No. 23-975

IN THE

Supreme Court of the United States

SEVEN COUNTY INFRASTRUCTURE COALITION, *et al.*,

Petitioners,

v.

EAGLE COUNTY, COLORADO, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF *AMICUS CURIAE* OF CENTER FOR AMERICAN LIBERTY IN SUPPORT OF REVERSAL FOR PETITIONERS

HARMEET K. DHILLON
Counsel of Record
MARK TRAMMELL
JOSH DIXON
ERIC SELL
CENTER FOR AMERICAN LIBERTY
1311 South Main Street, Suite 207
Mount Airy, MD 21771
(703) 687-6212
harmeet@libertycenter.org

Counsel for Amicus Curiae Center for American Liberty

332620

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

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IDENTITY AND INTEREST OF *AMICUS CURIAE*

The Center for American Liberty ("CAL") is a 501(c)(3) nonprofit law firm dedicated to protecting civil liberties and enforcing constitutional limitations on government power. CAL has represented litigants in courts across the country and has an interest in ensuring application of the correct legal standard in cases involving individual constitutional liberties.[1]

INTRODUCTION

With narrow exceptions, this Court has roundly rejected race-conscious government action. Yet in the NEPA review process, it is a growth industry. The requirement that agencies consider "environmental justice" impacts has morphed into a proxy for race-based decision-making that inevitably inures to the benefit of specific racial groups, and almost always to the detriment of development. And in cases like this one, modern environmental-justice dogma forces agencies to pick and choose between two disadvantaged communities that are (ostensibly) on opposing sides of a project. NEPA does not require this result. Indeed, the constitution forbids it.

This Court has long held government action that distinguishes based on race must satisfy strict scrutiny. Generally, race-discriminatory action will only satisfy

1. Amicus curiae states that no counsel for a party authored this brief in whole or in part and that no party or counsel for a party contributed money intended to fund the preparation or submission of this brief. No person other than amicus curiae, its members, or its counsel contributed money intended to fund the preparation or submission of this brief.

this "daunting" test when intended to remedy prior government discrimination or when needed to prevent an imminent race conflict in prison. Other than these limited circumstances, race-conscious action is impermissible.

For government action to be "remedial," it must be targeted at addressing specific, intentional discrimination by the government. A government actor, however, can only act in a "remedial" fashion if he or she has the lawful authority to do so. If an agency discriminates on the basis of race, it—at bare minimum—may not do so beyond the scope of its regulatory authority. If the agency has no authority to act, it has no authority to remedy. The Equal Protection Clause therefore categorically bars agencies from considering any race-conscious impacts beyond their authority.

Agencies violate the Equal Protection Clause when they consider race as a factor in the NEPA review process in a way that is either not "remedial" or not narrowly tailored to its remedial objective. The purpose of NEPA review is to force federal agencies to consider the impact of their actions prior to taking them. "Environmental justice" is a factor that agencies must consider. Inherent in this process is the understanding that an agency might alter its decision-making after considering how a proposed project might impact an "environmental justice community." This amounts to a preference in the permitting process for these communities.

In practice, "environmental justice communities" is a euphemism for areas with a high population of racial minorities. The executive orders requiring environmental justice review in the NEPA process—and the inter-agency

guidance documents for implementing this review—detail the extent to which "minority" communities defined by "demographic" information are the intended beneficiaries of agencies' efforts. Outside organizations pressure agencies to consider race as the predominant factor in identifying environmental justice communities during NEPA review. And the "impacts" to these communities that agencies consider are often far outside the agencies' authority to control.

The court below erred to the extent it intended the agency to consider impacts to environmental justice communities due to the communities' racial makeup. The record shows the communities on the Gulf Coast that the D.C. Circuit ordered the Surface Transportation Board ("STB") to consider are predominantly Black. As a public commentor before the STB, the Center for Biological Diversity ("Center") argued the agency must consider impact to these communities because they consist largly of racial-minority residents. The D.C. Circuit appears to agree that these communities deserve special consideration because of their racial makeup. If so, this is race-conscious government action that implicates the Equal Protection Clause. And because the government cannot justify this racial classification under strict scrutiny, it is unconstitutional.

What is most egregious about the decision below is its preferential treatment for one environmental justice community over another. The STB considered the concerns of the neighboring Ute Indian tribe—a vulnerable community directly impacted by the project—and approved a course of action that would provide economic benefit to the tribe while protecting their natural

and cultural resources. But according to the D.C. Circuit, because the STB did not consider speculative, downstream impacts to predominantly Black communities a thousand miles away, it somehow failed to comply with NEPA. This is absurd. And to the extent it was motivated by race, it is unconstitutional.

The Court should reverse.

ARGUMENT

I. THE EQUAL PROTECTION CLAUSE RESTRICTS THE GOVERNMENT'S ABILITY TO CONSIDER RACE DURING THE NEPA PROCESS

The environmental review process under NEPA is required for all major federal-government action that impacts the human environment. When an agency provides a specific population special consideration during this process due to race, it creates a classification that implicates the Equal Protection Clause. Unless the agency can satisfy strict scrutiny, racial classifications like this violate the constitution.[2]

A. Race-conscious government action is permissible only if it is "remedial."

Our constitution abhors race-conscious government action. *See Parents Involved in Cmty. Sch. v. Seattle*

2. The Equal Protection Clause of the Fourteenth Amendment applies to the federal government by operation of reverse incorporation through the Due Process Clause of the Fifth Amendment. *Bolling v. Sharp*, 347 U.S. 497, 500 (1954).

Sch. Dist. No. 1, 551 U.S. 701, 748 (2007) ("The way to stop discrimination on the basis of race is to stop discriminating on the basis of race."); *Rice v. Cayetano*, 528 U.S. 495, 517 (2000) ("Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality."); *Palmore v. Sidoti,* 466 U.S. 429, 432 (1984) (observing the "core purpose" of the Equal Protection Clause was "do[ing] away with all governmentally imposed discrimination based on race"). "Divvying us up by race" is a "sordid business." *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring). Only in the most "extraordinary cases" is it permissible for the government to take race into account. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 143 S. Ct. 2141, 2161 (2023) *("SFFA").*

Generally, the Equal Protection Clause only permits race-conscious action when remedying specific, intentional discrimination by the government. *Parents Involved*, 551 U.S. at 748.[3] But the government can only act in a "remedial" fashion when it has the authority to do so. Otherwise, it is just playing favorites.

1. Government action that distinguishes based on race is almost always unconstitutional.

In all cases, race-conscious government action must satisfy strict scrutiny. *Adarand Constructors, Inc. v.*

3. The only other circumstance in which it is permissible for government to distinguish based on race is when needed to avoid "imminent and serious risk to human safety in prisons." *Johnson v. California*, 543 U.S. 499, 512–13 (2005).

Pena, 515 U.S. 200, 227 (1995) ("[A]ll racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny."). The government action must be necessary to achieve a compelling government interest, *Gratz v. Bollinger*, 539 U.S. 244, 270 (2003), and narrowly tailored to that goal, *SFFA*, 143 S. Ct. at 2161.

A compelling interest exists when the racial classification is necessary to remedy specific intentional discrimination by the government that occurred in the past. *City of Richmond v. J. A. Croson Co.*, 488 U.S. 469, 493 (1989) (holding racial classifications impermissible unless "strictly reserved for remedial settings"). The government action cannot be intended to address past "societal discrimination"; instead, the action must remedy something *the government* did to a specific class of citizens based on their race. *Shaw v. Hunt*, 517 U.S. 899, 909–10 (1996). And the past discrimination must be identified in a particularized manner. *J.A. Croson*, 488 U.S. at 499 (holding "an amorphous claim that there has been past discrimination in a particular industry cannot justify the use of" race classifications).

These remedial actions also must be "narrowly tailored." *SFFA*, 600 U.S. at 215 (holding government must "articulate a meaningful connection between the means they employ and the goals they pursue"). For remedial government action to be narrowly tailored in this context, the government must show "that no workable race-neutral alternatives" would achieve the compelling government interest. *Fisher v. Univ, of Tex. at Austin*, 570 U.S. 297, 312 (2013). Such "racial classifications are permitted only as a last resort." *Bartlett v. Strickland*, 556

U.S. 1, 21 (2009). Moreover, "the remedial action usually remains subject to continuing oversight to assure that it will work the least harm possible to other innocent persons competing for the benefit." *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 308 (1978) (plurality op.).

Forward-looking racial preferences not tied to specific past instances of intentional discrimination by the government are impermissible. *SFFA*, 143 S. Ct. at 2162 (concluding racial classification permissible only when "remediating specific, identified instances of past discrimination that violated the Constitution or a statute"). If the government cannot identify a "specific[] and narrowly framed" instance of intentional discrimination that it is remediating, then the racial classification is unlawful. *See Wygant v. Jackson Bd. of Ed.*, 476 U. S. 267, 280 (1986). For this reason, this Court has repeatedly rejected race-conscious measures that seek to remedy generalized race-based inequities through forward-looking, race-based preferences. *See, e.g., SFFA*, 143 S. Ct. 2161 (preferences for minority student applicants); *Shaw*, 517 U.S. at 909–10 (preferences for minority voters); *J.A. Croson Co.*, 488 U.S. at 493 (preferences for minority contractors).

The government may not discriminate based on race outside of the narrow exceptions that this Court has allowed. And within the context of "remedial" government action, this Court has demanded the government identify the specific past discrimination it seeks to remedy and demonstrate that no race-neutral alternative could achieve its goal. If the government cannot meet these burdens, its actions violate the Equal Protection Clause.

2. Remedial action can only be accomplished pursuant to a government actor's lawful authority

For race-conscious government action to be "remedial," it must be undertaken pursuant to some lawful authority. *See Miller v. Johnson*, 515 U.S. 900, 921 (1995) (holding federal government may not act in "remedial" fashion beyond the authority granted by Congress); *Miller Bros. Co. v. State of Md.*, 347 U.S. 340, 342 (1954) (observing "ultra vires" government action is "void"); *Leavenworth Cnty. v. Chicago, R.I. & P. Ry. Co.,* 134 U.S. 688, 699 (1890) (noting "any [action] contrary to the provisions of the [underlying statute] shall be void"); *A-1 Amusement Co. v. United States*, 48 Fed. Cl. 63, 68 (2000) (holding argument that the government's conduct was "unauthorized but lawful" is "untenable").[4] If the government does not have the authority to act, it cannot direct remedial action at the problem supposedly necessitating the race-conscious preference.

To satisfy strict scrutiny, the race-based government action must be intended to alleviate a specific harm that it caused. *J. A. Croson*, 488 U.S. at 510 ("Proper findings in this regard are necessary to define both the scope of the injury and the extent of the remedy necessary to cure its effects."). If the government creates a racial classification in a way that is not narrowly defined to serve its specific remedial purpose it is unconstitutional. And a government

4. This is a threshold requirement. As explained above, even if the agency is acting pursuant to lawful authority, its race-conscious action still must be "remedial" as this Court has defined it.

act "beyond what Congress intended and [the Supreme Court has] upheld" cannot be "remedial," *Shaw*, 517 U.S. at 913 (quotation omitted). The government cannot provide special consideration for certain populations based on race unless it has the lawful authority to do so. Solving alleged problems beyond the scope of the agency's authority through race-conscious action is therefore impermissible.

B. Accounting for race-specific impacts during NEPA review cannot be "remedial" if outside the agency's regulatory authority.

When an agency considers impacts to certain communities due to their racial makeup during NEPA review, it must show the consideration satisfies the Equal Protection Clause. If the race-conscious consideration is not done pursuant to a properly "remedial" objective or is not narrowly tailored to achieve that objective, it is unconstitutional. If the agency does not have the regulatory authority to address a condition, then race-based action cannot be "remedial."

NEPA's purpose is to "ensure both that an agency has information to make its decision and that the public receives information so it might also play a role in the decisionmaking process." *DOT v. Pub. Citizen*, 541 U.S. 752, 754 (2004). Environmental review pursuant to NEPA is a "process under which federal agencies identify the reasonable alternatives to [a] contemplated action and look hard at the environmental effects of their decisions." *City of Bos. Delegation v. FERC*, 897 F.3d 241, 246 (D.C. Cir. 2018) (citation omitted). Inherent in this process is the understanding that an agency might "change its position" to shift the costs and benefits of a proposed project among

stakeholders. *Int'l Dark-Sky Ass'n, Inc. v. FCC*, 106 F.4th 1206, 1218 (D.C. Cir. 2024). Federal agencies can provide preferential treatment to certain interests by considering "economic or social benefits of a project" prior to approving it. *Sierra Club v. U.S. Army Corps of Eng'rs*, 772 F.2d 1043, 1050 (2d Cir. 1985) (citations omitted); *see also* Pet.App.66a (holding the STB "was required" to "identify" and "weigh" the "cumulative effects within the Uinta Basin of a major expansion of oil drilling there, on Gulf Coast communities").

When an agency considers race as a factor in the NEPA process, it is creating a classification that implicates the Equal Protection Clause. It does not matter that NEPA is an information forcing mechanism and "does not mandate particular results." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). Simply "being forced to compete in a race-based system that may prejudice the plaintiff" offends the Equal Protection Clause. *Parents Involved*, 551 U.S. at 719. All racial classifications trigger strict scrutiny, and an agency's consideration of race during the environmental review process is merely "a variation of [this] odious practice." *Thompson v. Henderson*, 143 S. Ct. 2412, 2414 (2023) (Alito, J., dissenting from the denial of certiorari). If an agency is going to consider race during the NEPA process, it must satisfy strict scrutiny. *Adarand Constructors*, 515 U.S. at 227.[5]

5. The Equal Protection Clause is generally not implicated when the government provides preferences for Indian tribes. Such a classification is based on political status, not race. *Morton v. Mancari,* 417 U.S. 535, 555 (1974).

This is true even when the classification takes the form of a race-based preference in an agency's decision-making among a series of race-neutral factors. *Strickland v. U.S. Dep't of Agric*, No. 2:24-CV-60-Z, *11 (N.D. Tex. Jun. 7, 2024) (holding race neutral government considerations impermissible when "part of an overall scheme" that is race conscious). Like the admissions programs this Court analyzed just a few terms ago, "racial preferences" among other race-neutral factors are impermissible in the NEPA process when they "operate like clockwork" to achieve race-conscious outcomes. *SFFA*, 143 S. Ct. at 2171 n.7. And if the agency does not have the authority to remedy the discrimination it factored into its analysis, then it cannot act with a valid "remedial" purpose. *Miller*, 515 U.S. at 921.

As explained above, race-conscious evaluation cannot be "remedial" as a matter of law if the impacts considered are beyond the agency's scope of authority to remedy. If an agency were to consider race-conscious factors outside of its control to regulate during the NEPA process, this would be categorically unconstitutional. Such action can never be "remedial" for Equal Protection purposes.

II. ENVIRONMENTAL JUSTICE REVIEW CANNOT IMPERMISSIBLY CONSIDER RACE

Accounting for "environmental justice" is the most common way race-conscious factors find their way into agency decision-making during the NEPA process. *See, e.g., Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs*, 255 F. Supp. 3d 101, 140 (D.D.C. 2017) ("The purpose of an environmental justice analysis is to determine whether a project will have a disproportionately

adverse effect on minority . . . populations." (citations omitted)); *Young v. Gen. Servs. Admin.*, 99 F. Supp. 2d 59, 85 (D.D.C. 2000) (considering "negative impact on minority-owned business[es]" by project).

Agencies have considered "environmental justice" impacts during the NEPA process since the mid-1990s. *See* Executive Order 12,898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (Feb. 11, 1994). But the modern conception of environmental justice review took form with the creation of interagency guidance documents like *Promising Practices for EJ Methodologies in NEPA Reviews*, created by the Federal Interagency Working Group on Environmental Justice & NEPA Committee (March 2016).[6] This detailed guide "is a compilation of methodologies gleaned from current agency practices identified by the NEPA Committee concerning the interface of environmental justice considerations through NEPA processes." *Ibid.* It explains how to determine which "Minority Population" communities are deserving of special consideration during the NEPA process, *id.* at 21, including the use of "census data" and "local demographic information" to identify these communities, *ibid.*

Agencies are now required by rule to consider environmental justice impacts during the NEPA process. The Council on Environmental Quality's ("CEQ") new NEPA implementing regulations—finalized earlier this year—codified the requirement that agencies consider

6. Available online at https://www.epa.gov/environmentaljustice/ej-iwg-promising-practices-ej-methodologies-nepa-reviews.

environmental justice during NEPA review. *See* 40 C.F.R. § 1501.3(d)(1) (requiring agencies to consider the environmental effects on "communities with environmental justice concerns.").[7] The new regulations define "environmental justice community" as "those communities that may not experience environmental justice." 40 C.F.R. § 1508.1. "Environmental Justice" incorporates the definition from an April 2023 executive order issued by President Biden, which defines the phrase as "the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability." *Ibid. See also* Executive Order 14096, *Revitalizing Our Nation's Commitment to Environmental Justice for All* (April 21, 2023).

Training materials available on the Environmental Protection Agency's website also show the extent to which race is the predominating factor in identifying "minority populations."[8] According to these materials, because "people of color" are "less responsible for climate change yet bear disproportional risk," the government should

7. The proceeding below occurred prior to the new rules' adoption and followed the *ad hoc* process agencies had previously used, following the Federal Interagency Working Group on Environmental Justice & NEPA Committee guide. How agencies' consideration of environmental justice will differ under the new rules is unclear. But the amorphous and expansive definitions provide plenty of room for agencies to interpret the rules as making race the predominant factor in identifying environmental justice communities.

8. *See* Chapman, *Environmental Justice, Climate Change, & Racial Justice*, Environmental Protection Agency (July 24, 2015), https://www.epa.gov/sites/default/files/2015-10/documents/post_2_-_environmental_justice_climate_change.pdf

give these communities special consideration in the NEPA process. *See Chapman*, *supra* n.8. This sentiment appears to be the driving force behind most modern environmental justice efforts.[9] If these materials—publicly available on the EPA's website and echoing the rhetoric of activist organizations—reflect the prevailing practice among federal agencies, "environmental justice" is little more than a euphemism for "racial minority."

As a result of the requirement that agencies consider environmental justice during NEPA review, public commentors regularly identify populations worthy of special consideration. *See, e.g.,* JA566. And in so doing, these commentors often explicitly ask agencies to take race into account. *Ibid.* (asking STB to consider effect of project on communities made up mostly of "African Americans and other people of color"). Courts then often require agencies to evaluate downstream impacts that the government action might have on these communities. *See, e.g.,* Pet.App.65.a–69.a; *Vecinos para el Beinestar de la Comunidad Costera v. FERC*, 6 F.4th 438, 449 (D.C. Cir. 2022) (finding agency's NEPA analysis of impacts on climate change and environmental justice communities deficient).

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9. *See, e.g.,* Natural Resources Defense Council, *The Environmental Justice Movement*,(last visited Aug. 22, 2024 at 11:01 p.m.), https://www.nrdc.org/stories/environmental-justice-movement ("Environmental justice is an important part of the struggle to improve and maintain a clean and healthful environment, especially for *communities of color* who have been forced to live, work, and play closest to sources of pollution." (emphasis added)).

The combination of agency guidance and pressure from outside groups has allowed race-conscious decision making to permeate the NEPA process. Environmental justice analysis that provides special preference for "minority communities" defined predominantly by race is a classification that implicates the Equal Protection Clause. *Parents Involved*, 551 U.S. at 746 (observing it is "not the inequality of the [outcome] but the fact of legally separating [people] on the basis of race" that violates the constitution). Like any other racial classification, this triggers strict scrutiny.

III. THE COURT BELOW ERRED BY REQUIRING THE STB TO CONSIDER ENVIRONMENTAL JUSTICE IMPACTS BASED ON RACE

The Court bellowed erred in holding that the STB impermissibly failed to consider "the cumulative effects" of "a major expansion of oil drilling" on "environmental justice communities located on the Gulf Coast." Pet. App.66.a. These communities were chosen because of the racial makeup of their residents and the government would not be able to justify such special consideration under strict scrutiny.

Though the court below did not discuss this feature of the STB's NEPA review in much detail, its concerns echo those raised by the Center for Biological Diversity ("Center") before the agency. JA566. The Center urged the STB to consider the project's impact to "black and brown communities" on the Gulf Coast that could feel the effects of increased oil refining activity. *Ibid.* According to the Center, because these "communities of African Americans and other people of color are hemmed in by these oil

refineries," the STB should give them special consideration. *Ibid. See also* Comments of Center for Biological Diversity on Unita Basin Railway Draft EIS, Docket No. FD 36284, United States Surface Transportation Board, (Feb. 12, 2021) ("Center's Comments") (arguing the agency "[f]ail[ed] to Adequately Address Environmental Justice and Racism Issues Elicited by the Proposed Project."). According to the Center, because the project might impact these "communities of African Americans and other people of color," the agency should provide special solicitude to them. Center's Comments at 63. In addition, the Center was of the opinion that "minority populations and low-income populations in the affected environment may be differently affected by past, present, or reasonably foreseeable future impacts than the general population." *Id.* at 64. In the Center's view, the Board should account not only for past pollution in the area, but also "inadequate housing, roads, or water supplies in [these] communities," "lack of education or language barriers," and "chronic stress related to environmental or socioeconomic impacts." *Id.* at 64–65.

The D.C. Circuit homed in on these communities based on the Center's comments and briefing. Pet.App.30.a, 66.a (citing the Center's brief discussing this alleged deficiency). Because the Center identified these environmental justice communities based on the predominating racial make-up of their residents, racial classifications are inextricably intertwined with the other non-race considerations raised. *SFFA*, 143 S. Ct. at 2161 n.7. As discussed above, requiring an agency to consider impact to an "environmental justice community" because of the racial makeup of its residents is a racial classification that must satisfy strict scrutiny. There is no evidence in the record that consideration

of increased refining activity is "focused" on the goal of remedying "wrongs worked by specific instances of racial discrimination" by the government. *J.A. Croson*, 488 U.S. at 496–97. Indeed, it is axiomatic that focused approaches reside with those agencies to whom Congress has granted authority to address the disparate condition at issue. Because the STB lacks regulatory authority over the conditions that the court below identified as the locus of environmental justice concerns, the government could not satisfy strict scrutiny here. *Ibid.*

Worse, the D.C. Circuit's decision pits environmental justice communities against each other. When reviewing this project, the STB considered the concerns raised by the Ute Tribe, an environmental justice community directly impacted. JA546. The STB worked in concert with the Tribe to protect important environmental and cultural resources impacted by the project. Pet.App.113.a–114a. The STB considered the Tribe's concerns, identified alternative courses of action to account for those concerns, and then selected one of the alternatives to which the project proponents and the Tribe were agreeable. *Ibid.* Yet according to the court below, because a potential environmental justice community far removed from the project in the Gulf Coast may experience some downstream impact, the STB erred by not analyzing these effects. Pet. App.66.a; JA566. In short, this allowed an environmental justice veto under which third parties may inject race-conscious factors into agencies' NEPA analyses, and then use race as a means of obstructing a project that benefits other environmental justice communities like the Ute Tribe. *Ibid.* It is hard to imagine Congress intended such a result when it enacted NEPA over fifty years ago.

The disproportionate impact faced by certain communities may certainly be worthy of special consideration. But when the government relies on race to identify these communities, it must satisfy strict scrutiny, which it rarely will be able to do in the NEPA context unless its actions are statutorily authorized and targeted at specific past instances of government discrimination. Even "if these goals could somehow be measured, moreover, how is a court to know when they have been reached, and when the perilous remedy of racial preferences may cease?" *SFFA,* 600 U.S. at 214. Given the significant overlap between the race-neutral alternatives like income-based distinctions, the government is hard pressed to show that relying on race-conscious factors is ever necessary for environmental justice. *Ibid.*

CONCLUSION

"Our Constitution is color-blind, and neither knows nor tolerates classes among citizens." *Plessy v. Ferguson*, 163 U.S., 537, 559 (Harlan, J., dissenting). Giving these words effect means eliminating race-conscious government action. And policing the narrow situations in which it is allowed is necessary to prevent "a mosaic of shifting preferences based on inherently unmeasurable claims of past wrongs." *J. A. Croson*, 488 U.S. at 506. The Court should reverse the judgment below.

Respectfully submitted,

HARMEET K. DHILLON
Counsel of Record
MARK TRAMMELL
JOSH DIXON
ERIC SELL
CENTER FOR AMERICAN LIBERTY
1311 South Main Street, Suite 207
Mount Airy, MD 21771
(703) 687-6212
harmeet@libertycenter.org

Counsel for Amicus Curiae
Center for American Liberty

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