughs, and the deaths of family members and friends.

These findings are broadly consistent with findings on these issues by your agency as well as international and US experts.

For example:

- In 2022, the UN Special Rapporteur on human rights and the environment identified Cancer Alley as one of several global "sacrifice zones," among the most

polluted and hazardous places on earth, illustrating egregious human rights violations.¹

- Nearly every census tract in Cancer Alley ranks in the top 5 percent nationally for cancer risk from toxic air pollution and in the top 10 percent for respiratory hazards.² Cancer Alley also has the census tract with the highest cancer risk in the country at nearly seven times the national average.³ EPA has also attributed toxic air pollution in Cancer Alley to increased risks of reproductive harm.⁴ Since at least 2016, residents of Cancer Alley have been exposed to greater than 10 times the level of hazardous air pollutants than residents living elsewhere in the state. Black residents in Cancer Alley face even higher rates of exposure than white residents.⁵
- EPA's Toxic Release Inventory data demonstrates levels of toxic emissions in Cancer Alley from fossil fuel and petrochemical operations that regularly exceed regulatory limits, with companies in persistent and consistent "significant violation" and noncompliance of the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act.
- Between 2019 and 2021, only one of the five oil refineries operating in Cancer Alley was in compliance with Clean Water Act regulations throughout all three years.⁶
- In 2011, the EPA Office of Inspector General identified Louisiana as the worst performing state with the lowest enforcement activity of the Clean Air Act (CAA), Resource Conservation and Recovery Act (RCRA) and Clean Water Act (CWA) among the five states in EPA's Region 6. LDEQ also ranked in the bottom quartile of all US states for enforcement of the CAA and the RCRA and in the second worst quartile for the CWA. Louisiana's poor performance was attributed, in part, to "a culture in which the state agency [LDEQ] is expected to protect industry."⁷

¹ United Nations Human Rights Council, The right to a clean, healthy and sustainable environment: non-toxic environment, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/49/53, January 12, 2022, <https://www.ohchr.org/en/documents/thematic-reports/ahrc4953-right-clean-healthy-and-sustainable-environment-non-toxic>.

² Kimberly A. Terrell and Gianna St. Julien, "Air pollution is linked to higher cancer rates among black or impoverished communities in Louisiana," *Environmental Research Letters*, vol. 17 (2022), accessed September 8, 2023, <https://doi.org/10.1088/1748-9326/ac6360>.

³ Maite Amorebieta, Toxic School, NBC News, March 16, 2023, <https://www.nbcnews.com/news/us-news/toxic-school-government-failed-black-residents-louisianas-cancer-alley-rcna72504>

⁴ Letter of Concern from Lillian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022, <https://s3.documentcloud.org/documents/23131326/20221012-final-letter-lddq-ldh-01r-22-r6-02r-22-r6-04r-22-r6-4.pdf>

⁵ Letter of Concern from Lillian S. Dorka.

⁶ Louisa Markow, et. al, *Oil's Unchecked Outfalls*, Environmental Integrity Project, January 26, 2023, <https://environmentalintegrity.org/wp-content/uploads/2023/01/Oils-Unchecked-Outfalls-03.06.2023.pdf>

⁷ EPA Office of Inspector General, *EPA Must Improve Oversight of State Enforcement: EPA Report No. 12-P-0113*, December 9, 2011, <https://www.epaoig.gov/sites/default/files/2015-10/documents/20111209-12-p-0113.pdf>

- In 2023, EPA identified a lack of adequate access to vital information afforded to Cancer Alley residents by LDEQ and LDH. “It appears that, for years... LDEQ failed to provide accurate and complete information to residents” most affected by harmful toxic emissions, EPA found, and LDEQ “relied on inaccurate and incomplete information regarding the cancer risk to the most affected residents.” EPA expressed concern that LDEQ’s permits process has denied residents impacted by fossil fuel and petrochemical operations in Cancer Alley access to information, the ability to influence operations through comment process, and the potential to appeal permits to the EPA.⁸
- EPA cited several LDH deficiencies in fulfilling this mandate, including: failure to provide accurate and reliable information central to decision making; failure to properly educate residents and health care professionals; Failure to implement study recommendations; and Failure to advise local and state entities such as the School Board and LDEQ.⁹
- In 2022, EPA opened an investigation into allegations that LDEQ and LDH had violated the US Civil Rights Act by discriminating on the basis of race, “subjecting Black residents to ongoing disproportionate and adverse health and environmental impacts” in Cancer Alley. Two separate complaints had been filed by Earthjustice and Tulane Environmental Law Clinic on behalf of RISE St. James, Inclusive Louisiana, Louisiana Bucket Brigade, Stop the Wallace Grain Terminal, and Concerned Citizens of St. John. After the investigation began, LDEQ Secretary Brown and LDH Secretary Phillips resigned. The EPA subsequently closed the investigation, explaining that it actively engaged in informal and ongoing negotiations with the agencies.¹⁰

Human Rights Watch also found various positive steps taken by your agency and the Biden-Harris administration addressing concerns raised by the residents of Cancer Alley and other similarly placed communities hard hit by fossil fuel and petrochemical operations and to confront the worsening climate crisis.

Yet, based on our analysis to date, these identified harms persist and are the result of a failure of the state of Louisiana to adequately regulate the fossil fuel and petrochemical industry, and a failure of the federal government to protect and promote human rights, ensure that regulations of the fossil fuel and petrochemical industry in Louisiana are adequate and enforced, and that information about risks to human health is available. We

⁸ Letter of Concern from EPA Dorka, October 12, 2022.

⁹ Letter of Concern from EPA Dorka, October 12, 2022.

¹⁰ Letter of Concern from EPA Dorka, October 12, 2022.

are particularly concerned that LDEQ is failing in its mandate to adequately uphold and enforce the Clean Air Act in Louisiana.

We write now to request information about EPA's policies and activities in those communities within Louisiana's Cancer Alley living and working in closest proximity to fossil fuel and petrochemical operations. Human Rights Watch is committed to producing material that is well-informed and objective. We seek this information to ensure that our reporting properly reflects the views and practices of EPA.

In addition to the information requested below, please include any other materials or information that would be important to understand this issue.

We hope that EPA will respond to the questions on the following pages so that the agency's views are accurately reflected in our reporting. We will make every effort to reflect responses we receive within 2 weeks of the date of this letter, **by 5pm CDT, October 31, 2023**. We would also welcome an opportunity to discuss these issues with you or other EPA representatives. If you would like to arrange such a discussion, please contact Antonia Juhasz [REDACTED]

Thank you in advance for your time in addressing these urgent matters.

Sincerely,

[REDACTED]

Antonia Juhasz
Senior Researcher, Environment and Human Rights
Human Rights Watch

We would appreciate any information you can provide regarding the following:

1. Has the EPA taken or considered taking any actions to change its process for issuing permits for additional operations and expansions of existing operations in Cancer Alley and other similarly placed communities to ensure that these already overburdened communities are not exposed to additional burdens?
2. When accessing to grant a permit, how does EPA consider the amount of toxic releases, emissions, or baseline concentrations of pollutants currently in the area and what the cumulative impact of new emissions will be?
3. In light of the worsening climate crisis, has EPA considered denying new permits for additional operations and expansions of existing fossil fuel and petrochemical operations in Cancer Alley?
4. How does EPA respond to the demand¹¹ made by RISE St. James, Inclusive Louisiana, and the Mount Triumph Baptist Church for a Parish-wide moratorium in St. James on new or expanded industrial operations, including all fossil fuel and petrochemical operations?
5. Will EPA require all petrochemical and fossil fuel facilities to install fence-line air pollution monitors, make data immediately publicly available, limit excessive flaring, install leak detection systems which alert the public, take immediate and comprehensive action against violators?
6. In light of the well-documented failures of LDEQ, and given that EPA authorizes LDEQ's state enforcement of federal law, will EPA consider initiating an investigation into withdrawal of state authorization for Louisiana's Clean Air Act program (or parts therein) under the LDEQ?
7. Will EPA consider working with CDC and HHS to fund a community-led participatory comprehensive door-to-door epidemiological health survey of census tracts where residents face the highest pollution burdens in Louisiana, including Cancer Alley, focused on proximity to polluting operations, include oil storage tank farms?
8. Will EPA allocate funding to community-based organizations for public and health care provider awareness and outreach campaigns on the health harms of exposure to fossil fuel and petrochemical operations (including reproductive health, cancers, and respiratory ailments among adults and children.)
9. Will EPA consider investigations into the specific harms associated with fossil fuel and petrochemical operations in Louisiana and take steps to help ensure that the necessary data for such an investigation is provided by local, state and federal agencies?

¹¹ *Inclusive Louisiana, et al. v. St. James Parish, et al.*, United States District Court Eastern District of Louisiana, Case No. 2:23-cv-00987, Complaint, March 21, 2023, https://ccrjustice.org/sites/default/files/attach/2023/03/Moratorium_Complaint.pdf.

10. What steps is EPA taking to update Clean Water Act regulations to eliminate toxic water pollution emanating from fossil fuel and petrochemical operations?
11. Will EPA consider implementing and supporting moratoria on new or expanded fossil fuel and petrochemical operations across the United States beginning a rights-respecting rapid phase out of existing operations and ending fossil fuel subsidies?
12. In light of EPA's decision to close its investigation into allegations that LDEQ and LDH had violated the US Civil Rights Act by discriminating on the basis of race, "subjecting Black residents to ongoing disproportionate and adverse health and environmental impacts" in Cancer Alley, explaining that EPA actively engaged in informal and ongoing negotiations with the agencies, can EPA provide information on those ongoing negotiations and how they will address the ongoing failures identified in its letter?¹²
13. Has EPA taken any steps to support a just transition of workers, communities, and industry away from fossil fuels and petrochemicals towards a renewable economy and begin a rights-respecting rapid phase out of existing fossil fuel and petrochemical operations in Cancer Alley? If so, please provide details.

¹² Letter of Concern from EPA Dorka, October 12, 2022.

Letter from Human Rights Watch to Louisiana Department of Environmental Quality

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October 18, 2023

Roger W. Gingles

Secretary

Louisiana Department of Environmental Quality

P.O. Box 4301

Baton Rouge, LA 70821-4301

Sent by Email and Postal Service

Dear Secretary Gingles:

I am contacting you on behalf of Human Rights Watch, an independent, nongovernmental organization that monitors violations of human rights and non-state actors in more than 90 countries around the world. We write now to request information about the Louisiana Department of Environmental Quality's (LDEQ) policies and activities. We hope that LDEQ will respond to the questions below so that the department's views are accurately reflected in our reporting. We will make every effort to reflect responses we receive within 2 weeks of the date of this letter, by 5pm CDT, October 31, 2023.

Human Rights Watch is preparing a report on the human rights impacts of the fossil fuel and petrochemical industry operating in the area commonly referred to as "Cancer Alley" (and which the Louisiana government identifies as "the Industrial Corridor" of Louisiana). "Cancer Alley" is an 85-mile stretch of communities living along the banks of the Mississippi river in Ascension, East Baton Rouge, Iberville, Jefferson, Orleans, St. Charles, St. James, St. John the Baptist, and West Baton Rouge Parishes. It is the site of some 200 industrial operations which are primarily fossil fuel and petrochemical operations.

Human Rights Watch examined the extensive scientific literature on risks and rates of cancer and other health harms reported in Cancer Alley and interviewed elected officials and other government representatives, including current and former officials from the US Environmental Protection Agency (EPA) and Centers for Disease



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Control and Prevention (CDC). Human Rights Watch also spoke with physicians, academics, lawyers, health care providers, advocates, members of nongovernmental organizations (NGO) in the region, and interviewed 37 Cancer Alley residents.

Our research to date has documented serious human rights concerns in Cancer Alley experienced by those living and working in closest proximity to fossil fuel and petrochemical operations, with a disproportionate burden on the area's Black residents.

The prevalence of harm indicates that authorities at both the state and federal level are failing to respect, protect, and fulfil the human rights to life, health, freedom from discrimination on the basis on gender and race, and access to information, as well as specific children's rights.

In line with existing evidence linking fossil fuel and petrochemical pollution with increased risk of from cancer, maternal and reproductive health harms, and severe respiratory ailments (among other health harms), residents of Cancer Alley interviewed by Human Rights Watch shared cancer diagnoses, including breast, prostate, and liver cancers. All of those interviewed reported being impacted by cancer, which they describe as harming their immediate families, loved ones, and communities. Women shared their personal stories of maternal and reproductive health harms, as well as those of immediate family members, friends, or neighbors, including low-birth weight, preterm birth, miscarriage, stillbirths, high risk pregnancy and birth, and infertility. Severe respiratory ailments were extremely common, including chronic asthma, bronchitis, and coughs, childhood asthma, and persistent sinus infections. Residents shared how these ailments added stress to already at-risk pregnancies, resulted in children being rushed to emergency rooms and kept inside to avoid polluted air, missed days of work and school, sleepless nights due to wacking coughs, and the deaths of family members and friends.

There is a strong perception among residents, advocates, researchers, and other experts that LDEQ is far too frequently acting in concert with the industries it is supposed to be regulating to the great detriment of residents, rather than serving residents' interests. Residents described great frustration with LDEQ as the point of public contact for information about industry operations, including the release of harmful pollutants, leading most of those interviewed to forgo contacting the agency at all. Those interviewed by Human Rights Watch also described LDEQ as "actively hostile to communities in Cancer Alley"¹ and "like partners" with the fossil fuel and petrochemical companies it is required

¹ Human Rights Watch interview with Ruhan Nagra, Associate Professor of Law and co-founder of the University Network for Human rights, March 14, 2023.

to regulate.² LDEQ's permitting decisions are a frequent source of complaint, with interviewees noting that the agency almost never denies a permit, and when granted, "the industry gets what it wants" and when violations occur, "LDEQ is absolutely horrible at enforcement."³

These findings are broadly consistent with other findings on these issues.

For example:

- In 2022, the UN Special Rapporteur on human rights and the environment identified Cancer Alley as one of several global "sacrifice zones," among the most polluted and hazardous places on earth, illustrating egregious human rights violations.⁴
- Nearly every census tract in Cancer Alley ranks in the top 5 percent nationally for cancer risk from toxic air pollution and in the top 10 percent for respiratory hazards.⁵ Cancer Alley also has the census tract with the highest cancer risk in the country at nearly seven times the national average.⁶ EPA has also attributed toxic air pollution in Cancer Alley to increased risks of reproductive harm.⁷ Since at least 2016, residents of Cancer Alley have been exposed to greater than 10 times the level of hazardous air pollutants than residents living elsewhere in the state. Black residents in Cancer Alley face even higher rates of exposure than white residents.⁸
- EPA's Toxic Release Inventory data demonstrates levels of toxic emissions in Cancer Alley from fossil fuel and petrochemical operations that routinely exceed regulatory limits, with companies in persistent and consistent "significant violation" and noncompliance of the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act.

² Human Rights Watch interview with Senator Cleo Fields, May 16, 2023.

³ Human Rights Watch interview with Lisa Jordan, Clinical Law Professor and Director of the Tulane University Environmental Law Clinic, June 1, 2023.

⁴ United Nations Human Rights Council, The right to a clean, healthy and sustainable environment: non-toxic environment, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/49/53, January 12, 2022, <https://www.ohchr.org/en/documents/thematic-reports/ahrc4953-right-clean-healthy-and-sustainable-environment-non-toxic>.

⁵ Kimberly A. Terrell and Gianna St. Julien, "Air pollution is linked to higher cancer rates among black or impoverished communities in Louisiana," *Environmental Research Letters*, vol. 17 (2022), accessed September 8, 2023, <https://doi.org/10.1088/1748-9326/ac6360>.

⁶ Maite Amorebieta, Toxic School, NBC News, March 16, 2023, <https://www.nbcnews.com/news/us-news/toxic-school-government-failed-black-residents-louisianas-cancer-alley-rcna72504>

⁷ Letter of Concern from Lilian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022, <https://s3.documentcloud.org/documents/2313324/20221012-final-letter-ldcq-ldh-01r-22-r6-02r-22-r6-04r-22-r6-4.pdf>

⁸ Letter of Concern from Lilian S. Dorka.

- Between 2019 and 2021, only one of the five oil refineries operating in Cancer Alley was in compliance with Clean Water Act regulations throughout all three years.⁹
- In 2011, the EPA Office of Inspector General identified Louisiana as the worst performing state with the lowest enforcement activity of the Clean Air Act (CAA), Resource Conservation and Recovery Act (RCRA) and Clean Water Act (CWA) among the five states in EPA's Region 6. LDEQ also ranked in the bottom quartile of all US states for enforcement of the CAA and the RCRA and in the second worst quartile for the CWA. Louisiana's poor performance was attributed, in part, to "a culture in which the state agency [LDEQ] is expected to protect industry."¹⁰
- A 2021 audit by the Louisiana state government found that LDEQ failed to adequately track facilities' emissions reports, including from those facilities that failed to submit reports entirely. When operators were fined, LDEQ did not adequately track penalties, including whether they were paid. The time it took for LDEQ to issue enforcement actions after a known violation more than doubled between 2015 and 2019, to nearly 20 months, though it could take as long as nine years.¹¹ LDEQ's fines are also routinely identified in research and interviews as too infrequent and too small to make an impact.¹²
- In 2022, then-Judicial District Court Judge Trudy White vacated permits issued by LDEQ for a petrochemical operations, finding LDEQ failed "to weigh, or in some cases even acknowledge, the full range of environmental harms resulting from its permit action," and ruled that "LDEQ must take special care to consider the impact of climate-driven disaster fueled by greenhouse gasses on environmental justice communities and their ability to recover."¹³
- In 2023, EPA identified a lack of adequate access to vital information afforded to Cancer Alley residents by LDEQ. "It appears that, for years... LDEQ failed to provide

⁹ Louisa Markow, et. al, *Oil's Unchecked Outfalls*, Environmental Integrity Project, January 26, 2023,

<https://environmentalintegrity.org/wp-content/uploads/2023/01/Oils-Unchecked-Outfalls-03.06.2023.pdf>

¹⁰ EPA Office of Inspector General, *EPA Must Improve Oversight of State Enforcement: EPA Report No. 12-P-0113*, December 9, 2011, <https://www.epa.oig.gov/sites/default/files/2015-10/documents/20111209-12-p-0113.pdf>

¹¹ Louisiana Legislative Auditor, *Monitoring and Enforcement of Air Quality Department of Environmental Quality*, January 20, 2021, at

p.3-13, [https://app.lla.state.la.us/PublicReports.nsf/0/4F372ABDDFoF271862586630067C25D/\\$FILE/00022660A.pdf?OpenElement&7773098](https://app.lla.state.la.us/PublicReports.nsf/0/4F372ABDDFoF271862586630067C25D/$FILE/00022660A.pdf?OpenElement&7773098).

¹² Gordon Russell, "Polluter's Paradise: In 'Cancer Alley,' Toxic Polluters Face Little Oversight from Environmental Regulators," *ProPublica*, December 19, 2019, <https://www.propublica.org/article/in-cancer-alley-toxic-polluters-face-little-oversight-from-environmental-regulators>; For example, Human Rights Watch interview with Lisa Jordan, Clinical Law Professor and Director of the Tulane University Environmental Law Clinic, June 1, 2023 and Human Rights Watch interview with Senator Cleo Fields, May 16, 2023; EPA TRI ECHO reported data.

¹³ *RISE St. James et al. v. Louisiana Department of Environmental Quality*, No. C-69402927, Judgment (La. 19th Judicial Dist. Ct. Parish of East Baton Rouge September 12, 2022), pp. 1-2, https://static1.squarespace.com/static/5eed506b38da704895463871/t/63291d541be4b547d10a69e4/1663638895928/for-mosaruling_091422.pdf.

accurate and complete information to residents” most affected by harmful toxic emissions, EPA found, and LDEQ “relied on inaccurate and incomplete information regarding the cancer risk to the most affected residents.” EPA expressed concern that LDEQ’s permits process has denied residents impacted by fossil fuel and petrochemical operations in Cancer Alley access to information, the ability to influence operations through comment process, and the potential to appeal permits to the EPA.¹⁴

- In 2022, EPA opened an investigation into allegations that LDEQ and LDH had violated the US Civil Rights Act by discriminating on the basis of race, “subjecting Black residents to ongoing disproportionate and adverse health and environmental impacts” in Cancer Alley. Two separate complaints had been filed by Earthjustice and Tulane Environmental Law Clinic on behalf of RISE St. James, Inclusive Louisiana, Louisiana Bucket Brigade, Stop the Wallace Grain Terminal, and Concerned Citizens of St. John. After the investigation began, LDEQ Secretary Brown and LDH Secretary Phillips resigned. The EPA subsequently closed the investigation, explaining that it actively engaged in informal and ongoing negotiations with the agencies.¹⁵

Based on our analysis to date, these harms are the result of a failure of the state of Louisiana to adequately regulate the fossil fuel and petrochemical industry, to ensure that regulations of the fossil fuel and petrochemical industry in Louisiana are adequate and enforced, that information about risks to human health is available, and a failure of the federal government to protect and promote human rights. We are particularly concerned that LDEQ is failing in its mandate to adequately uphold and enforce the Clean Air Act in Louisiana.

We write now to request information about LDEQ’s policies and activities in those communities within Louisiana’s Cancer Alley living and working in closest proximity to fossil fuel and petrochemical operations. Human Rights Watch is committed to producing material that is well-informed and objective. We seek this information to ensure that our reporting properly reflects the views and practices of LDEQ.

In addition to the information requested below, please include any other materials or information that would be important to understand this issue.

¹⁴ Letter of Concern from Lilian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022, <https://s3.documentcloud.org/documents/23131326/20221012-final-letter-ldeq-lbh-01r-22-r6-02r-22-r6-04r-22-r6-4.pdf>

¹⁵ Letter of Concern from EPA Dorka, October 12, 2022.

We hope that LDEQ will respond to the questions on the following pages to enable us to reflect the department's views in our reporting. We will make every effort to reflect responses we receive within 2 weeks of the date of this letter, **by 5pm CDT, October 31, 2023**. We would also welcome an opportunity to discuss these issues with you or other LDEQ representatives. If you would like to arrange such a discussion, please contact Antonia Juhasz [REDACTED].

Thank you in advance for your time in addressing these urgent matters.

Sincerely,

[REDACTED]

Antonia Juhasz
Senior Researcher, Environment and Human Rights
Human Rights Watch

We would appreciate any information you can provide regarding the following:

1. How does LDEQ assess risks to human health in its permitting decisions? If a human health assessment is not made, why not?
2. When assessing whether to grant a permit, does LDEQ consider the amount of toxic releases, emissions, or baseline concentrations of pollutants currently in the area and what the cumulative impact of new emissions will be?
3. Has LDEQ taken or considered taking any actions to change its process for issuing permits for additional operations and expansions of existing operations in Cancer Alley to ensure these already overburdened communities are not exposed to additional burdens?
4. When considering granting new permits for fossil fuel and petrochemical operations, does LDEQ include an assessment of greenhouse gas emissions from those facilities?
5. What is LDEQ's response to studies¹⁶ that have identified that those living or working in close proximity to industrial sources of pollution within Cancer Alley (aka the "Industrial Corridor") of Louisiana have higher incidence and/risk of health harms than those living further away?
6. In assessing health harms associated with industrial pollution, does LDEQ take proximity to sources of pollution into account? If LDEQ does not take proximity into account, please explain why not.
7. What steps is the agency taking to address findings of elevated cancer, respiratory, and maternal and reproductive health risk from toxic air pollution in nearly every census tract in Cancer Alley? And what steps is the agency taking to reduce exposure to harmful pollution in Cancer Alley?
8. What steps is the agency taking to address the disproportionate impacts of identified health harms and risks on the area's Black residents? And to address findings of nongovernmental organizations that the agency has violated US Civil Rights Act by discriminating on the basis of race, "subjecting Black residents to ongoing disproportionate and adverse health and environmental impacts" in Cancer Alley?
9. What steps has the agency taken to improve core services in response to the EPA's informal investigation as detailed in the Letter of Concern from Lilian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022?

¹⁶ For example, EPA studies cited above and Kimberly A. Terrell and Gianna St. Julien, "Air pollution is linked to higher cancer rates among black or impoverished communities in Louisiana," *Environmental Research Letters*, vol. 17 (2022), accessed September 8, 2023, <https://doi.org/10.1088/1748-9326/ac4360>.

10. What proportion of LDEQ's budget is derived from fees, fines, and other sources of income from those industries which it regulates? What proportion of these are from fossil fuel and petrochemical operators? Has LDEQ identified any conflicts of interest arising from the current model?
11. Has LDEQ considered following the federal government's example at the Interior Department's former MMS of separating LDEQ into two agencies: one which accepts fines, fees, and other sources of income from those it regulates and another which regulates these industries?
12. How does LDEQ respond to the demand¹⁷ made by RISE St. James, Inclusive Louisiana, and the Mount Triumph Baptist Church for a Parish-wide moratorium in St. James on new or expanded industrial operations, including all fossil fuel and petrochemical operations?
13. Will LDEQ require all petrochemical and fossil fuel facilities to install fence-line air pollution monitors, make data immediately publicly available, limit excessive flaring, install leak detection systems which alert the public, take immediate and comprehensive action against violators?
14. Has LDEQ taken any steps to support a just transition of workers, communities, and industry away from fossil fuels and petrochemicals towards a renewable economy and begin a rights-respecting rapid phase out of existing fossil fuel and petrochemical operations? If so, please provide details.

¹⁷ *Inclusive Louisiana, et al. v. St. James Parish, et al.*, United States District Court Eastern District of Louisiana, Case No. 2:23-cv-00987, Complaint, March 21, 2023, https://ccrjustice.org/sites/default/files/attach/2023/03/Moratorium_Complaint.pdf.

Letter from Human Rights Watch to Louisiana Department of Health

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October 18, 2023

Stephen R. Russo, JD
Secretary
Louisiana Department of Health
628 N. 4th Street
Baton Rouge, LA 70802

Sent by Email and Postal Service

Dear Secretary Russo:

I am contacting you on behalf of Human Rights Watch, an independent, nongovernmental organization that monitors violations of human rights and non-state actors in more than 90 countries around the world. We write now to request information about the Louisiana Department of Health's (LDH) policies and activities. We hope that LDH will respond to the questions below so that the department's views are accurately reflected in our reporting. We will make every effort to reflect responses we receive within 2 weeks of the date of this letter, by 5pm CDT, October 31, 2023.

Human Rights Watch is preparing a report on the human rights impacts of the fossil fuel and petrochemical industry operating in the area commonly referred to as "Cancer Alley" (and which the Louisiana government identifies as "the Industrial Corridor" of Louisiana). "Cancer Alley" is an 85-mile stretch of communities living along the banks of the Mississippi river in Ascension, East Baton Rouge, Iberville, Jefferson, Orleans, St. Charles, St. James, St. John the Baptist, and West Baton Rouge Parishes. It is the site of some 200 industrial operations which are primarily fossil fuel and petrochemical operations.

Human Rights Watch examined the extensive scientific literature on risks and rates of cancer and other health harms reported in Cancer Alley and interviewed elected officials and other government representatives, including current and former officials from the US Environmental Protection Agency (EPA) and Centers for Disease Control and Prevention (CDC). Human Rights Watch also spoke with



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physicians, academics, lawyers, health care providers, advocates, members of nongovernmental organizations (NGO) in the region, and interviewed 37 Cancer Alley residents.

Our research to date has documented serious human rights concerns in Cancer Alley experienced by those living and working in closest proximity to fossil fuel and petrochemical operations, with a disproportionate burden on the area's Black residents.

The prevalence of harm indicates that authorities at both the state and federal level are failing to respect, protect, and fulfil the human rights to life, health, freedom from discrimination on the basis on gender and race, and access to information, as well as specific children's rights.

In line with existing evidence linking fossil fuel and petrochemical pollution with increased risk of from cancer, maternal and reproductive health harms, and severe respiratory ailments (among other health harms), residents of Cancer Alley interviewed by Human Rights Watch shared cancer diagnoses, including breast, prostate, and liver cancers. All of those interviewed reported being impacted by cancer, which they describe as harming their immediate families, loved ones, and communities. Women shared their personal stories of maternal and reproductive health harms, as well as those of immediate family members, friends, or neighbors, including low-birth weight, preterm birth, miscarriage, stillbirths, high risk pregnancy and birth, and infertility. Severe respiratory ailments were extremely common, including chronic asthma, bronchitis and coughs, childhood asthma, and persistent sinus infections. Residents shared how these ailments added stress to already at-risk pregnancies, resulted in children being rushed to emergency rooms and kept inside to avoid polluted air, missed days of work and school, sleepless nights due to wracking coughs, and the deaths of family members and friends.

There is a strong perception among residents, advocates, researchers, and other experts that LDH far too often derides and undermines residents' concerns, rather than serving residents' interests. In one example, Anne Rolfes, Executive Director of the Louisiana Bucket Brigade, told Human Rights Watch that when they'd bring evidence of human health harms to LDH, people were told it was their own fault, that they eat "too much fried chicken and you smoke."

These findings are broadly consistent with other findings on these issues.

For example:

- In 2022, the UN Special Rapporteur on human rights and the environment identified Cancer Alley as one of several global “sacrifice zones,” among the most polluted and hazardous places on earth, illustrating egregious human rights violations.¹
- Nearly every census tract in Cancer Alley ranks in the top 5 percent nationally for cancer risk from toxic air pollution and in the top 10 percent for respiratory hazards.² Cancer Alley also has the census tract with the highest cancer risk in the country at nearly seven times the national average, according to the EPA.³ The EPA has also attributed toxic air pollution in Cancer Alley to increased risks of reproductive harm.⁴ Since at least 2016, residents of Cancer Alley have been exposed to greater than 10 times the level of hazardous air pollutants than residents living elsewhere in the state. Black residents in Cancer Alley face even higher rates of exposure than white residents.⁵
- EPA’s Toxic Release Inventory data demonstrates levels of toxic emissions in Cancer Alley from fossil fuel and petrochemical operations that regularly exceed regulatory limits, with companies in persistent and consistent “significant violation” and noncompliance of the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act.
- Between 2019 and 2021, only one of the five oil refineries operating in Cancer Alley was in compliance with Clean Water Act regulations throughout all three years.⁶
- In 2023, EPA identified a lack of adequate access to vital information afforded to Cancer Alley residents by LDH. EPA cited several LDH deficiencies in fulfilling this mandate, including: failure to provide accurate and reliable information central to

¹ United Nations Human Rights Council, The right to a clean, healthy and sustainable environment: non-toxic environment, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/49/53, January 12, 2022, <https://www.ohchr.org/en/documents/thematic-reports/ahrc4953-right-clean-healthy-and-sustainable-environment-non-toxic>.

² Kimberly A. Terrell and Gianna St. Julien, “Air pollution is linked to higher cancer rates among black or impoverished communities in Louisiana,” *Environmental Research Letters*, vol. 17 (2022), accessed September 8, 2023, <https://doi.org/10.1088/1748-9326/ac4360>.

³ Maite Amorebieta, Toxic School, NBC News, March 16, 2023, <https://www.nbcnews.com/news/us-news/toxic-school-government-failed-black-residents-louisianas-cancer-alley-rcna72504>

⁴ Letter of Concern from Lilian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022, <https://s3.documentcloud.org/documents/23131326/20221012-final-letter-ldeq-lbh-01r-22-r6-02r-22-r6-04r-22-r6-4.pdf>

⁵ Letter of Concern from Lilian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022, <https://s3.documentcloud.org/documents/23131326/20221012-final-letter-ldeq-lbh-01r-22-r6-02r-22-r6-04r-22-r6-4.pdf>

⁶ Louisa Markow, et. al, *Oil’s Unchecked Outfalls*, Environmental Integrity Project, January 26, 2023, <https://environmentalintegrity.org/wp-content/uploads/2023/01/Oils-Unchecked-Outfalls-03.06.2023.pdf>

decision making; failure to properly educate residents and health care professionals; failure to implement study recommendations; and failure to advise local and state entities such as the School Board and LDEQ.⁷

- In 2022, EPA opened an investigation into allegations that LDEQ and LDH had violated the US Civil Rights Act by discriminating on the basis of race, "subjecting Black residents to ongoing disproportionate and adverse health and environmental impacts" in Cancer Alley. Two separate complaints had been filed by Earthjustice and Tulane Environmental Law Clinic on behalf of RISE St. James, Inclusive Louisiana, Louisiana Bucket Brigade, Stop the Wallace Grain Terminal, and Concerned Citizens of St. John. After the investigation began, LDEQ Secretary Brown and LDH Secretary Phillips resigned. The EPA subsequently closed the investigation, explaining that it actively engaged in informal and ongoing negotiations with the agencies.⁸

Based on our analysis to date, these harms are the result of a failure of the state of Louisiana to adequately regulate the fossil fuel and petrochemical industry, to ensure that regulations of the fossil fuel and petrochemical industry in Louisiana are adequate and enforced, that information about risks to human health is available, and a failure of the federal government to protect and promote human rights.

We write now to request information about LDH's policies and activities in those communities within Louisiana's Cancer Alley living and working in closest proximity to fossil fuel and petrochemical operations. Human Rights Watch is committed to producing material that is well-informed and objective. We seek this information to ensure that our reporting properly reflects the views and practices of LDH.

In addition to the information requested below, please include any other materials or information that would be important to understand this issue.

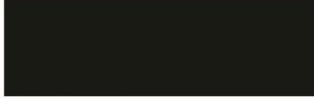
We hope that LDH will respond to the questions on the following pages so that the department's views are accurately reflected in our reporting. We will make every effort to reflect responses we receive within 2 weeks of the date of this letter, **by 5pm CDT, October 31, 2023**. We would also welcome an opportunity to discuss these issues with you or other LDH representatives. If you would like to arrange such a discussion, please contact Antonia Juhasz [REDACTED]

⁷ Letter of Concern from EPA Dorka, October 12, 2022.

⁸ Letter of Concern from EPA Dorka, October 12, 2022.

Thank you in advance for your time in addressing these urgent matters.

Sincerely,



Antonia Juhasz
Senior Researcher
Environment and Human Rights Division
Human Rights Watch

We would appreciate any information you can provide regarding the following:

1. What is LDH's response to studies⁹ that have identified that those living or working in close proximity to industrial sources of pollution within Cancer Alley (aka the "Industrial Corridor") of Louisiana have higher incidence and/risk of health harms than those living further away?
2. In assessing health harms associated with industrial pollution, does LDH take proximity to sources of pollution into account? If LDH does not take proximity into account, please explain why not?
3. What steps is the agency taking to address findings of elevated cancer, respiratory, and maternal and reproductive health risk from toxic air pollution in nearly every census tract in Cancer Alley? And what steps is the agency taking to reduce exposure to harmful pollution in Cancer Alley?
4. What steps is the agency taking to address the disproportionate impacts of identified health harms and risks on the area's Black residents? And to address findings of nongovernmental organizations that the agency has violated US Civil Rights Act by discriminating on the basis of race?
5. What action has the agency taken to improve core services in response to the EPA's informal investigation as detailed in the Letter of Concern from Lilian S. Dorka, EPA deputy assistant administrator for external civil rights to Dr. Chuck Carr Brown, Louisiana Department of Environmental Quality (LDEQ) secretary, and Dr. Courtney N. Phillips, Louisiana Department of Health (LDH) secretary, October 12, 2022? Including EPA's findings of failure by the agency to provide accurate and reliable information central to decision making; failure to properly educate residents and health care professionals; failure to implement study recommendations; and failure to advise local and state entities such as the School Board and LDEQ?
6. How does LDH respond to concerns of residents that the agency fails to address their interests but instead, "derides and undermines" their concerns?
7. Will LDH allocate funding to community-based organizations for public and health care provider awareness and outreach campaigns on the health harms of exposure to fossil fuel and petrochemical operations (including reproductive health, cancers, and respiratory ailments.)?
8. Has LDH taken any steps to support a just transition of workers, communities, and industry away from fossil fuels and petrochemicals towards a renewable economy and begin a rights-respecting rapid phase out of existing fossil fuel and petrochemical operations? If so, please provide details.

⁹ For example, EPA studies cited above and Kimberly A. Terrell and Gianna St. Julien, "Air pollution is linked to higher cancer rates among black or impoverished communities in Louisiana," *Environmental Research Letters*, vol. 17 (2022), accessed September 8, 2023, <https://doi.org/10.1088/1748-9326/ac4360>.