

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
ALBANY DIVISION**

STATE OF WEST VIRGINIA, et al.,

Plaintiffs,

v.

LETITIA JAMES, et al.,

Defendants,

and

WEST HARLEM ENVIRONMENTAL
ACTION, INC., BLACK FARMERS UNITED-
NEW YORK STATE, INC., CITIZENS
CAMPAIGN FOR THE ENVIRONMENT, and
CATSKILL MOUNTAINKEEPER,

*Proposed Defendant-
Intervenors.*

Civil Action No. 1:25-cv-168 (BKS/DJS)

DECLARATION OF PEGGY SHEPARD

I, Peggy Shepard, declare as follows:

1. I am the executive director and co-founder of West Harlem Environmental Action, Inc. (“WE ACT for Environmental Justice”), a nonprofit 501(c)(3) organization based in Harlem. Since its founding in 1988, WE ACT for Environmental Justice has worked to fight the disproportionate impact of pollution and climate change on communities of color and low-income communities. Our work focuses on communities in Northern Manhattan. We also work to advance environmental justice at the national level, including through our Washington, DC-based Federal Policy Office.
2. WE ACT for Environmental Justice currently has over 45 staff and 1,100 members.

3. WE ACT for Environmental Justice’s staff and members work within Northern Manhattan to advocate for, collaborate with, and educate local communities about environmental justice issues, including climate justice. WE ACT for Environmental Justice engages members through working groups and campaigns, monthly meetings, and participation in educational events such as our Environmental Health and Justice Leadership Training, an award-winning program that prepares members to engage more effectively in advocacy work. In addition to our campaign and policy work, WE ACT for Environmental Justice also directs the Manhattan Clean Energy Hub, which helps provide low and no-cost renewable energy upgrades in Manhattan to improve air quality and reduce utility costs.

4. Climate change has significantly and disproportionately harmed our members and the communities we serve. We are particularly concerned about the deadly impact of extreme heat. While the Black community represents 25% of New York City’s population, they account for up to 50% of the city’s heat-related deaths.¹ This disparity is partially because areas like Northern Manhattan, especially in public housing, have a lower prevalence of air conditioning than the rest of New York. New York has a cooling assistance program to help subsidize air conditioning for low-income residents, but it ran out of funding the last three consecutive summers. This leaves many residents vulnerable to rising temperatures, especially the elderly, those with respiratory illnesses, and children.

5. Even when extreme heat is not deadly, it can significantly harm residents. Members have reported that their children had to miss school due to asthma flareups on hot days. When temperatures spike, residents with COPD (Chronic Obstructive Pulmonary Disease) have even more difficulty breathing and performing daily tasks.

¹ <https://www.weact.org/campaigns/extreme-heat-coalition/>

6. The increased heat has led to more droughts and, consequently, to the unprecedented wildfires in New York City in November 2024. Beyond the dangers fires themselves pose, the smoke exacerbates our concerns about extreme heat. Since residents are forced to close their windows to keep smoke out, and many either do not have or cannot afford to turn on air conditioners, there is no way to cool their homes. Due to years of neglect and disinvestment in much of Northern Manhattan's housing, the community already faces indoor air pollutants such as lead, asbestos, and mold. The wildfire smoke exacerbates these cumulative toxic exposures that threaten people's health.

7. Heavy rain and flooding have also increased in New York in recent years. The floods have interrupted subway service, preventing people from getting to and from work. Flooded basements have resulted in the failure of boilers and other equipment in residents' homes; flooding also impacts indoor air quality, creating incubators for mold which can lead to poor health outcomes. While major storms and hurricanes are particularly devastating, the overall increase in heavy rains has meant that flooding and dangerous outcomes are a constant threat.

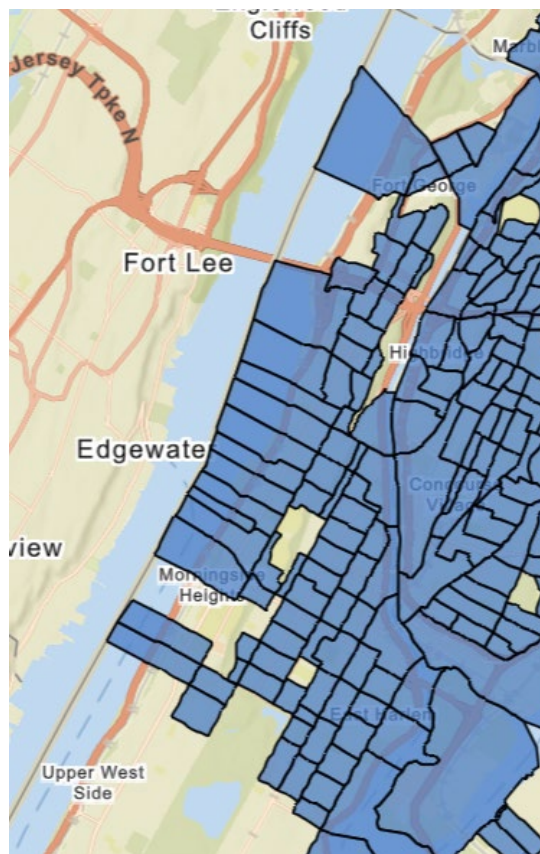
8. While our members want to come together to support one another through these climate disasters, they often express frustration that there is simply not enough time, money, and capacity to effectively do so. Without support from the state, there is often a feeling that there is nowhere and no one to turn to.

9. There are actions that can be taken to alleviate the burden of climate change on Northern Manhattan. To reduce the harm from flooding, we need to invest in a more integrated storm water management system, such as increasing permeable surfaces to absorb rainwater. We also need funding to retrofit and weatherize housing units to make them more energy efficient

and protect them from flooding and extreme temperatures. We would like to see New York provide sufficient subsidies for air conditioning, as well as create subsidies for heat pumps to reduce the use (and negative health impacts) of fossil fuels for energy in residents' homes. We also need additional public education to ensure that residents know how to protect themselves in the face of extreme heat and other climate disasters. Over the last several years, WE ACT for Environmental Justice in collaboration with community members has developed several research-backed plans, such as the Northern Manhattan Climate Action Plan,² that identify concrete steps to enhance Northern Manhattan's climate resilience. We have the knowledge, solutions, and plans; we just lack the money for implementation.

10. I understand that the New York Climate Change Superfund Act sets aside at least 35 percent, with a goal of 40 percent or more, of program funds for climate change adaptive infrastructure projects that benefit disadvantaged communities. I've also been told that the Act adopts the 2019 Climate Leadership and Community Protection Act's (the "Climate Act") definition of disadvantaged communities. The following New York State website includes a searchable map to identify areas that meet the criteria for disadvantaged communities under the Climate Act: <https://www.nyserda.ny.gov/ny/Disadvantaged-Communities>. The map shows that most of the communities WE ACT for Environmental Justice serves in Northern Manhattan have been identified as meeting those criteria, as shown in this image captured from the website:

² <https://www.weact.org/campaigns/nmca/>



11. WE ACT for Environmental Justice supports the Act because it could provide crucial funding and support to help make Northern Manhattan more climate resilient. I believe that corporations should help pay for the consequences of climate change, especially since they are contributing far more to climate change than the communities that are most seriously harmed by it and already bear the burden of its environmental, health, and financial costs. Our members and communities should not have to face these consequences alone, and the Climate Change Superfund Act will help to distribute the load more equitably.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/8/25

Peggy Shepard
Peggy Shepard