

# Annex B

## Letter from US Environmental Protection Agency to Human Rights Watch



OFFICE OF ENVIRONMENTAL JUSTICE AND EXTERNAL CIVIL RIGHTS  
WASHINGTON, D.C. 20460

October 31, 2023

Antonia Juhasz  
Senior Researcher, Environment and Human Rights  
Human Rights Watch  
[REDACTED]

Dear Ms. Juhasz:

This is in response to your October 18, 2023, letter to Environmental Protection Agency (EPA) Administrator, Michael Regan. In your letter, you state that Human Rights Watch (HRW) 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).” You ask that EPA respond to a series of questions by October 31, 2023.

First, it is important to emphasize that the Biden Administration and EPA are moving urgently, with an unprecedented commitment to advancing environmental justice and civil rights to ensure every person in this country has clean air to breathe, clean water to drink, and the chance to lead a healthy, fulfilling life. Administrator Regan has personally visited St. John the Baptist Parish and St. James Parish to meet with residents and see firsthand the impacts of pollution from facilities in “Cancer Alley.” Further, EPA remains fully committed to improving environmental conditions in St. John the Baptist, St. James, other parishes throughout Louisiana’s Industrial Corridor, and other communities with environmental justice concerns. Community participation has been critical to identifying both problems and solutions, and we look forward to our continued partnership with the residents in these parishes as we continue our efforts to improve public health and the environment. The lived experiences of impacted communities must be central in EPA decision-making, and EPA remains committed to working closely with community leaders in these communities.

As the Administrative Closure Letters issued by EPA’s Office of External Civil Rights Compliance (OECRC), on June 27, 2023, explain, EPA is taking an “all of EPA” approach, including several important actions, using the best available science to address toxic chloroprene and ethylene

Antonia Juhasz

oxide (EtO) emissions, and to improve conditions for these communities while continuing to engage and involve them. First, on December 20, 2022, EPA issued a consent agreement and final order (CAFO) under the Resource Conservation and Recovery Act (RCRA) ordering the Denka Performance Elastomer LLC (Denka) to improve waste management practices to lower chloroprene emissions. This has already resulted in changes at the plant that reduced emissions in the surrounding communities.

Second, on February 28, 2023, EPA filed in federal court a Clean Air Act (CAA) § 303 civil complaint against Denka to compel immediate measures to eliminate the imminent and substantial endangerment posed by its chloroprene emissions and address and mitigate the harm to public health. EPA's CAA § 303 civil complaint and OECRC's Letter of Concern relied on data from the same chloroprene monitors and reached similar conclusions about cancer risk to residents living near Denka due to chloroprene emissions.

Third, and more broadly, on April 25, 2023, EPA published a proposed rule under Section 112 of the CAA to significantly reduce emissions of toxic and other harmful air pollutants, including chloroprene and EtO, from Denka and other chemical plants nationwide. EPA's proposed rule would reduce by 96% the number of people with elevated excess lifetime cancer risk due to breathing air toxics near these chemical plants. EPA is required by court order, issued by the District Court of the District of Columbia in *Texas Environmental Justice Advocacy Services, et al. v. Regan*, No. 1:20-cv-07733, to issue a final rule by March 29, 2024.

Fourth, EPA is initiating a cumulative impact assessment (CIA) for the St. John the Baptist Parish community near Denka in particular, based on the significant pollution exposure for this community. This analysis will include the totality of exposures to combinations of chemicals and non-chemical stressors and their effects on health, well-being, and quality of life outcomes, and will include community engagement that centers the lived experiences of community members throughout the process. Conducting a CIA involves evaluating various types of data, including health and environmental data to inform decision-making. CIAs help characterize the current baseline cumulative health risks and burdens, and the potential state of vulnerability or resilience of a community. Given that this CIA will be based on the best available science, we expect it will yield important information to address significant pollution exposure for this and other Industrial Corridor communities.

In general, with respect to permitting of industrial and other facilities, EPA recognizes that, historically, industrial facilities have been sited, have expanded, and have added to the pollution burden in already vulnerable communities. Permitting practices are governed by a broad, diverse range of federal and state agency statutory and regulatory requirements, often under complex federal-state cooperative federalism frameworks. These requirements and federal-state permitting relationships must necessarily be addressed on a case-by-case basis.

EPA feels strongly that by considering the principles of environmental justice, complying with federal civil rights laws, and complying with applicable state environmental justice and civil

Antonia Juhasz

rights policies and laws, environmental permitting programs will better identify and address discriminatory or unfair permitting processes that affect the health and well-being of overburdened and underserved communities.

With respect to funding available to community-based organizations, EPA has recently made unprecedented investments in communities to remove longstanding barriers and build a healthier future for all. On October 24, 2023, EPA announced nearly \$128 million to fund 186 projects across the country that advance environmental justice as part of President Biden's Investing in America agenda. The recipient organizations, which EPA has selected through its Environmental Justice Collaborative Problem Solving Cooperative Agreement and Environmental Justice Government-to-Government programs, will use the funds to ensure disadvantaged communities that have historically suffered from underinvestment have access to clean air and water and climate resilience solutions. Together, these community-driven projects will improve the health, equity, and resilience of communities while setting a blueprint for local solutions that can be applied across the nation. In the coming weeks EPA will announce additional opportunities for communities and their partners to access even greater amounts of funding to support community-driven initiatives to create healthier, safer, more prosperous futures.

Thank you for the opportunity to respond. I hope you will find the above information helpful. Due to pending litigation and other considerations, we have provided as much information as possible. EPA welcomes the opportunity to continue a dialogue with HRW related to this very important environmental justice and civil rights work.

Sincerely,



Theresa Segovia  
Principal Deputy Assistant Administrator  
Office of Environmental Justice and External Civil Rights

Cc:  
Michael Regan  
Administrator  
U.S. EPA

Jeffrey Prieto  
General Counsel  
U.S. EPA

# Letter from Louisiana Department of Environmental Quality to Human Rights Watch

JOHN BEL EDWARDS  
GOVERNOR



ROGER W. GINGLES  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE SECRETARY  
LEGAL AFFAIRS DIVISION

October 31, 2023

Antonia Juhasz  
Senior Researcher, Environmental & Human Rights  
Human Rights Watch  
350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299

Via email: [REDACTED]

Re: Response to Letter dated October 18, 2023

Dear Ms. Juhasz:

The Louisiana Department of Environmental Quality (LDEQ) acknowledges receipt of your correspondence dated October 18, 2023, requesting LDEQ's input into a report that your office is preparing on the Louisiana Industrial Corridor. This letter serves as LDEQ's response.

LDEQ's mission is to provide service to the people of Louisiana through comprehensive environmental protection in order to promote and protect health, safety and welfare. Consistent with its mission, all LDEQ permitting decisions rely upon science-based standards which have been determined to be protective of human health and the environment. LDEQ complies with all applicable state and federal laws, including the Civil Rights Act of 1964, as amended. LDEQ also commits to adopt and enforce any new final and effective standards that EPA promulgates applicable to regulated facilities in the Industrial Corridor.

Your letter references two complaints alleging violation of Title VI of the Civil Rights Act of 1964 lodged with the U.S. EPA's Office of External Civil Rights in 2022. EPA has resolved both of these complaints, fully and finally closing the agency's investigations into the allegations of discrimination. As EPA noted in court documents, it found no evidence of discrimination or other violation of Title VI by either LDEQ or LDH.<sup>1</sup> Furthermore, LDEQ provided detailed written responses to the complaints and engaged in months-long discussions with EPA personnel regarding these complaints. LDEQ's responses to these complaints are public record and are accessible on LDEQ's Electronic Document Management System (EDMS), Docket ID Numbers 13335907 and 13335908. LDEQ believes its written responses address the issues raised in your letter. Any other public records related to these matters also may be obtained by making a public records request under the Louisiana Public Records Act. Procedures for making such a request are available on LDEQ's public website (<https://www.deq.louisiana.gov/>)

Finally, please be advised that there currently is ongoing federal litigation involving these matters in the United States District Court, Western District of Louisiana, Lake Charles Division (*State of Louisiana v. U.S. Environmental Protection Agency et al.*, (Civil Action No. 2:23-cv-00692)). Because of this litigation, LDEQ will not provide any further comment on these matters.

Sincerely,

[REDACTED]  
✓ Jill C. Clark  
General Counsel

<sup>1</sup> See "Defendants' Notice of Resolution of Title VI Complaints," Filed in *State of Louisiana v. U.S. Environmental Protection Agency et al.* (USDC, Western District of Louisiana, Civil Action No. 2:23-cv-00692).

# Letter from Louisiana Department of Health to Human Rights Watch

John Bel Edwards  
GOVERNOR



Stephen R. Russo, JD  
SECRETARY

**State of Louisiana**  
Louisiana Department of Health  
Bureau of Legal Services

October 31, 2023

Antonia Juhasz  
Human Rights Watch  
350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-4700  
(via email only: [REDACTED])

Dear Ms. Juhasz:

The Louisiana Department of Health (LDH) is in receipt of your letter dated October 18, 2023 (the "Letter") which seeks LDH's responses to certain questions posed therein regarding LDH's policies and activities concerning the residents of those communities located within the "Industrial Corridor" of Louisiana. In response to the Letter, LDH hereby addresses certain matters and issues raised therein.

First, LDH expressly disputes and disagrees with multiple statements and allegations contained in the Letter, to the extent that they purport to relate to LDH, including, though certainly not limited to, the following:

- "The prevalence of harm indicates that authorities at both the state and federal level are failing to respect, protect, and fulfill 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 right".
- "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."
  - LDH does not necessarily dispute that such a "perception" exists in the minds of some, but LDH *does* dispute the accuracy and validity of such perception.

The Letter's allegations against LDH concerning "failure to properly educate residents" and the "failure to provide accurate and reliable information central to decision making" are sourced to the Letter of Concern dated October 12, 2022 that EPA sent to LDH. Although LDH thereafter engaged in discussions with EPA concerning that Letter of Concern (regarding Complaint No 02R-22-R6), LDH did not agree with the allegations in the Letter of Concern or Complaint. Indeed, LDH's letter responding to said Complaint, dated June 6, 2022 (see attached copy), detailed and set forth LDH's participation in

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Ms. Antonia Juhasz  
October 31, 2023  
Page 2

meetings, briefings, studies, events, and correspondence intended to inform relevant governmental entities and affected members of the public concerning the risks related to chloroprene and other chemicals in St. John the Baptist Parish. Importantly, as you may be aware, that Letter of Concern (regarding Complaint No. 02R-22-R6) was later administratively closed by the EPA.

LDH's Office of Public Health (OPH) performs the functions of the state that relate to the general health of the people of the state. OPH's Section of Environmental Epidemiology and Toxicology (SEET) is to respond to inquiries concerning morbidity and mortality associated with environmental chemicals by:

- Identifying chemicals in the environment which are likely to cause adverse health effects;
- Evaluating the extent of human exposure to these chemicals and the resultant adverse health effects;
- Making recommendations for the prevention and reduction of exposure to hazardous chemicals; and
- Promoting a better public understanding of the health effects of chemicals in the environment.

Much of SEET's work is coordinated and/or conducted in conjunction with its federal partners/equivalents [e.g. EPA, Agency for Toxic Substances and Disease Registry (ATSDR)] and with the Louisiana Department of Environmental Quality (LDEQ). However, if and when EPA issues new rules or standards, SEET will provide guidance as warranted on the effects of violations thereof.

This letter is functionally intended to be general in nature. It is not intended to constitute a full exposition and analysis of the laws and statutes that regulate and concern chemical pollution and emissions in Louisiana. Please note that the omission in this letter of an explicit denial or refutation of any particular "allegation" in the Letter should not be construed as agreement therewith.

Further, due to the pending litigation in the matter of *State of Louisiana v. U.S. Environmental Protection Agency et al.*, (Civil Action No. 2:23-cv-00692, USDC, Western District of Louisiana), LDH will not provide further comment on these matters.

Sincerely,

LDH Bureau of Legal Services

By:

David McKay