



Environmental and Natural Resources Law Center



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The Public Trust Doctrine as a Tool for Environmental Justice

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The Public Trust Doctrine rests on the foundational principle that the government serves as the steward for the land and natural resources of our nation, acting as trustee for the benefit of the public. The trustees are subject to fiduciary duties and must manage public trust resources for the benefit of present and future generations. The beneficiary class consists of everyone, and just as the government cannot favor industry over the rights and welfare of communities, it equally cannot favor the rights and welfare of part of the beneficiary class over another part. In this vein, the Public Trust Doctrine is aligned with the principles of the environmental justice movement, such as the assertion that no population should be forced to shoulder a disproportionate share of exposure to negative effects of pollution and that the development and enforcement of all environmental laws, regulations, and policies should be fair for people of all races, cultures, incomes, and educational levels. These principles are implicit in the Public Trust Doctrine's requirement that trust assets must be managed impartially and for the benefit of *all* beneficiaries.

The alignment of environmental justice and the public trust is emerging as a promising trend in state courts and can provide a vital tool in the fight against environmental injustice.¹ Recently,

¹ See Alicia Muir, *Trust Issues: Using States' Public Trust Doctrines to Advance Environmental Justice Claims*, 46 WM. & MARY ENV'T L. & POL'Y REV. 707 (2022) (arguing that the Equal Protection Clause of the Fourteenth Amendment and the Civil Rights Act have frequently presented insurmountable burdens to environmental justice claims. A viable tool, Muir argues, is the public trust doctrine, which "provides a new path for environmental justice plaintiffs to obtain relief without having to demonstrate discriminatory intent."); see also Sean Lyness, *Localizing the Public Trust*, 49(1) COLUMBIA J. OF ENV'T L. 49 (2024) ("For environmental justice communities, localizing the public trust provides them with a formal role in the doctrine, enhancing their voice and autonomy. Any potential impairment of public trust resources in these communities will need to answer to that local voice. It may not prevent impairment entirely, but it at least provides an opportunity for the local community to be a part of the process.").

several state courts have interpreted the Public Trust Doctrine as requiring government agencies to consider environmental justice issues in decision-making and have overturned state actions for omitting such considerations. While there are not many cases that explicitly recognize the PTD as incorporating environmental justice, the ones that do represent the potential environmental justice gains that can be achieved through the doctrine.

In Louisiana, courts have explicitly held that environmental justice considerations are included in the state's duties under the public trust. In *Rise St. James v. Louisiana Dep't of Env't Quality*, a district court vacated coastal permits issued by the state DEQ, holding that the DEQ did not sufficiently consider environmental justice concerns. On appeal, the circuit court reinstated the permits, largely out of agency deference, but rejected the DEQ's argument that the district court incorrectly interpreted Louisiana's public trust doctrine to require environmental justice considerations. The circuit court confirmed the district court's conclusion, stating that, in Louisiana, the public trust doctrine requires the state to conduct an analysis of environmental justice in permitting decisions.²

In a more recent case, a Louisiana court held that the Louisiana Department of Energy and Environmental Resources, in issuing a permit for the construction of an LNG facility, failed to fulfill its "duty under the Louisiana Public Trust Doctrine to consider environmental justice issues in its permitting decision." The court continued to enumerate many of the environmental justice considerations that must be included in a state agency's decision to issue a permit.³

While Louisiana provides examples of courts expressly concluding that the Public Trust Doctrine requires environmental justice considerations in state decision-making, many states have echoed environmental justice principles in their articulations of the public trust. For example, Justice Castille's famous plurality opinion in the Pennsylvania Supreme Court case, *Robinson Township v. Commonwealth*, provides an illustrative discussion of the inherent rights protected by the public trust. The *Robinson Township* court gave effect to Section 27, the Environmental Rights Amendment, of the Pennsylvania Constitution. Justice Castille's opinion explicitly lodges environmental rights in the fundamental constitutional structure that reserves the "inherent and inalienable rights" of citizens.⁴ These rights, Justice Castille emphasized, arise from the social contract between people and their government. Such rights are "of such general, great and essential quality as to be ensconced as inviolate."⁵ Justice Castille made clear that Section 27 did not create

² *Rise St. James v. Louisiana Dep't of Env't Quality*, 2023-0578 (La. App. 1 Cir. 1/19/24), 383 So. 3d 956, 987 (Feb. 15, 2024), *writ denied*, 2024-00354 (La. 9/4/24), 391 So. 3d 1051.

³ *Sierra Club v. Louisiana Dep't of Energy and Env't Resources*, C-1021127 (La. 38th Dist. Ct., Oct. 10, 2025) ("Will the environmental impacts of this facility have a disparate or exaggerated effect on surrounding minority and low-income communities, especially given the number of natural resources directly impacted locally, such as loss of marshes (storm surge protection), disruptive social patterns (forcing people to move), cumulative impacts (of other facilities already in the area), public use of resources (recreational and subsistence fishing), and water quality (water temperature, discharge of solids)? All of this must be considered in the CUP, but none of it was considered in terms of impacts on environmental justice communities, namely those living in poverty, and those who fish not only for recreation but for their livelihood, which has always been a defining characteristic of Cameron Parish.").

⁴ *Robinson Twp., Washington Cnty. v. Com.*, 83 A.3d 901, 948 (2013).

⁵ *Id.* at 947 (internal quotation marks omitted).

new rights, but rather iterated pre-existing rights that the people had reserved to themselves in creating their state government.⁶

Notably, many other state constitutions include the same, or similar, declarations of inherent rights forming the constitutional paradigm upon which the plurality opinion in *Robinson* relies. Indeed, such inalienable reserved rights rank fundamental to the democratic understandings underlying all state and federal government authority in the United States. As Professor Joseph Sax once said, the public trust demarcates a society of “citizens rather than of serfs.”⁷

While states vary greatly in their application of the Public Trust Doctrine, every state has judicially recognized the public trust principle in some form and imposes environmental duty whether or not the state has constitutional provisions explicitly outlining the public trust. Louisiana provides a model that can be followed by environmental justice advocates in other states.⁸ Central to the public trust doctrine is the principle that the government, as trustees, cannot favor industry over the rights and welfare of communities because the beneficiary class consists of everyone.⁹ Inherent in this principle is that the beneficiary class is equal and government actions cannot benefit or disadvantage one group of the class over another. As stated by Professor Sax, “the public trust concept is, more than anything else, a medium for democratization.”¹⁰ Further, the environmental justice movement is a democratic movement that aims to “rectify the inequality in environmental regulations and prevent the unequal assignment of negative environmental effects upon minority and low-income communities.”¹¹ As a doctrine that “calls for sound administration and equality, the public trust doctrine aligns with the environmental justice movement.”¹²

Environmental justice and the Public Trust Doctrine are inextricably linked, as historically, the impairment of public trust resources has disproportionately occurred in marginalized communities.¹³ Recent administrative efforts to curtail environmental justice underscores the importance of the Public Trust Doctrine’s environmental equity obligations. In March 2025, EPA Administrator Lee Zeldin shuttered the agency’s Office of Environmental Justice and External Civil Rights and announced that all ten of its regional divisions would be eliminated.¹⁴ That same

⁶ See also *id.* at 956 (“The terms of the trust are construed according to the intent of the settlor which, in this instance, is ‘the people.’”).

⁷ Joseph L. Sax, *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention*, 68 MICH. L. REV. 471, 484 (1970).

⁸ See Muir at 719 (evaluating the viability of using the public trust doctrine to bring environmental justice claims using Pennsylvania as an example: “Right now, it is possible for Pennsylvania’s citizens to challenge environmental injustice by bringing a breach of fiduciary duty claim against the state or its agencies. A plaintiff can argue that a government action—like a permit, regulation, or law—disproportionately impacts minorities and low-income populations, and thus constitutes a violation of the state’s fiduciary duties as trustee.”).

⁹ See *id.* at 736 (“Because of the duty of impartiality, a trustee must balance the competing interests of differently situated beneficiaries fairly and reasonably. Quite plainly, this duty forbids favoritism between classes of beneficiaries.”).

¹⁰ Sax at 474.

¹¹ Muir at 721.

¹² *Id.*

¹³ See Lyness at 80 (“[P]ublic trust asset impairment can be concentrated in environmental justice communities....Localizing the public trust doctrine can help to counteract these tendencies.”).

¹⁴ *EPA Eliminated Office of Environmental Justice and External Civil Rights (OEJECR) and EJ Regional Divisions*, Environmental and Energy Law Program, HARVARD LAW SCHOOL (March 11, 2025) <https://eelp.law.harvard.edu/tracker/epa-launched-new-office-of-environmental-justice-and-external-civil-rights-oejecr/>.

month, the Trump administration moved to dismiss a landmark environmental justice suit in Louisiana, set to go to trial in April, against a chemical plant located in a poor, predominantly Black community that has the highest cancer risk in the country.¹⁵ With the Trump administration revoking all environmental justice orders and halting federal efforts to address environmental inequities, this part of the Public Trust Doctrine is likely to receive increased attention and can serve as a tool for advocates pursuing environmental justice actions against government agencies.¹⁶

¹⁵ Nikole Hannah-Jones, *How Trump Upended 60 Years of Civil Rights in Two Months*, NEW YORK TIMES (June 27, 2025), <https://www.nytimes.com/2025/06/27/magazine/trump-civil-rights-law-discrimination.html>.

¹⁶ See Muir at 750 (“Through strategic litigation, meaningful court decisions, and legislative action, the public trust doctrine can continue to evolve and ultimately function as a tool for environmental justice advocates.”).