



EPA Environmental Justice Webinar Series for Tribes and Indigenous Peoples

The National Environmental Policy Act (NEPA) and Environmental Justice (EJ)

August 26, 2021

**Please note that this webinar is being recorded and will be posted on an EPA
webpage**



Background

- Federal EJ Practice
- EJ and NEPA Alignment

NEPA EJ Analyses

- EJ Opportunities in the NEPA Process
- Promising Practice Report
- Other EJ Resources for NEPA

Tribal Perspective



PRESENTERS

Danny Gogal, Tribal and Indigenous Peoples Program Manager, Office of Environmental Justice, USEPA (Facilitator & Presenter)



Stan Buzzelle, Attorney-Advisor, Office of Environmental Justice, USEPA

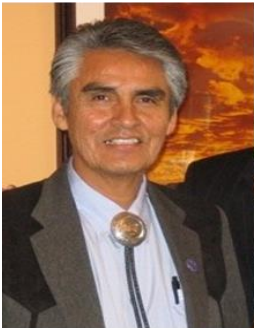


Phil Rigdon, Superintendent, Department of Natural Resources, Yakama Nation





DEFINITION



Environmental Justice:
The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.



Executive Order 12898

Issued in 1994 - Each Federal agency shall make achieving environmental justice part of its mission by **identifying and addressing**, as appropriate, **disproportionately high and adverse human health or environmental effects** of its programs, policies, and activities on minority populations and low-income populations.



Executive Order 14008 –

Tackling the Climate Crisis at Home and Abroad (2021)

Sec. 220. Creates White House Environmental Justice Interagency Council – federal coordination body for EJ

Sec. 221. Creates White House Environmental Justice Advisory Council to obtain advice on how Federal Government should address current and historic environmental injustice.

Sec. 222. Calls for the creation of a geospatial Climate and Economic Justice Screening Tool and interactive maps highlighting disadvantaged communities.

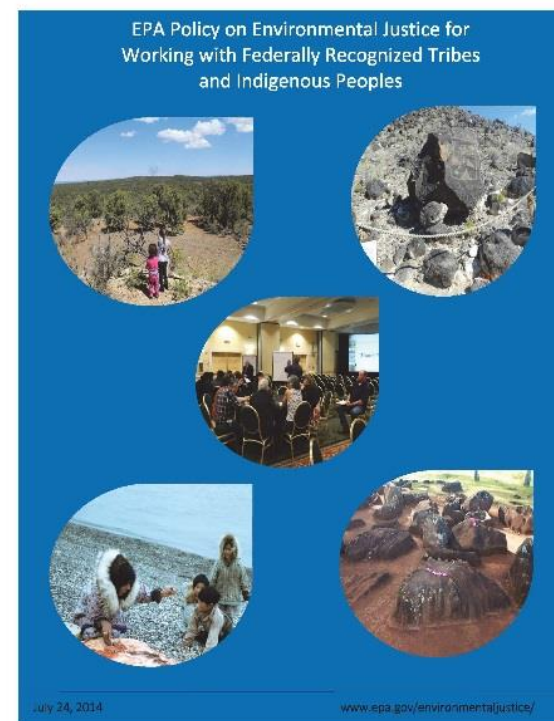
Section 223 Seeks to achieve the goal that 40 percent of the overall federal benefits flow to disadvantaged communities.₆



EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples

Issued in 2014 to clarify and integrate EJ Principles in a consistent manner in the Agency's work with **federally recognized tribes, indigenous peoples** and **others living in Indian country**.

Scope: Federally recognized tribes, state recognized tribes, tribal members, indigenous community organizations, Native Hawaiians, Pacific Islanders, individual Native Americans, and others living in Indian country.





NATIONAL ENVIRONMENTAL POLICY ACT

Declare a national policy which will encourage productive and enjoyable harmony between man and his environment

CONSISTENT PROCESS

National Environmental Policy Act ***defines a process*** that ***federal agencies*** must follow when proposing to take actions that may have environmental impacts



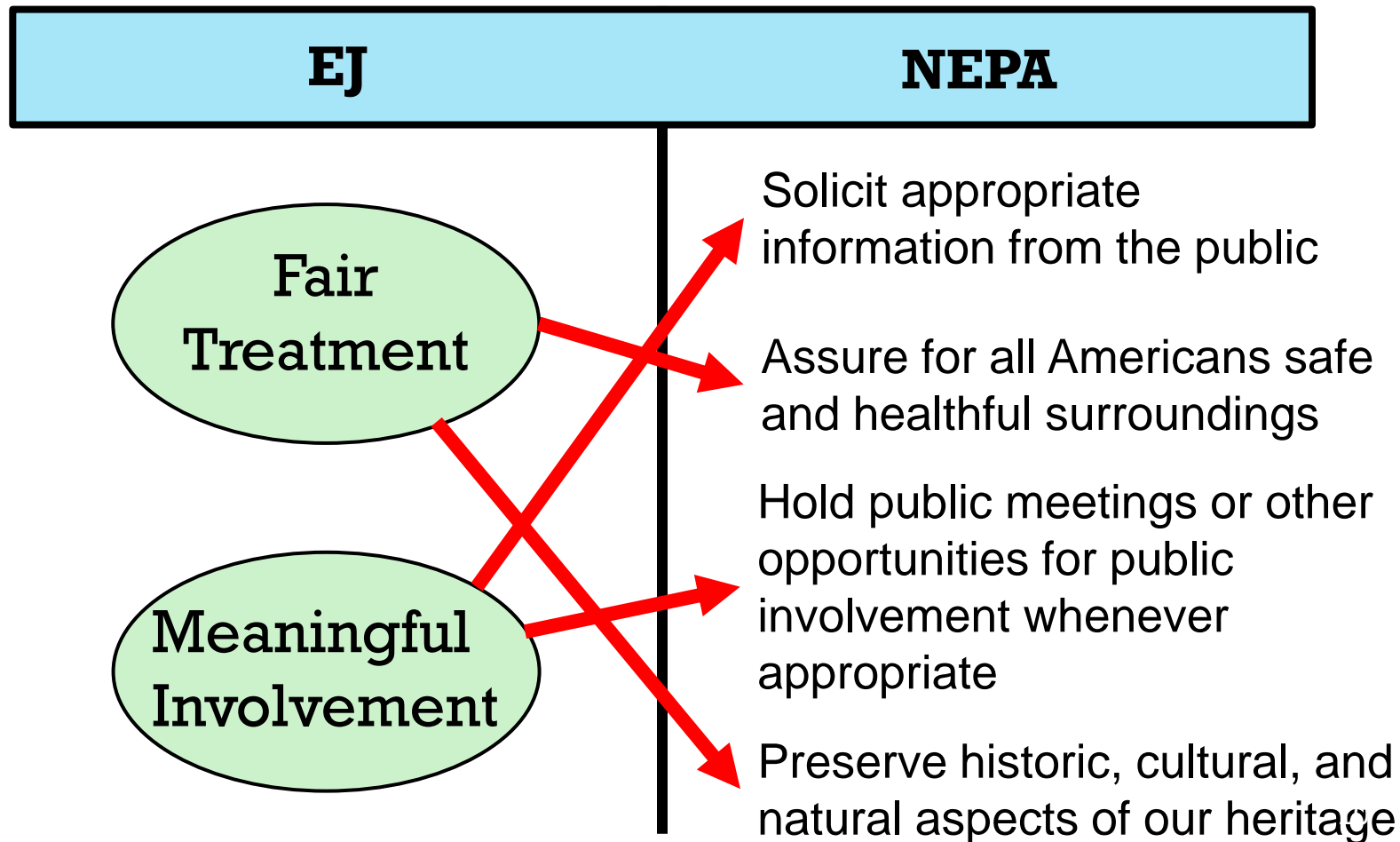
Presidential Memorandum

Consider the following for minority and low-income communities during NEPA reviews:

- Analyze environmental effects, including human health, economic, and social effects
- Develop mitigation measures to address significant and adverse environmental effects
- Provide opportunities for effective community participation
- During EPA 309 Reviews, fully analyze effects on minority communities and low-income communities.

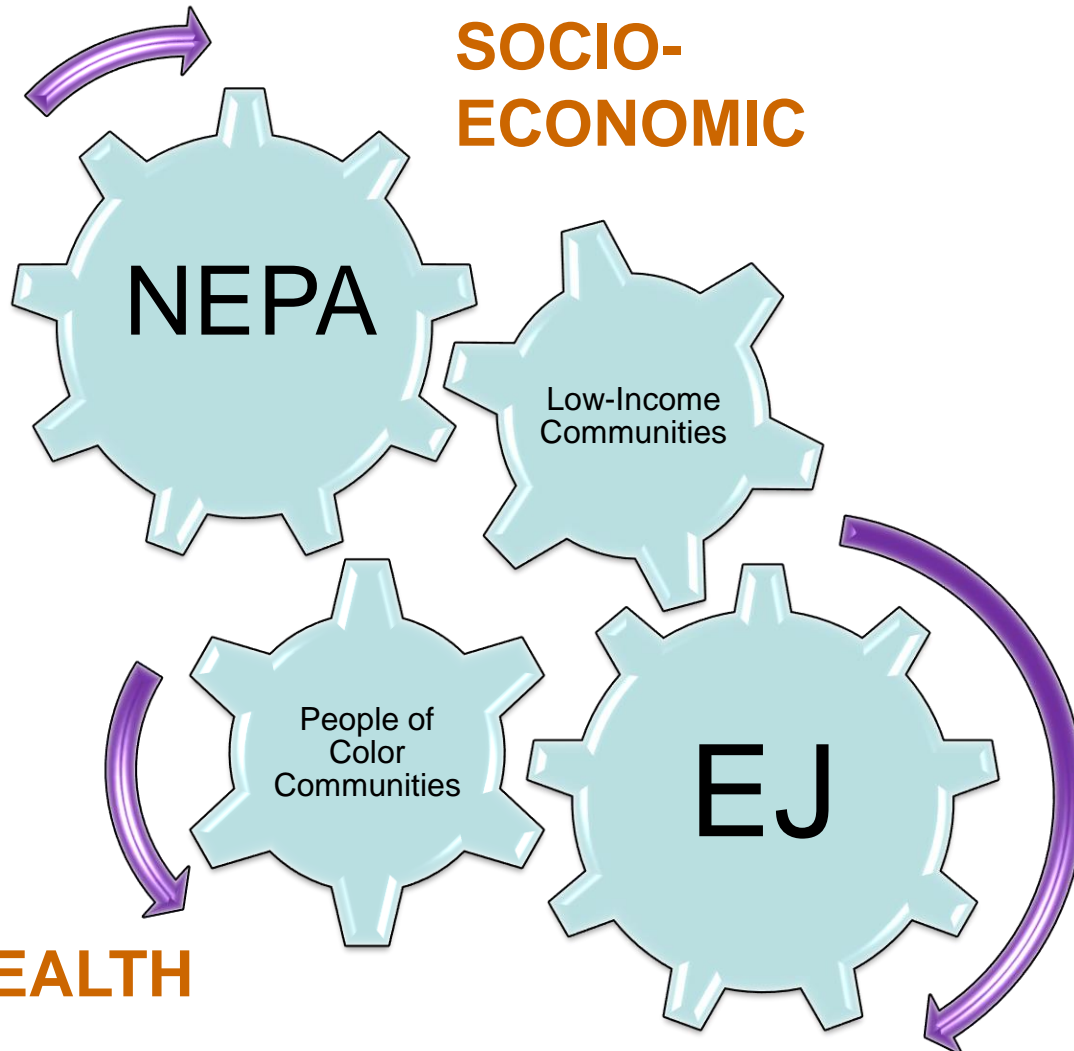


Cross-Walking NEPA and EJ





SOCIO-ECONOMIC



HEALTH

ENVIRONMENT

Ensure that everyone is treated equitably

Inform the decision-making process

Promote healthy and sustainable communities

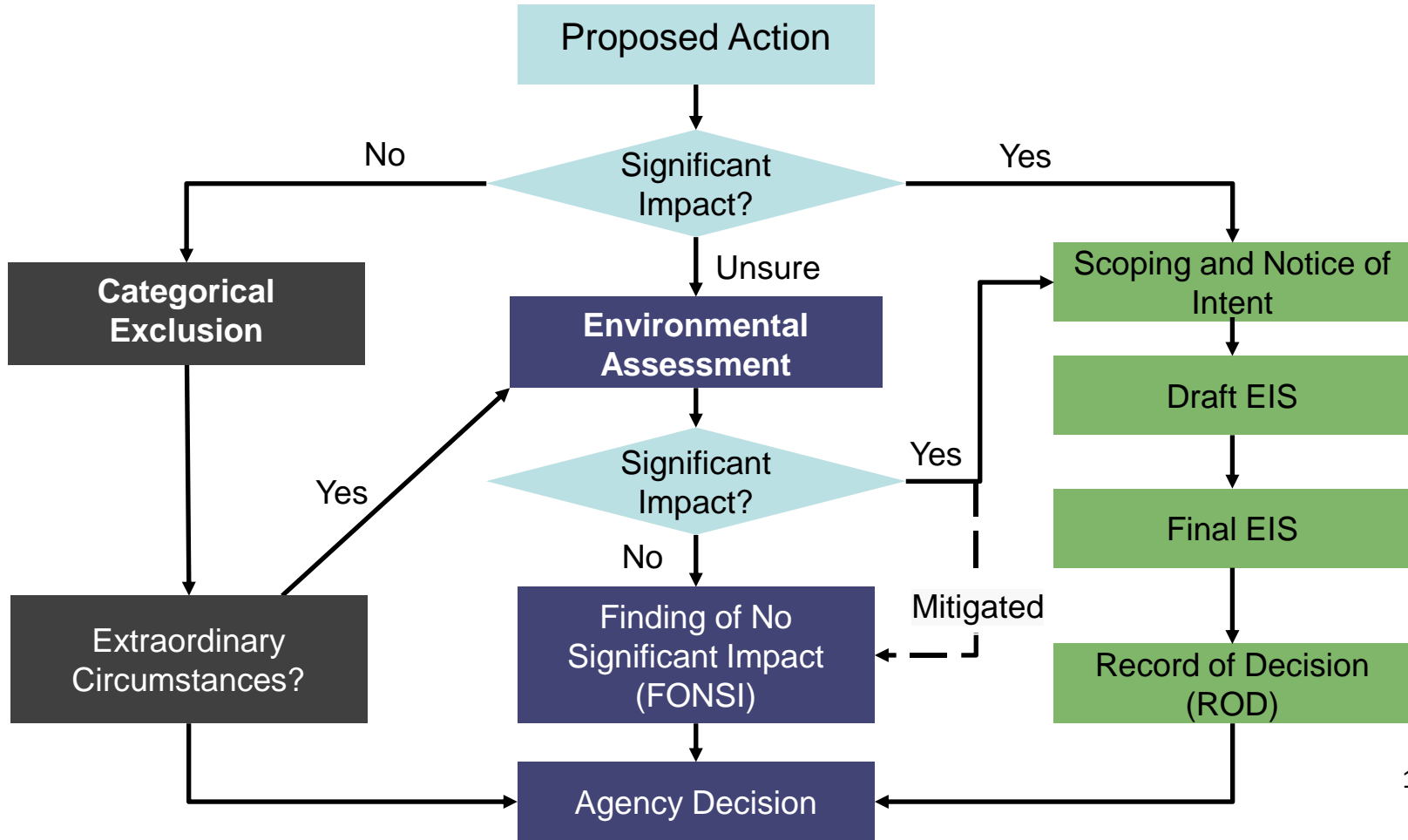
Identify and mitigate adverse impacts

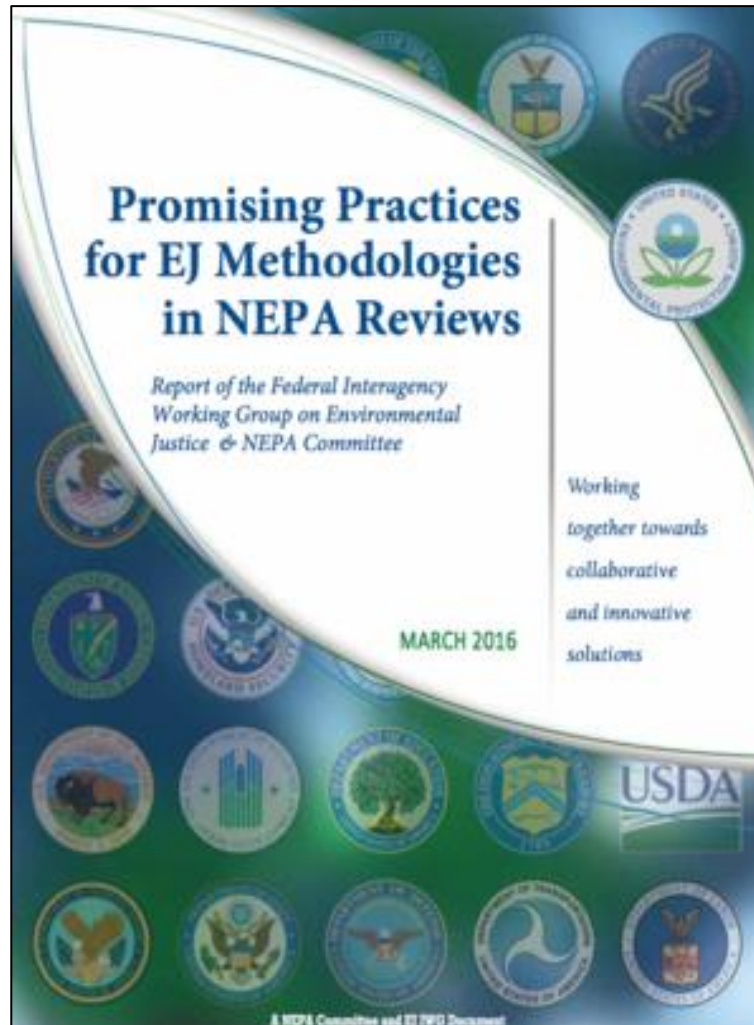
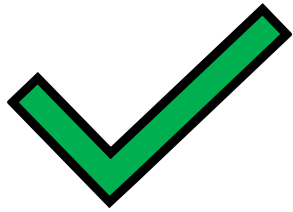


NEPA EJ ANALYSES



NEPA Process





Builds on existing NEPA guidance and practice

Represents professional knowledge and expertise

Captures collective thinking and thoughtful deliberation

Does NOT establish new requirements for NEPA analyses

Is NOT formal agency Guidance

Is NOT intended to be legally binding or create rights or benefits for any person(s)



Promising Practices Elements

**Meaningful
Engagement**

Alternatives

Impacts

Scoping

**Minority
Populations**

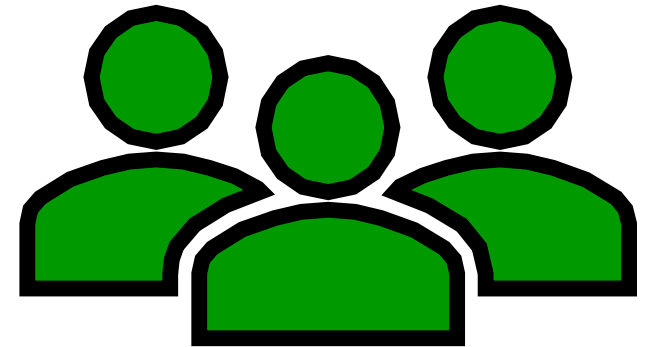
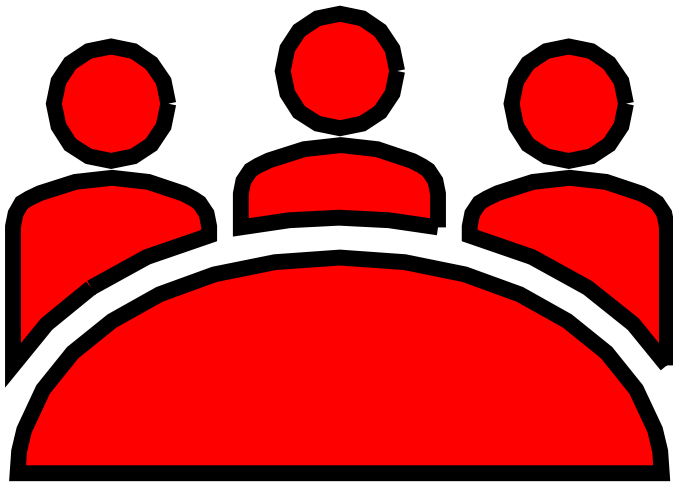
**Disproportionate
Impacts**

**Affected
Environment**

**Low-Income
Populations**

Mitigation

Meaningful Engagement

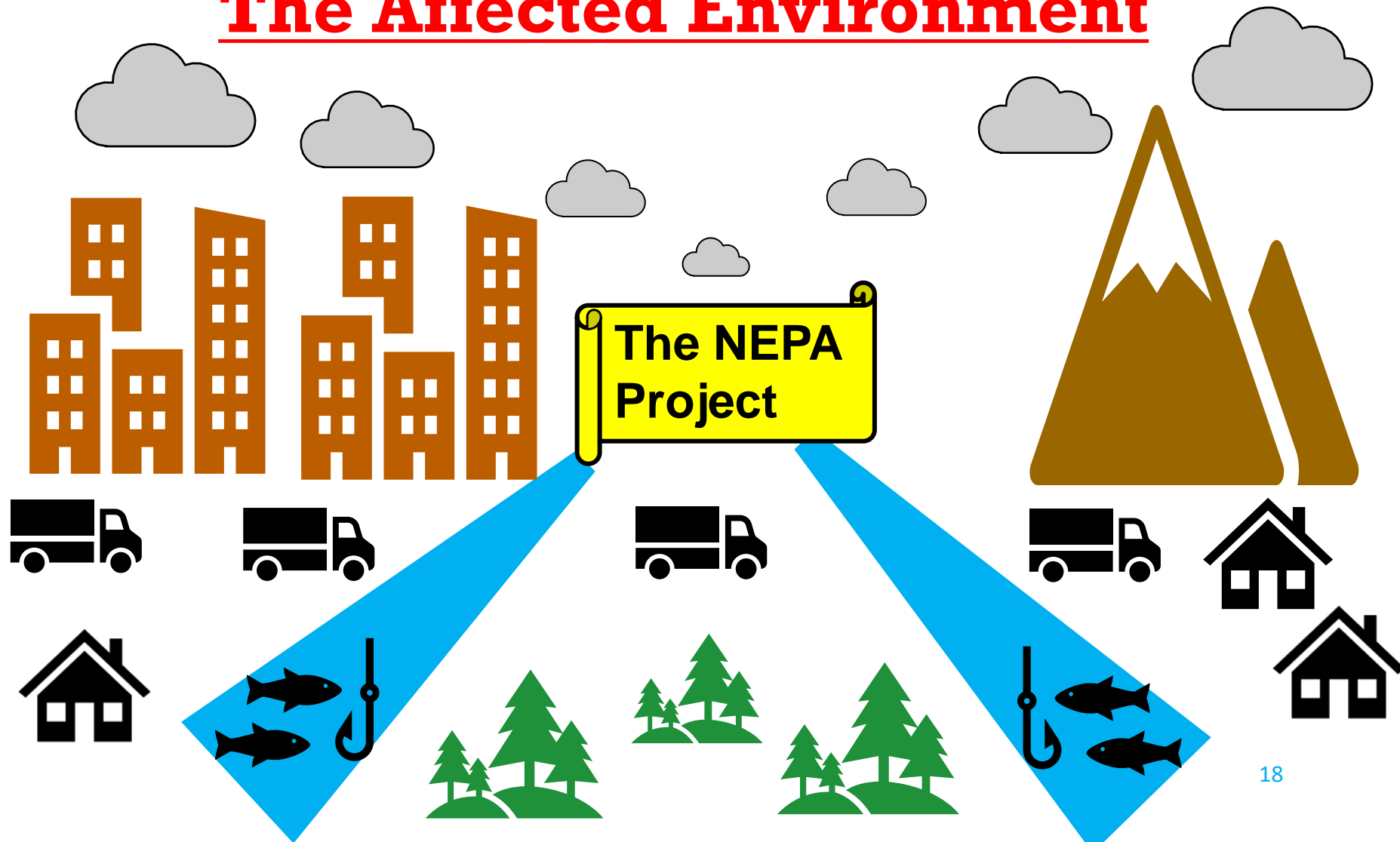




Scoping for EJ

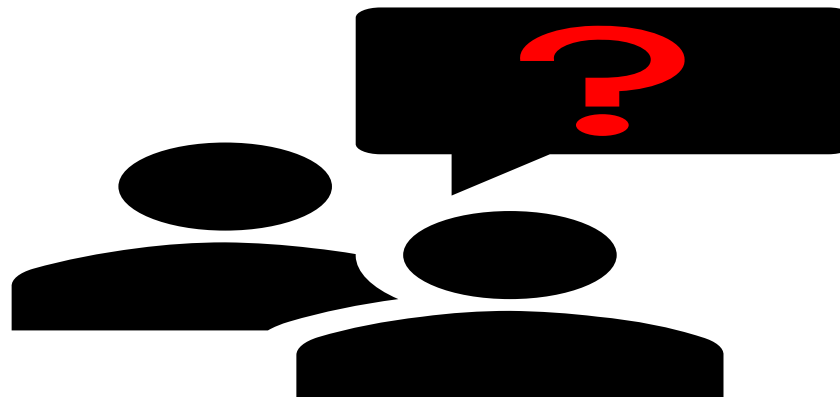
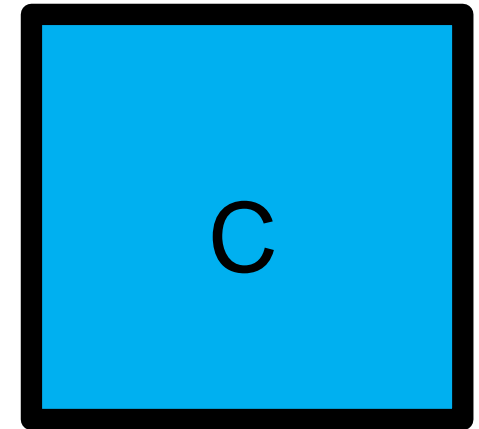
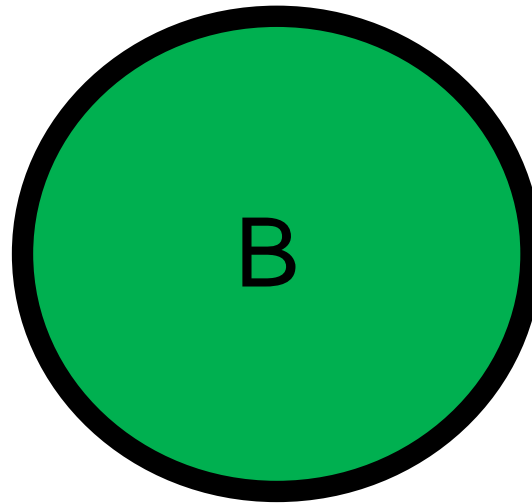
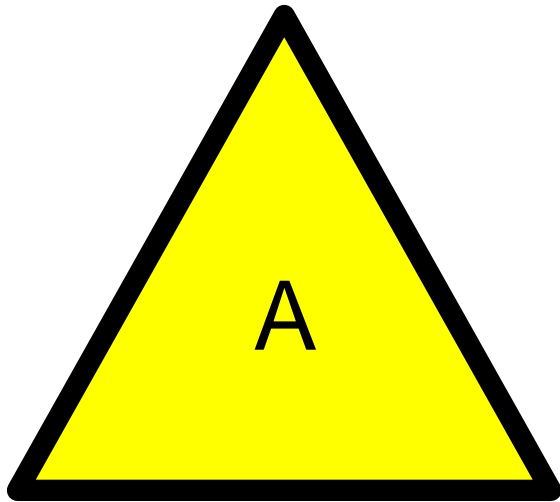


The Affected Environment

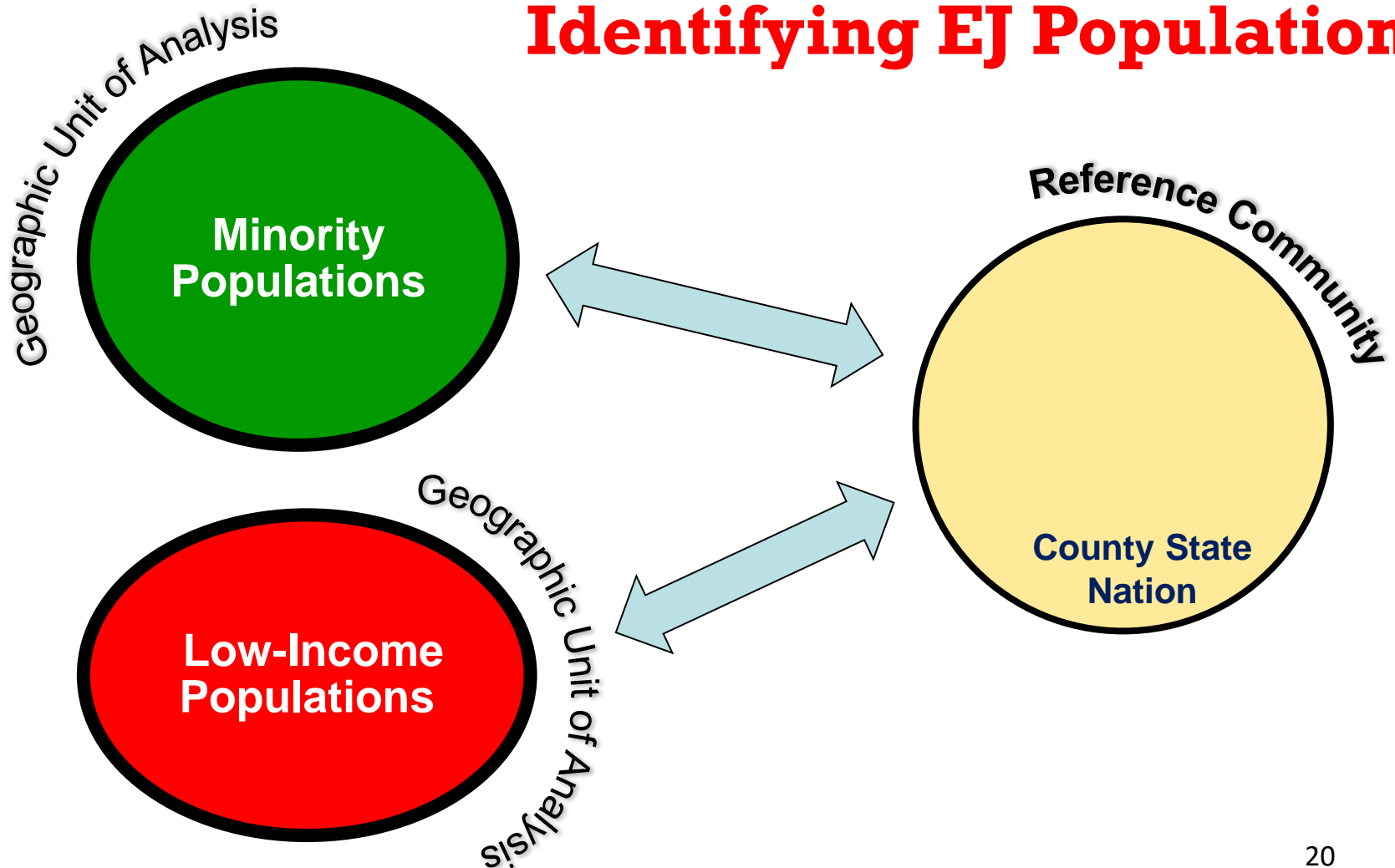




Developing Alternatives



Identifying EJ Populations





Minority Population Analyses

No Threshold

Determine percent minority in analysis area

Minority population if percent more than zero

Fifty Percent

Determine percent minority in analysis area

Minority population if 50% or more

Meaningfully Greater

Determine reference community

Determine meaningfully greater threshold

Compare analysis area to reference community

Minority population if threshold is met



Low-Income Analyses

Alternative Criteria

Determine low-income qualifying level (e.g. at or below poverty)

Low-income population if percent of area meeting low-income level is more than zero.

Threshold Criteria

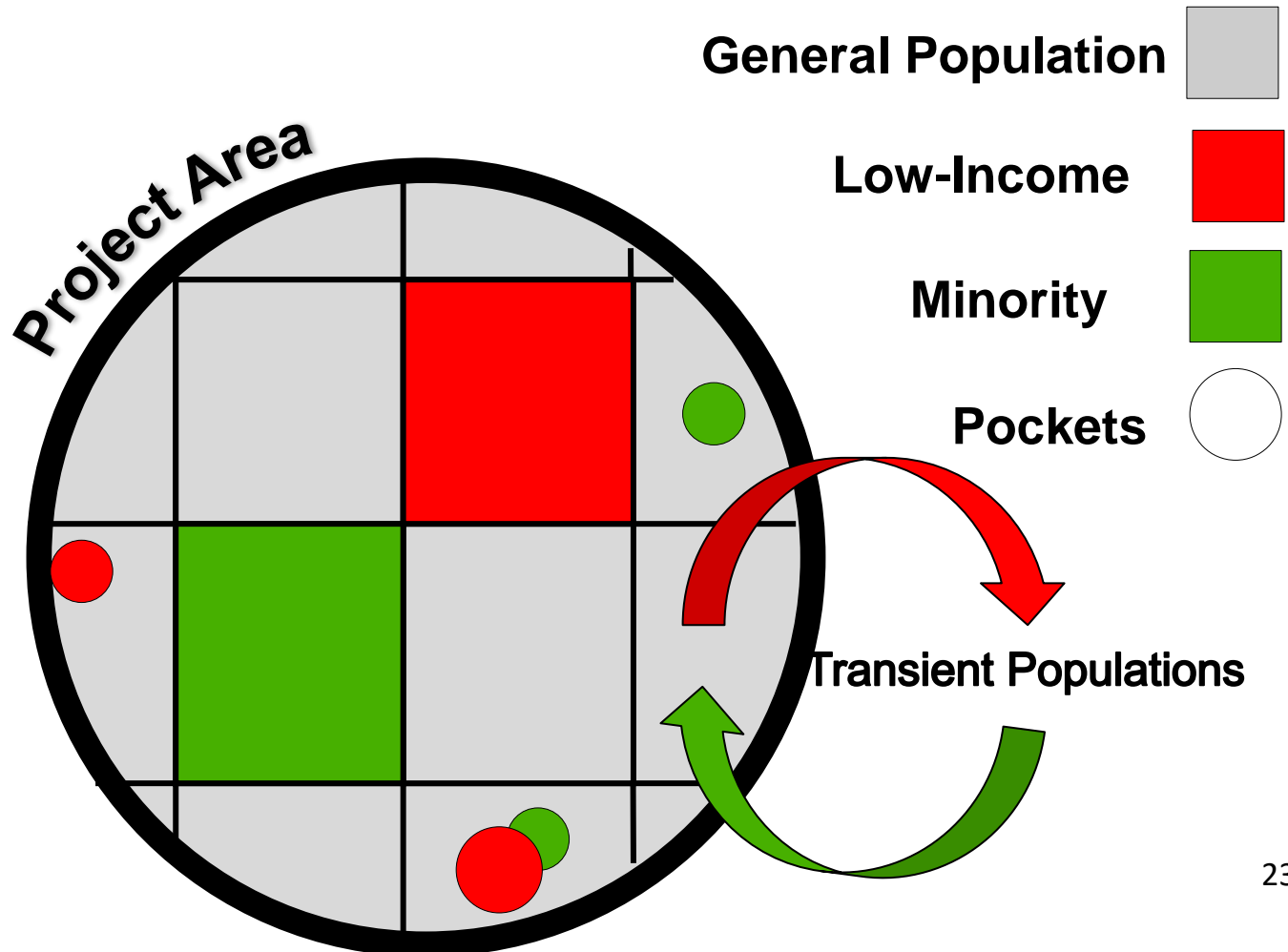
Determine reference community (e.g. county or state)

Determine low-income qualifying level (e.g. at or below poverty)

Determine percent of reference community and analysis area meeting low-income level

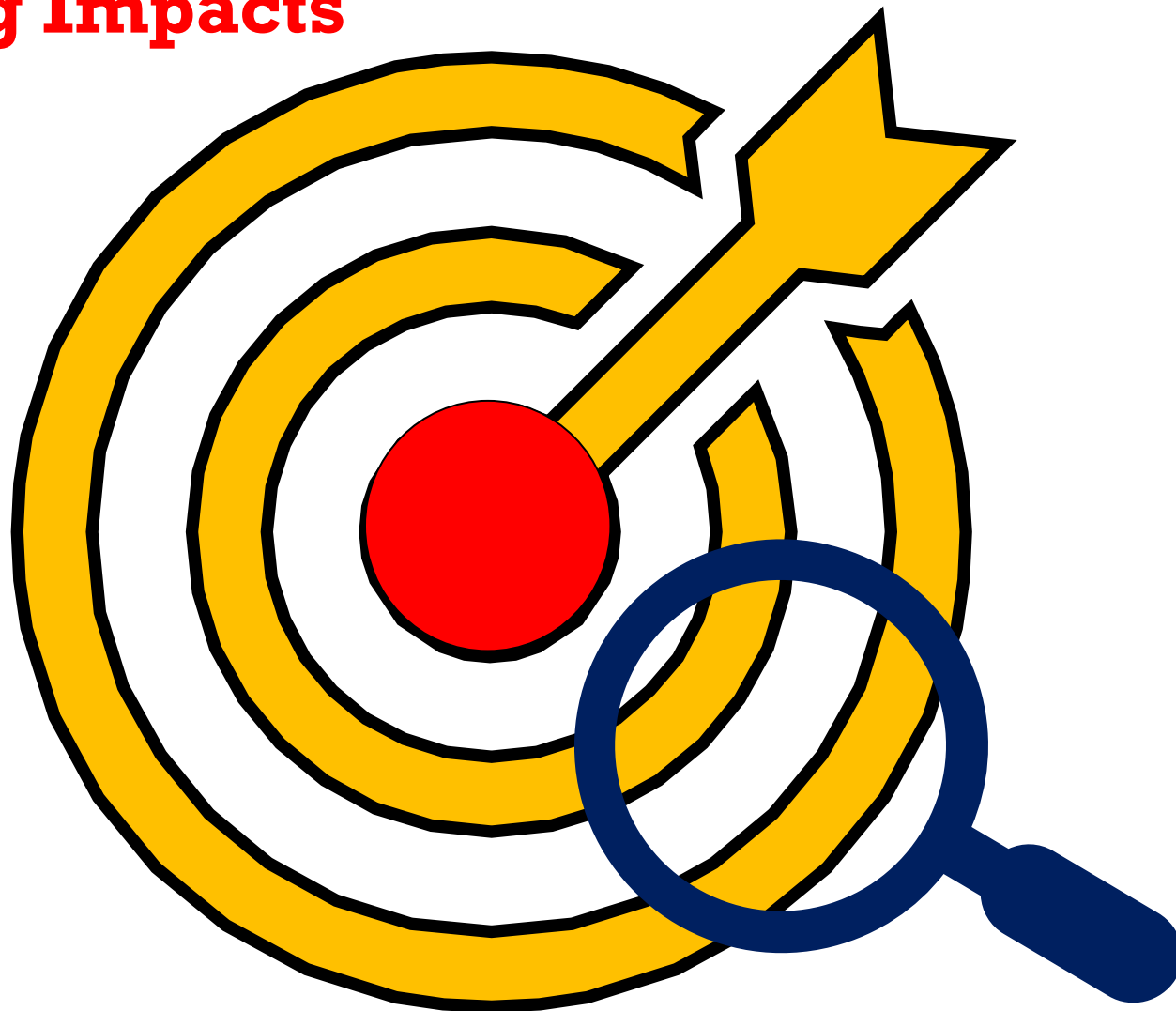
Low-income population if percent of analysis area meeting low-income level is equal or greater than reference community

Additional Concepts



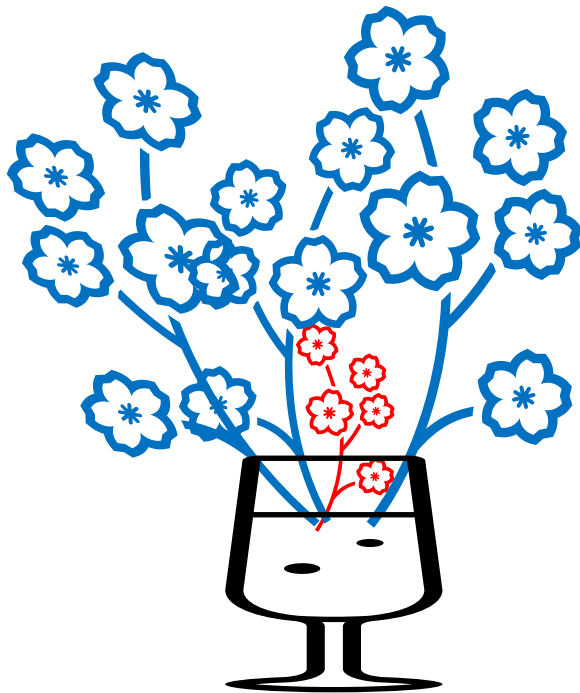


Identifying Impacts

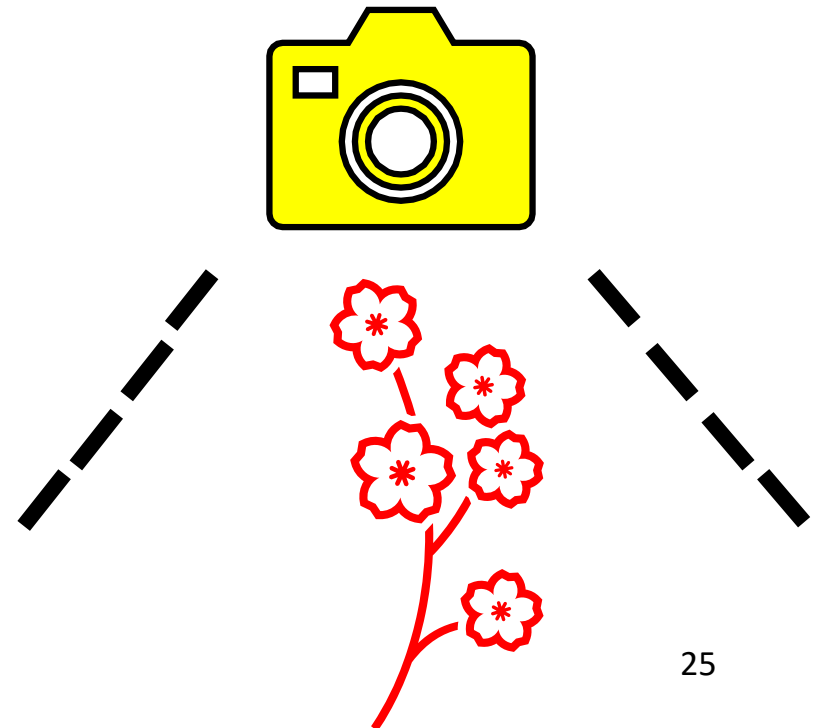


Applying an EJ Lens to Impacts

General Population

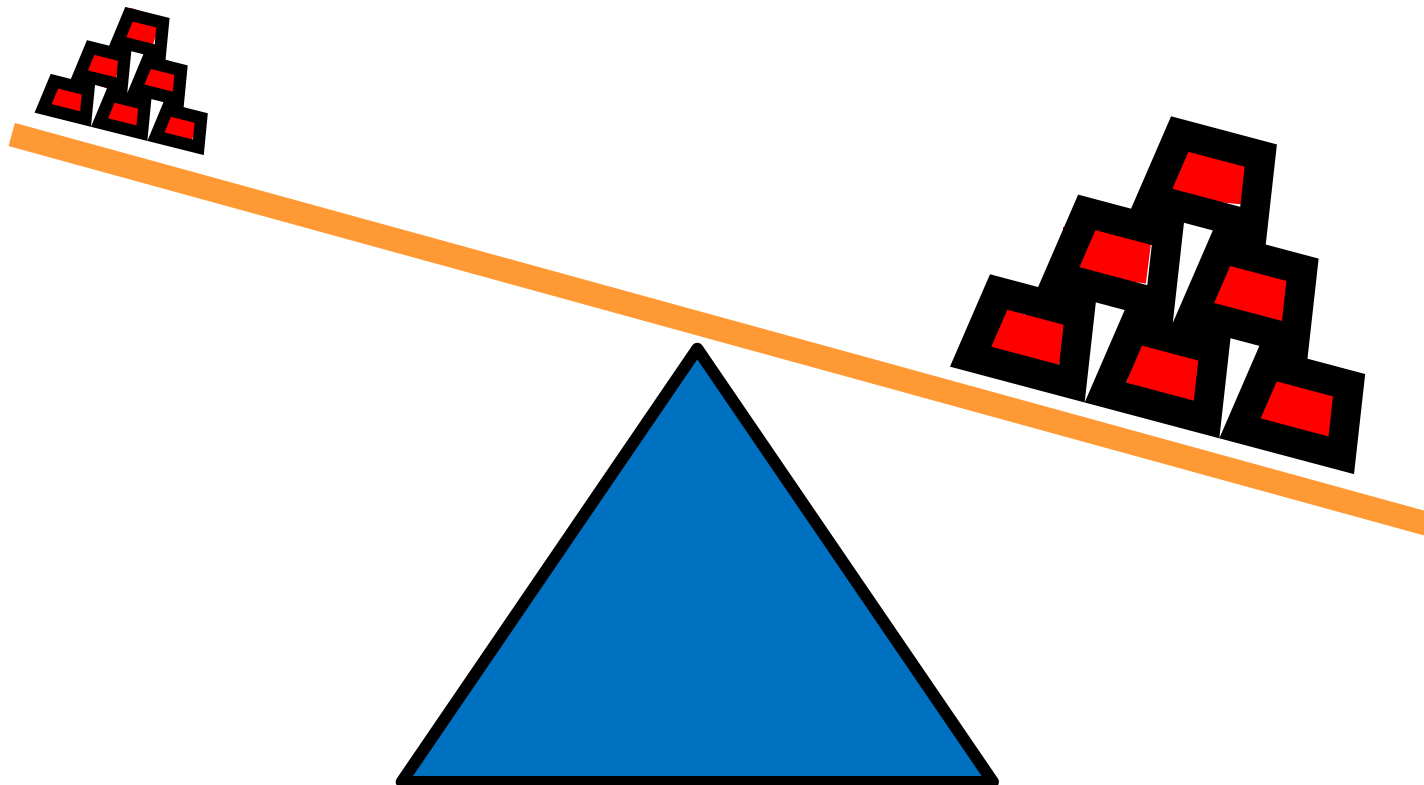


EJ Population





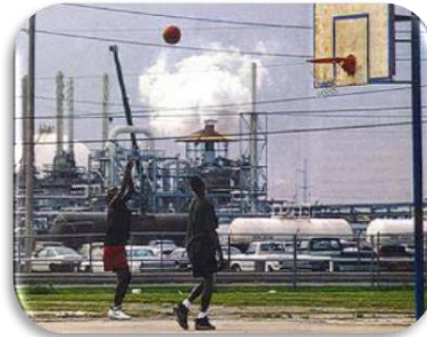
Disproportionately High and Adverse



Proximity and Exposure



Cumulative Impacts



Physical Infrastructure



Susceptible Populations



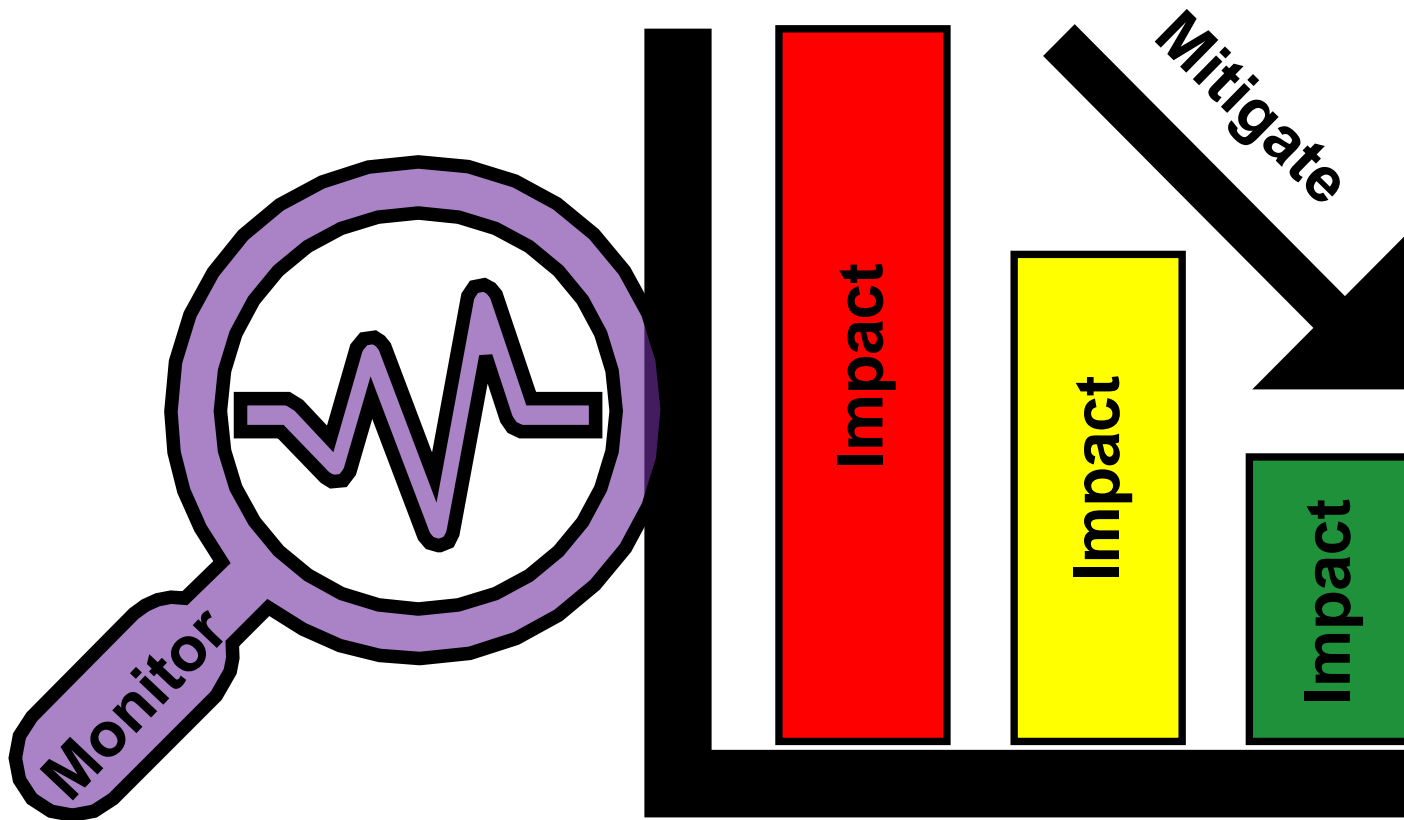
Exposure Pathways

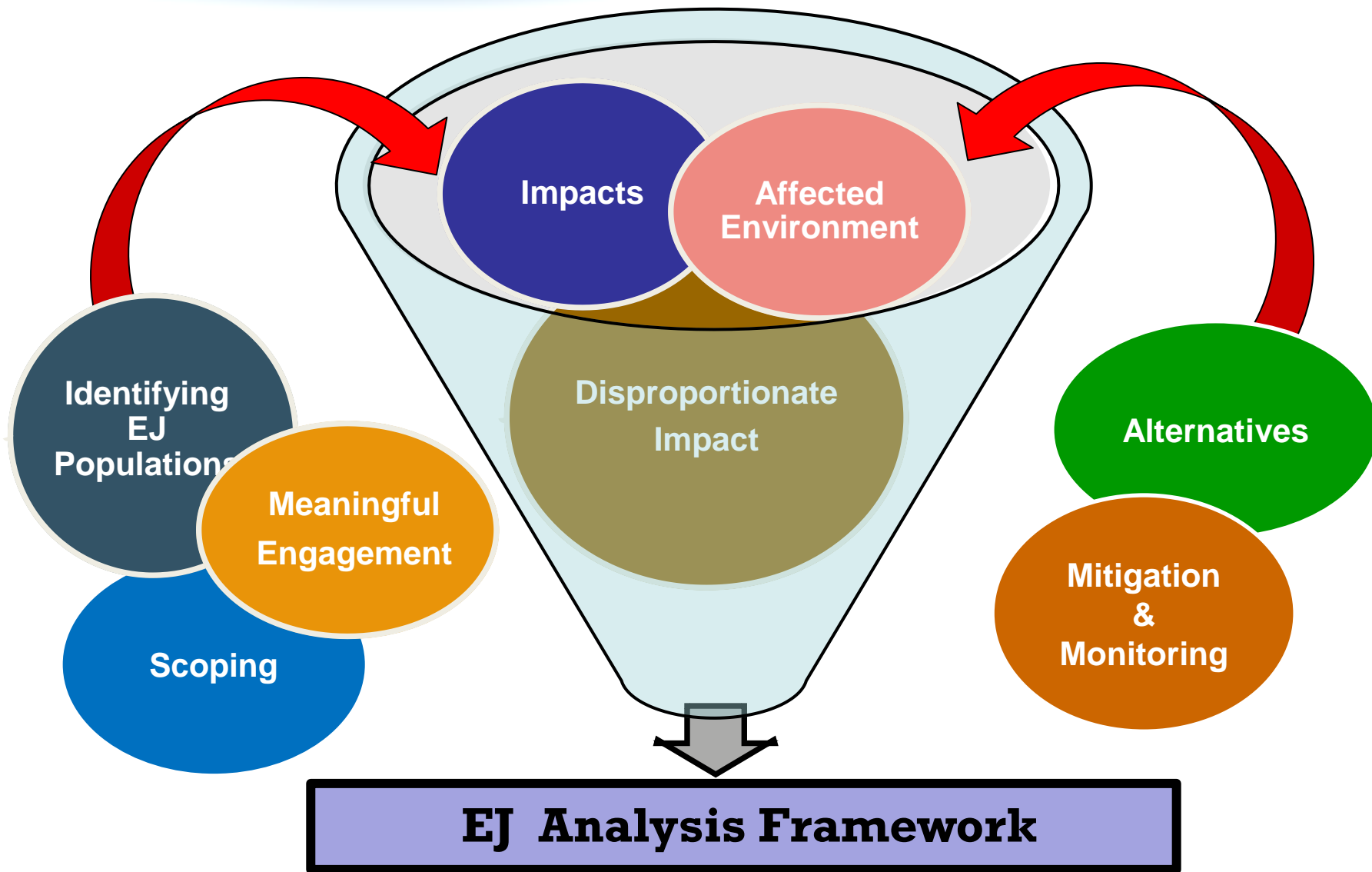


Decision Making



Mitigation and Monitoring

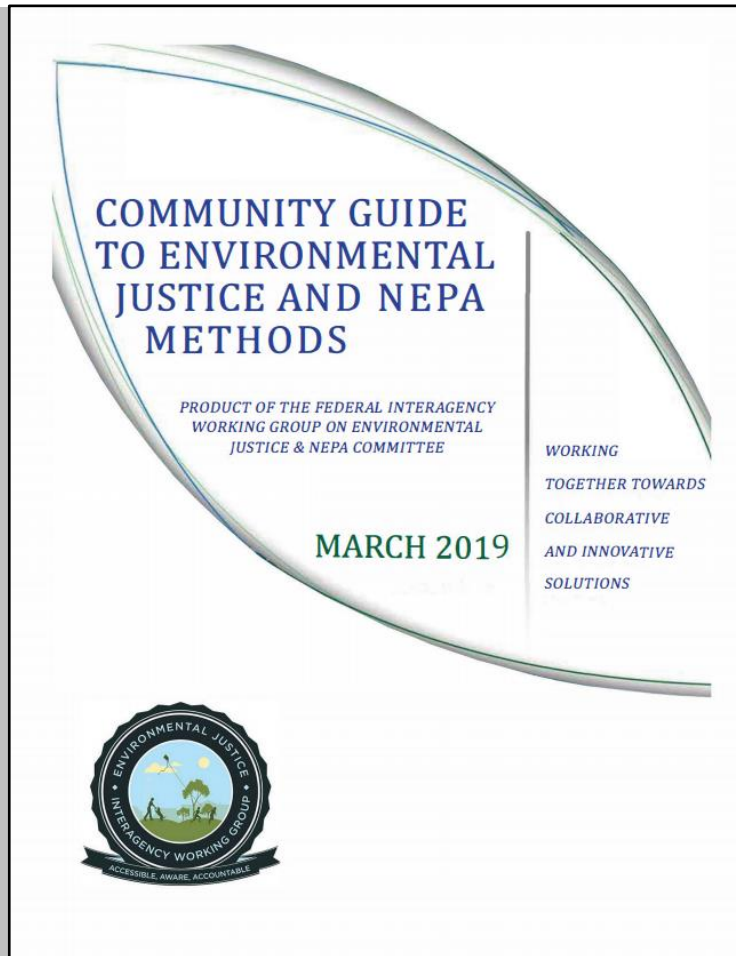




EJ Analysis Framework



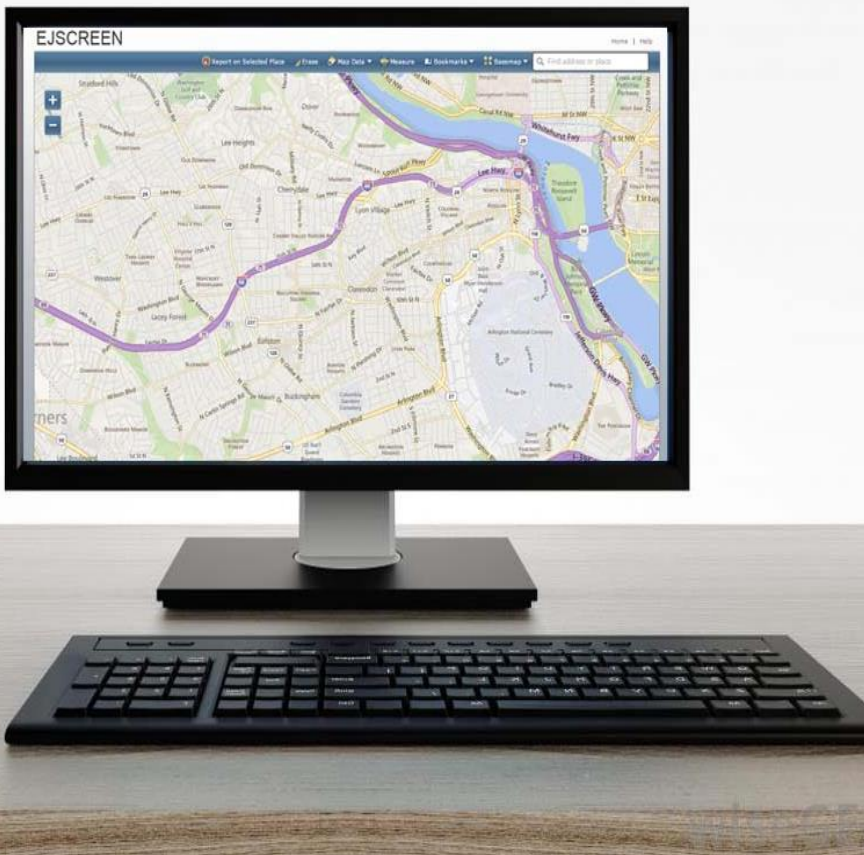
Companion to Promising Practices Report





EPA'S EJSCREEN TOOL

- EPA's web-based GIS tool for nationally consistent EJ screening and mapping
- Combines environmental and demographic data to highlight areas where vulnerable populations may be disproportionately impacted by pollution





Additional EJ Resources for NEPA

CEQ

- Environmental Justice: Guidance Under the National Environmental Policy Act (1997)
- A Citizen's Guide to NEPA (2007)

EPA

- Final Guidance for Incorporating Environmental Justice in EPA's NEPA Compliance Analyses (1998)
- Final Guidance for Consideration of Environmental Justice in Clean Air Act 309 Reviews (1999)



PART THREE

Tribal Government Perspective on the Value of NEPA

**Phil Rigdon, Superintendent,
Department of Natural Resources,
Yakama Nation**

Yakama Nation

Philip Rigdon, DNR Superintendent

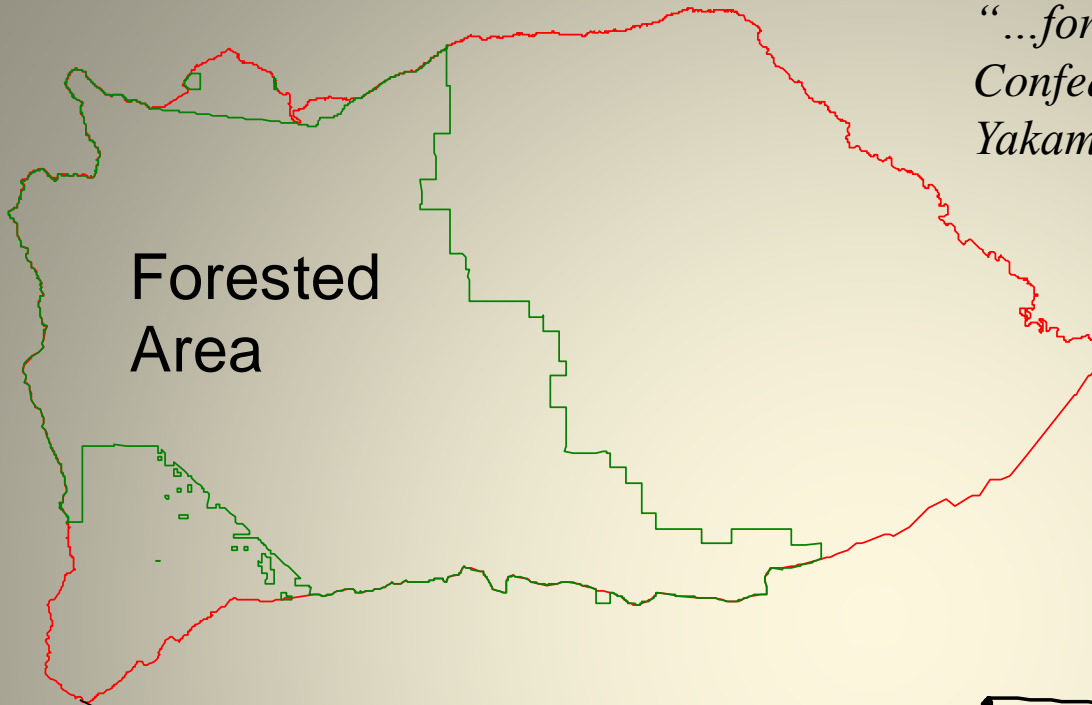


Mt. Adams,
Yakama Nation

Yakama Reservation

Treaty of 1855:

“...for the exclusive use and benefit of the Confederated Tribes and Bands of the Yakama Nation.”



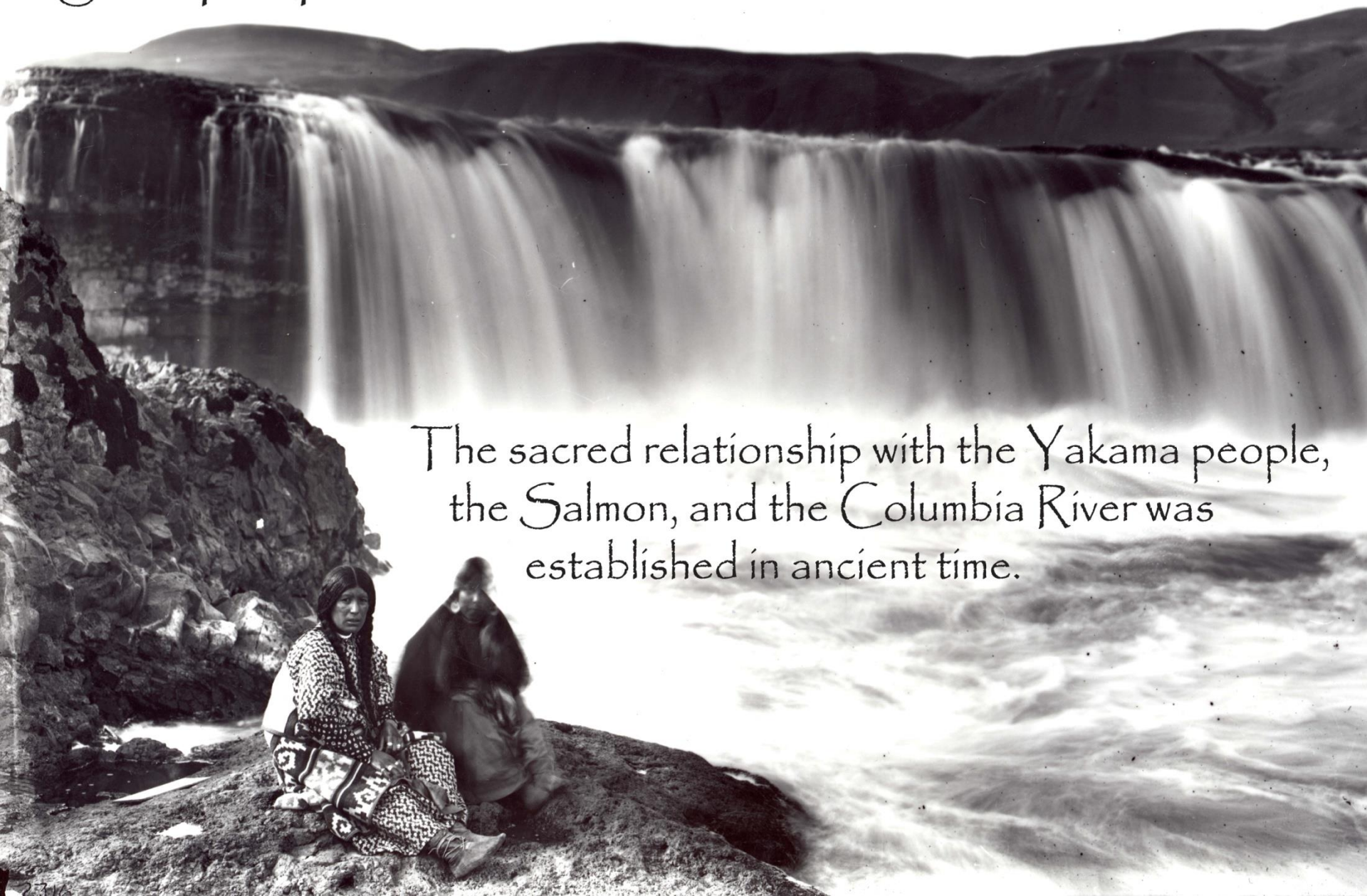
- | | |
|-------------------|----------------|
| 1) Palouse | 8) Sk' in-pah |
| 2) Piquouse | 9) Kah-miltpah |
| 3) Yakama | 10) Klickitat |
| 4) Wenatchapam | 11) Wish ham |
| 5) Klinquit | 12) See ap Cat |
| 6) Oche Chotes | 13) Li ay was |
| 7) Kow was say ee | 14) Shyiks |

Washington State

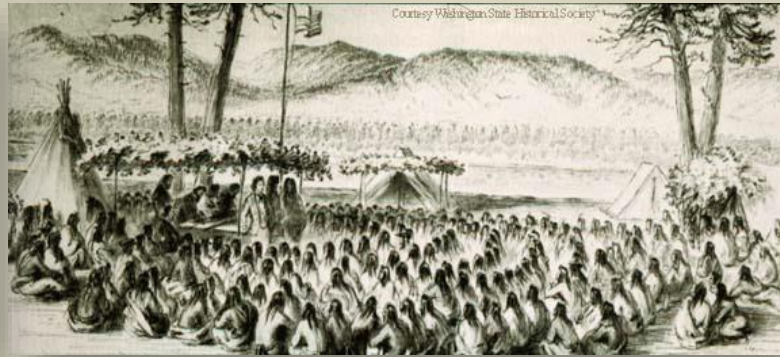


Since Time Immemorial...

The sacred relationship with the Yakama people,
the Salmon, and the Columbia River was
established in ancient time.



The Yakama Treaty of 1855: Article III



- The Reservation, Ceded Lands, and Usual & Accustomed Areas

Since time immemorial, the health, spirit, and cultures of the Yakama have been sustained by the water, salmon, game, roots, and berries of our homeland— our sacred First Foods.

Impacts to Our Reserved Resources

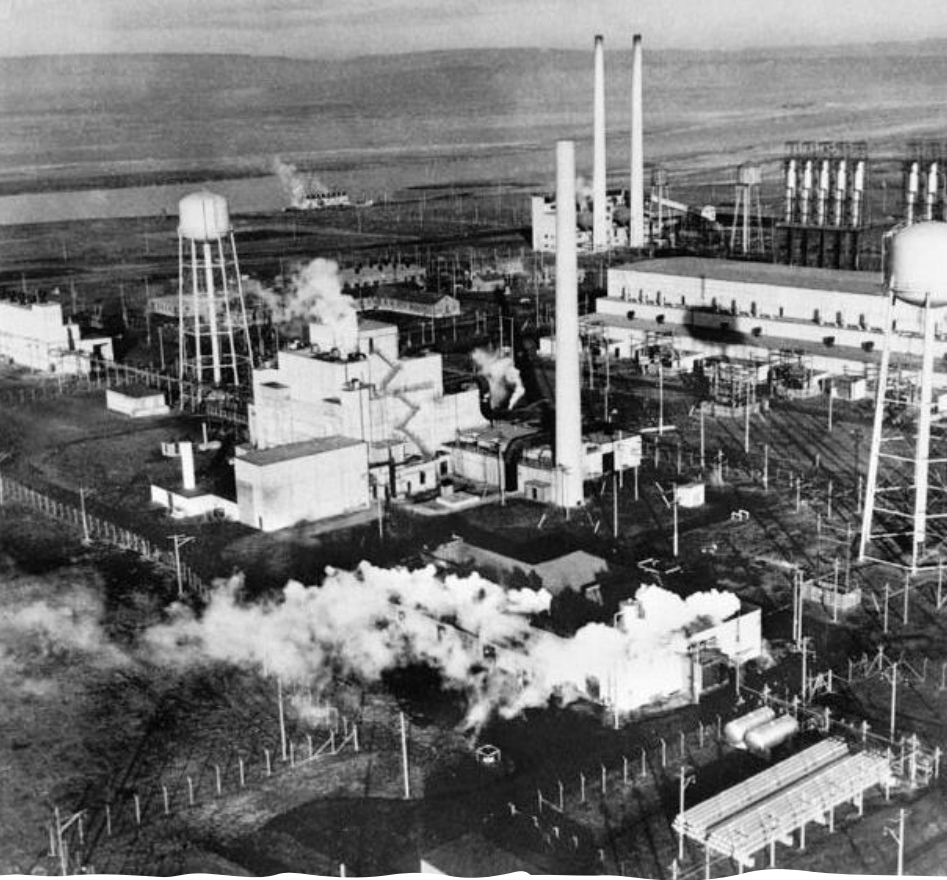
- Impacts to Our Natural & Cultural Resources
 - Loss and fragmentation of access
 - Known and unknown cumulative effects
- Significance of Resources
 - Our Natural resources are our Cultural Resources
 - We have a responsibility to protect them for generations yet born.
 - We continue to hunt, fish and gather for subsistence and ceremonial purposes
- Significance of Archaeological Resources
 - Sacred and sensitive resources
 - Part of a living Culture; Irreplaceable
 - Protected by Treaty, State and Federal Law





Washington State Fish Consumption Rate

- **Washington State was proposing to raise fish consumption rate to 175 grams/day**



Hanford

SUPERFUND – CERCLA & Contaminated Sites

- Portland Harbor
- Bradford Island
- Holden Mine – US Forest Service
- AMCCO Site
- Goldendale Aluminum



Bradford Island



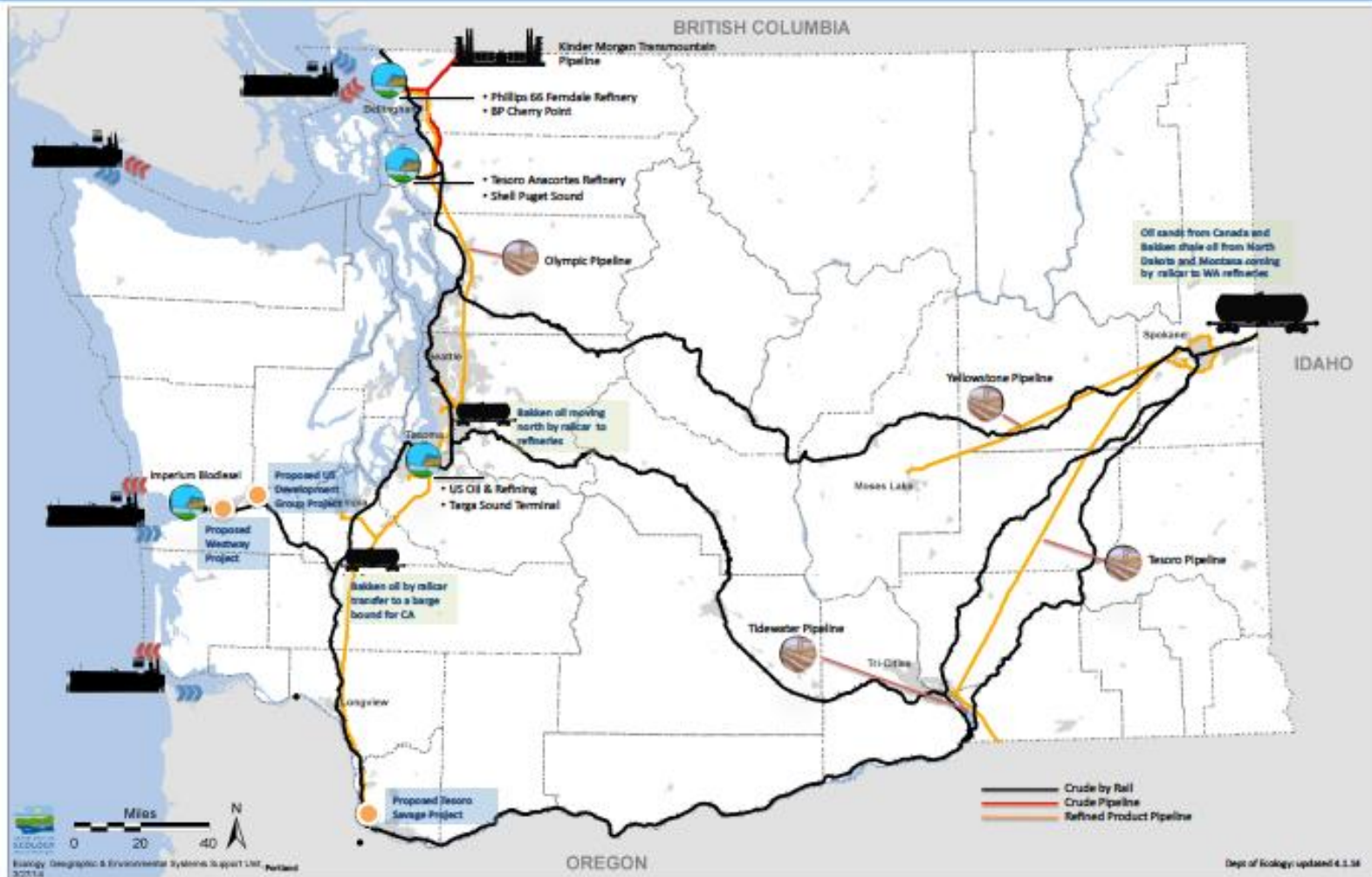
Portland Harbor



Holden Mine

The Degradation and Injustice to Our Land and Resources Continues with Fossil Fuel Transportation

CONCEPTUAL MODEL OF OIL MOVEMENT IN & OUT OF WASHINGTON STATE



Hawaii Waste



In 2010 USDA-APHIS proposed to allow Hawaiian Waste Systems to import at least 150,000 and perhaps up to 1 million tons of Hawaiian municipal solid waste to the Roosevelt Landfill, via the Port of Longview, annually and indefinitely.

Roosevelt Landfill is within the 10 million acres of land that the Yakama Nation ceded to the United States pursuant to the Yakama Treaty of 1855, in exchange for guaranteed rights to fish, hunt and gather in those lands.

Wind Power Interference with Yakama Nation's ability to Exercise its Treaty Reserved Rights



- The use of public land for wind development is impacting Yakama Nation's Treaty Reserved Rights to access its natural and cultural resources.
- Access is restricted due to:
 - Companies' public/Tribal access policies; and
 - Safety concerns (ice throw)
- Loss of habitat
- Yakama Nation requests:
 - To discuss potential wind development sites prior to major investments;
 - To discuss Tribal access agreements

Protecting our Treaty Reserved Rights and Resources

- In the Yakama Language, there is no word for “Mitigation” – No word to describe repairing the Lands and Waters that have been Degraded or Destroyed.



Protecting our Treaty Reserved Rights and Resources

- The Yakama Nation has demonstrated success in protecting Treaty resources through litigation:
 - US v Oregon
 - US v Washington
- The Yakama Nation is prepared to take all necessary measures to protect its resources guaranteed by the Treaty of 1855 (12 Stat. 951).





Honor. Protect. Restore.



Questions and Answers

**Please complete the online webinar
evaluation found here:**

<https://forms.gle/GYsMon2wkqTKtnNT9>

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