

Lilian Dorka, Director, External Civil Rights Compliance Office U.S. Environmental Protection Agency
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Rosanne Goodwill, Director of Civil Rights
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration Office of Civil Rights
1200 New Jersey Avenue, SE
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May 3, 2022

Sent via Electronic Mail

Re: EPA Complaint No. 02RNO-21-R2 and DOT Complaint #2021-0328; Complainants Brownsville Green Justice, the Ocean Hill-Brownsville Coalition of Young Professionals, Mi Casa Resiste, and Indigenous Kinship Collective’s Statement to the Environmental Protection Agency and Department of Transportation re: Participation in the Informal Resolution Process and the Importance of Transparency and Community Involvement in the Investigation into the North Brooklyn Pipeline

Dear Ms. Dorka and Ms. Goodwill,

Brownsville Green Justice (BGJ), the Ocean Hill-Brownsville Coalition of Young Professionals (CYP), Mi Casa Resiste, and Indigenous Kinship Collective (IKC) write as a follow up to our March 15, 2022 meeting with the Environmental Protection Agency (EPA)’s External Civil Rights Compliance Office (ERCO) facilitators and our April 19, 2022 update meeting with the members of the EPA and Department of Transportation (DOT)’s complaint investigation team to emphasize and outline our desire to be active participants in both your agencies’ previously described newly conceived “hybrid” informal resolution process and the investigation of our complaint concerning the North Brooklyn Pipeline (“the pipeline”).

As Black, Brown, and Indigenous activists, organizers, and residents of Brownsville, Ocean-Hill, Williamsburg, and Bushwick—the communities that make up phases one through four of the pipeline and the phases in which gas is currently flowing—we were the first to be impacted by this project and the last to find out about it. We were denied our rightful opportunity not only to be heard, but to effectively object to the installation of unnecessary and harmful fracked gas infrastructure in our already over-polluted neighborhoods. Then, we were charged for it. Therefore, while we appreciate you allowing us to meet with members of your team, we would like to repeat our request to meet with the New York State Department of Environmental Conservation (DEC) and the New York State Department of Public Service (DPS) and be part of the ongoing conversations you are having with them throughout the course of this investigation.

With that in mind, as you move forward in the informal resolution process, we would like to offer our thoughts on how a hybrid informal resolution process should ideally work so that impacted communities and stakeholders are centered in the decision making and outcomes.

We are actively dealing with the consequences of what happens when we are left out, and we do not want to continue that pattern.

The following list includes some of our thoughts:

Informal Resolution Agreement (IRA) Process:

- While we understand that we would not be parties to the informal resolution agreement, as complainants in this action the IRA process should be co-developed between the EPA and Community Representatives (BGJ, CYP, Mi Casa Resiste, and IKC) in order for Community Members to clarify our priorities in this process. This collaboration would help ensure the community is engaged and represented in decisions that directly affect them.
- Community Representatives need to be the decision makers in every part of this process:
 - We would like to be informed about what specific metrics the EPA is using in its investigation.
 - In the event that the community representatives believe that the process is not adequately addressing the issues in our complaint, we would like to act as partners and co-authors in the development and drafting of the informal resolution agreement.
 - Community Representatives and Members do not want to solely be used as sources of information.
 - Community Representatives would like to be involved in every meeting to ensure that community members are a part of the decision making process.
 - Both our legal representation and Community Representatives should be cc'd on each communication throughout each step of the process.

Expected Outcomes from this Process:

- Immediate enforcement of our rights under Title VI of the Civil Rights Act of 1964, including by shutting down the pipeline where gas continues to flow in Phases I-IV and requiring that DEC undertake an immediate full SEQRA and CLCPA analysis of the LNG facility and North Brooklyn pipeline together. No decision can be made on the Air Permit without this analysis because they are one “whole action” under state law, and failure to do so violates Title VI.
- We believe that delayed intervention by the EPA, DEC, and/or DPS further infringes upon our rights especially because construction of the pipeline has stopped in Phase 5, where the surrounding community is 74% White and the median household income is \$96k, while the remaining pipeline route continues to be exposed to the dangers of flowing gas and the surrounding community is on average 44% Black and 39% Latinx. The community would like to be compensated for this delay in its protection.
- Community Consent, Transparency, and Control
 - Public visibility
 - This process also needs to be transparent for community members other than the complainants.

- We believe the State owes its constituents that transparency.
 - We would like clarification about what information can be disclosed in this investigation process and how it can be disseminated to the public so that they are kept abreast of what is happening and engaged in the process.
- In order to include and engage the public, we need to create opportunities to get their consent and feedback on outcomes, e.g. public forums.
- We would like to have public forums before any decision is made that could impact community stakeholders.
- Formulate corrective processes for companies that violate state laws and community consent.
 - When Black and Brown communities voice their concerns and object to anything that is against our rights, it must be respected. We must also hold agencies accountable when they do not enforce what the community is asking for.
 - We expect this process to yield tangible outcomes concerning how projects like this are able to happen in our communities without any notice so that they no longer happen.
 - The effects of this IRA should establish measures so that this does not happen again
 - Any rate hikes or surcharges that were applied to community members' bills to pay for this pipeline, either directly or indirectly, should be returned to us.

Neither your attention to any of the items on the above list or our active participation in this ongoing process should be interpreted as remediation for the previous exclusion that led us to this point. However, as we have explained, it is important that we attempt to make changes. We look forward to hearing from you to discuss taking these steps together and devising a plan to move forward.

Best,

Brownsville Green Justice

Ocean Hill-Brownsville Coalition of Young Professionals

Mi Casa Resiste

Indigenous Kinship Collective