



## **Delaware Green Amendment Points to Consider**

**The DE Green Amendment will place the rights to a clean and healthy environment legally on par with other fundamental rights such as private property rights, the rights to bear arms, free speech, and freedom of religion.**

- ✓ Recognition of these basic human rights has proved beneficial to Delaware communities and not the source of uncontrolled abuse. The same will be true for environmental rights.
- ✓ When two rights are implicated – such as property and environmental – government will work to balance and protect both sets of rights. Among other things, this will ensure that claims of takings cannot be abused to pressure local or state government when serious environmental harms are implicated.

**The rights of free speech, freedom of religion, to be free from unreasonable searches and seizures, to freely assemble and to due process are all important. So too is the right to clean water and air, a stable climate and healthy environments. They are all essential to support a free, healthy and quality Delaware.**

- ✓ According to the Environmental Integrity Project, Delaware has a higher percentage of rivers and streams than any other U.S. state that fail to meet water quality standards necessary to protect their use for drinking, fish consumption, swimming, recreation or aquatic life. A Delaware Green Amendment could strengthen the use of existing laws, and passage of new laws, to provide the waterway protection our state so sorely needs.

**People’s lives are impacted by pollution and environmental degradation. A DE Green Amendment will ensure businesses operate in a way that protects lives. Surely peoples’ lives are worth more than increasing profits?**

- ✓ Air pollution has serious health consequences, among them asthma attacks, strokes, heart attacks, ADHD, Alzheimer’s, lung cancer, developmental and reproductive harms.
- ✓ According to the American Lung Association State of the Air 2022 report:
  - “The 16-county Philadelphia-Reading-Camden, PA-NJ-DE-MD metro area, which includes Delaware’s New Castle and Kent Counties, ranked as the 18th most polluted metro area in the nation for its year-round average levels of fine particle

pollution ..... The 5-county Salisbury-Cambridge, MD-DE metro area, which includes Sussex County, ranked 164th and 75th worst, respectively.”

- “Compared to the 2021 report, all Delaware counties experienced fewer unhealthy days of high ozone in this year’s report. Nevertheless, only Kent County’s grade improved (from a “C” to a “B”). Sussex County continued with a “C” grade and New Castle County held onto its “F” grade....”

**The DE Green Amendment will strengthen environmental justice protections by ensuring all communities – regardless of race, ethnicity or socioeconomic status – have the same rights to clean water, air and healthy environments, and it is the duty of all government officials to protect environmental rights equitably across the state.**

- ✓ By recognizing environmental rights as individual rights that belong to all people, the Green Amendment makes clear that government decisions and actions must protect these rights *for all people* regardless of race, ethnicity, wealth, or generation, and that government is not entitled to undermine/sacrifice/minimize the rights of one beneficiary community in order to enhance/protect the rights of another beneficiary community.
- ✓ Including a trust obligation in a Green Amendment ensures that all government officials have a clear fiduciary duty to act with loyalty and impartiality for the benefit of all beneficiaries, including present and future generations and regardless of race, ethnicity, geography or wealth. The duties of prudence, loyalty and impartiality will, among other things, ensure a duty of equitable treatment ensuring that the rights of all beneficiaries are considered, respected and protected equitably.
- ✓ Under our current system too many communities of color and low income communities are disproportionately impacted by ongoing and increasing pollution and environmental degradation. Delaware needs a constitutional right that ensures every government action ensures environmental justice.
- ✓ In a study focused on 7 environmental justice communities in Delaware – Belvedere, Cedar Heights, Dunleith, Marshallton, Newport, Oakmont, and Southbridge – a coalition of well-respected organizations (Union of Concerned Scientists; the Environmental Justice Health Alliance for Chemical Policy Reform; Delaware Concerned Residents for Environmental Justice; Community Housing and Empowerment Connections Inc.; and Coming Clean, Inc.) found:
  - “People in the seven communities along the industrial corridor in the northern portion of Delaware’s New Castle County face a substantial cumulative health risk from exposure to toxic air pollution and their proximity to polluting industrial facilities, hazardous chemical facilities, and contaminated waste sites. These health risks are substantially greater than those experienced by residents of a nearby wealthier and predominantly White community in Delaware and for Delaware as a whole.”
  - “Residents of the seven northern New Castle County environmental justice communities face substantially higher cancer risks and respiratory hazard indices from toxic air pollution than people in the comparison community of Greenville or the overall Delaware population.”

- “People in Marshallton, which has a substantial proportion of people of color and poverty rates above the Delaware average, face the highest cancer risk and respiratory health hazard of all the communities studied, with cancer risks and respiratory health hazards that are 33 and 71 percent higher, respectively, than Greenville and 28 and 55 percent higher than for Delaware overall.”
- “The communities of Dunleith, Oakmont, and Southbridge, whose residents are predominantly low-income people of color, have cancer risks that are 19 to 23 percent higher than for Greenville and 14 to 18 percent higher than for Delaware overall. Respiratory health hazards in these three communities are 32 to 43 percent higher than for Greenville and 20 to 30 percent higher than for Delaware overall.”
- “Cancer risks in Newport, Belvedere, and Cedar Heights, which have a substantial proportion of people of color and poverty rates above the Delaware average, are 21, 15, and 12 percent higher than for Greenville, respectively, and are 16, 10, and 7 percent higher than for Delaware overall.”
- “Respiratory health hazards in Newport, Belvedere and Cedar Heights are 44, 30, and 24 percent higher than for Greenville, respectively, and 31, 18, and 13 percent higher than for Delaware overall.”
- Hazardous, health harming and/or cancer-causing contaminants such as formaldehyde, benzene and acrolein were found at high levels in these communities – levels higher than in more affluent communities with a greater population of white residents.
- Forty-eight - more than half of all brownfield sites located in Delaware - are found within a one mile radius of the community of Southbridge.
- “The almost 300 elementary-school-aged students in the Kuumba Academy Charter School near Southbridge are exposed to toxic air pollution that result in cancer risks that are almost three times higher, and respiratory hazards that are more than three times higher, than schools in Greenville, the comparison community. Six other schools within one mile of the Southbridge area have toxic air pollution levels that result in cancer risks that are 55 to 74 percent higher, and potential respiratory hazards that are 81 to 125 percent higher, than schools in Greenville.”

(source: <https://www.ucsusa.org/sites/default/files/attach/2017/10/ej-for-de-report-ucs-2017.pdf>)

- ✓ Specific recognition of the cultural values of a healthy environment for Indigenous communities ensures that cultural values and sacred sites are included as priority values to be protected.
- ✓ Recognizing the healthful values of the environment ensures priority consideration and protection of human health as relates to the environment.

**Industry should not be allowed to operate in a way that is environmentally harmful.**

- ✓ The DE Green Amendment will simply ensure that economic development, industry, and businesses do not advance at the expense of the environment and people’s rights to clean water and air, healthy soils and food, a climate that is livable, and environments that are protective of their health and safety.

- ✓ There are always ways to accomplish our energy, manufacturing, development and business goals that are environmentally protective. The DE Green Amendment will ensure they are pursued.

**A DE Green Amendment will support good government action to protect the state budget from unnecessary expense that should be borne by responsible industries.**

- ✓ For example, the cleanup of the Standard Chlorine federal Superfund site cost DE tax-payers nearly \$110 million since 2002, when the site's last owners, Metachem Products LLC, declared bankruptcy and walked away from more than \$65 million in debts, millions of pounds of chemicals and dozens of acres of deeply contaminated ground and water. (source: <https://www.delawareonline.com/story/news/local/2015/04/16/former-metachem-site-millions-targeted-delawares-costliest-cleanup/25904593/>)

**When there are critical issues of environmental concern not addressed by existing law, the DE Green Amendment can be utilized to fill these gaps in protection until such time as the law catches up and addresses the areas of concern.**

- ✓ For example, PFAS was allowed to contaminate drinking water and environments across Delaware because for decades there were no protective laws or regulations that empowered government to provide needed protections. During that period the Green Amendment could have served as the legal foundation necessary to secure protection until the state put in place needed regulations.
  - Of the 30 public water-supply wells tested by USGS in Delaware, 16 were found to be contaminated with PFAS. All of these wells were fed by the Columbia aquifer, an important water source for the state. While Delaware settled with DuPont, Corteva and Chemours for \$50 million to support testing and cleanup of PFAS, those funds cannot undo the health harms inflicted on those **already** exposed.
  - According to the CDC, PFAS exposure is known to cause an increased risk of testicular or kidney cancer, low birth weight in babies, increased high blood pressure, preeclampsia in pregnant women, decreased vaccine response in children and increased cholesterol levels.

**Protecting Delaware's natural resources is important for protecting the state's economy, and the economies of many local Delaware communities:**

- ✓ We know that protecting the water quality, ecosystems and habitats that support healthy wildlife and aquatic life are important economic drivers for our state. For example, just looking at the Delaware River/Estuary, it is estimated that in 2006, the economic value of fishing, hunting, and wildlife associated recreation in Delaware was \$134 million per year. If those numbers were calculated for 2022, the number would be dramatically higher. (source: G. Kauffman, University of Delaware, [Socioeconomic Value of the Delaware River Basin in Delaware, New Jersey, New York, and Pennsylvania](#), October 11, 2011.)
- ✓ The Delaware Inland Bays watershed is calculated to contribute up to \$4.3 billion of economic value every year to the Delaware economy. (source: <https://www.wrc.udel.edu/wp->

[content/uploads/2020/11/Economic-Value-of-the-Delaware-Inland-Bays-Watershed-Draft-Oct-7-2020.pdf](https://eos.ucs.uri.edu/seagrant/Linked_Documents/delu/DEL-SG-10-16.pdf)

- ✓ According to a 2013 report by NRDC, Delaware's beaches were ranked #1 for beach water quality in an analysis of 30 coastal states. Cape Henlopen alone attracts over 1.5 million visitors every year to the Bayshore. And according to a 2014 *USA Today* study, Cape Henlopen was voted the 4th most beautiful state park in the nation. It is clear, the high quality waters and beauty of our Delaware beaches draw visitors from all over the region and nation, supporting local businesses and our state's economy. (source: [https://eos.ucs.uri.edu/seagrant/Linked\\_Documents/delu/DEL-SG-10-16.pdf](https://eos.ucs.uri.edu/seagrant/Linked_Documents/delu/DEL-SG-10-16.pdf) )
- ✓ Drawn by healthy water quality and ecosystems, Delaware is ranked 7th in the United States for expenditures from new powerboats, outboard engines, boat trailers, and accessories, providing nearly \$344 million of economic income for the state's economy. (source: G. Kauffman, University of Delaware, [Socioeconomic Value of the Delaware River Basin in Delaware, New Jersey, New York, and Pennsylvania](#), October 11, 2011.)

### **Protecting Delaware's natural resources protects local economies too:**

- ✓ The Delaware Inland Bays are credited with supporting over 70,000 jobs with good paying wages in the amount of \$3 billion, while also contributing \$353 million in local, state and federal taxes. (source: <https://www.wrc.udel.edu/wp-content/uploads/2020/11/Economic-Value-of-the-Delaware-Inland-Bays-Watershed-Draft-Oct-7-2020.pdf> )
- ✓ The Delaware Inland Bays are credited with supporting over \$4.4 billion in annual economic activity including \$58 million from fishing, hunting and birding; \$935 million from outdoor recreation; \$433 million from agriculture; \$2.2 billion from increased property values – all of which are supported by clean water and healthy environments in the region.(source: <https://www.wrc.udel.edu/wp-content/uploads/2020/11/Economic-Value-of-the-Delaware-Inland-Bays-Watershed-Draft-Oct-7-2020.pdf> )

### **The DE Green Amendment will strengthen healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, drought & declining property values by ensuring government actions avoid environmental degradation rather than responding to it after-the-fact.**

- ✓ A 2008 study by the U.S. Forest Service and Delaware Center for Horticulture determined that the forests of New Castle County alone provided our state carbon storage benefits in the amount of \$5.9 million (\$827/ac) and air pollution removal to the tune of \$1.9 million (\$266/ac/yr); thereby helping us to avoid the harms of increasing climate change, as well as the physical, emotional and economic costs of illness due to air pollution. (source: U. S. Forest Service and Delaware Center for Horticulture (Nowak et al. 2008) ; G. Kauffman, University of Delaware, [Socioeconomic Value of the Delaware River Basin in Delaware, New Jersey, New York, and Pennsylvania](#), October 11, 2011)
- ✓ According to America's Health Rankings: "Air pollution of fine particulate matter originating from human activity was estimated to be responsible for 107,000 premature deaths in 2011. The same study found the cost to society was an estimated \$886 billion." Delaware is not immune from the devastating loss of life and economic consequences of air pollution.

**Protecting the environment benefits property values, which in turn provides tax benefits to host communities.**

- ✓ Planting and protecting trees in Delaware will increase property values, increase property marketability, speed up home sales, and as a result will enhance property sale contributions to local budgets. Homes located near parks and natural open space with trees sell for a price that is 8 to 20% higher than comparable properties located elsewhere. (source: <https://www.vibrantcitieslab.com/research/economic-development-property-values-impact/> )
- ✓ Property values of those living within 2,000 feet of the Delaware Estuary have been determined to increase by 8% because of improved water quality. (source: G. Kauffman, University of Delaware, Socioeconomic Value of the Delaware River Basin in Delaware, New Jersey, New York, and Pennsylvania, October 11, 2011.)
- ✓ Research has demonstrated that the value of residential properties increases 5 to 15% when nearby brownfield sites poisoned with hazardous substances, pollutants or contaminants are cleaned up and restored.

**When there has been a violation of the DE Green Amendment, the remedies provided will be equitable remedies rather than money damage payouts.**

- ✓ Examples of equitable remedies which may be secured include: provisions of enacted laws deemed unconstitutional will not go into force and effect; permits that are deemed unconstitutional will be rescinded until the unconstitutional concern can be addressed; failure to enforce existing laws in a way that is resulting in severe contamination violating constitutional rights may be remedied by enforcement of the existing statutory obligation; government may be protected from approving activities that science and factual information demonstrates will result in so much pollution/degradation that a constitutional violation will result.

***More info & Resources at: [www.DEGreenAmendment.org](http://www.DEGreenAmendment.org)***