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United States Environmental Protection Agency- Region 5
77 W. Jackson Blvd
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Submitted Via Email

Re: Review CAA Compliance and Enforcement in Flint, Michigan

Dear Mr. Walts and Ms. Furey,

On behalf of our clients Flint Rising, Environmental Transformation Movement of Flint and St. Francis Prayer Center (“Flint Complainants”), we request that the U.S. Environmental Protection Agency Region 5 (“EPA Region 5”) enhance monitoring, compliance, and enforcement efforts under the Clean Air Act (“CAA”) and other environmental laws to better protect public health and the environment in Flint, Michigan. Use of environmental laws alone—without the critical complement of civil rights laws—is unlikely to eliminate the disproportionate exposure to environmental harm facing Flint residents. Still, we welcome EPA Region 5’s commitment to employ more fully existing environmental law tools to improve public health and environmental protection in Flint. First, EPA Region 5 should immediately review the compliance status of all stationary sources of air pollution affecting the City of Flint. Second, EPA should increase community-level air monitoring in Flint. EPA’s recent mobile monitoring in North Flint may provide useful neighborhood scale air quality data, but that monitoring is only a first step. EPA Region 5 needs to do more to regularly assess the air emissions in Flint—especially in the Dort-Carpenter Industrial Park.¹ In addition, we request that the agency commit to advancing environmental justice in Flint by developing comprehensive strategies, in partnership with Flint

¹ The Dort-Carpenter Industrial Park is an area of highly concentrated industry that is adjacent to residential housing. See Correspondence and Map of Sources and Housing Near the Dort-Carpenter Industrial Park, EGLE, (Apr. 12, 2021), Attachment 1.

Complainants and Flint residents, to address, among other issues, unsafe drinking water, air pollution, and soil contamination.

We are eager to engage with EPA Region 5 to address the issues discussed below and improve environmental quality and public health for Flint residents. As EPA Region 5 takes on its role as the national leader of EPA's environmental justice work, it should model this leadership role by devoting continued attention and resources to Flint.

I. Background

On August 10, 2023, the EPA's Office of Environmental Justice and External Civil Rights ("EPA-OEJECR") entered into an agreement with the Michigan Department of Environment, Great Lakes, and Energy ("EGLE") to resolve a complaint under Title VI of the Civil Rights Act filed by the Flint Complainants.² As part of the resolution of the complaint, EPA reaffirmed its commitment to enforcing the CAA and other environmental laws in Flint and the surrounding area.³

This attention to Flint is necessary. Flint residents experience disproportionate exposure to environmental harm.⁴ Flint is overwhelmingly Black and low-income and is still reeling from the effects of the Flint Water Crisis.⁵ As EPA-OEJECR noted in its letter to our clients closing their complaint, "as of December 2022, nearly 3,000 people live within a one-mile radius of the location of Ajax. According to EJScreen, among that population, 77% identify as Black or African American and 10% of the population identify as Hispanic."⁶ This community also has high EJ index scores, indicating a higher risk of exposure to pollution.⁷ Flint residents live in close proximity to hazardous waste sites and point sources for air and water pollution, have poorer indoor air quality, and higher rates of unsafe drinking water.⁸ Environmental hazards are pervasive for

² *Informal Resolution Agreement Between EPA and EGLE, EPA Complaint no 01RNO-22-R5*, U.S. Env't Protection Agency (Aug. 10, 2021), available [here](#); *Resolution Letter of EPA Complaint no. 01RNO-22-R5*, U.S. Env't Protection Agency, (Aug 10, 2023), available [here](#), ("Flint Complaint Resolution"); see also *Request for Review of the Michigan Department of Environment Great Lakes and Energy's Compliance with Title VI of the Civil Rights Act of 1964*, 42 U.S.C. § 2000d, Flint Community Groups, (Oct. 27, 2021), ("Complaint") available [here](#). The Flint complaint alleged that EGLE not only discriminated against local residents by issuing a permit to Ajax Materials Corporation for a new asphalt facility located in a highly industrialized area and a predominantly Black and low income community, but also discriminated in its failure to consider cumulative impacts in air permitting more broadly.

³ *Id.*

⁴ See EJScreen Report for the City of Flint, US EPA EJScreen, (retrieved Aug. 14, 2023), Attachment 2. This EJScreen report pertains to the entire City of Flint. In addition, EPA should review the EJScreen report for a 1-mile radius around the Dort-Carpenter Industrial Park. See EJScreen Report for 1-mile Radius Around the Dort-Carpenter Industrial Park, US EPA EJScreen, (retrieved Aug. 16, 2023), Attachment 3.

⁵ See *Concerned Pastors for Social Action et. al v. Khouri*, Case No. 16-10277-DL (Feb. 24, 2023), Order Granting Plaintiff's Fifth Motion to Enforce Settlement Agreement (requiring the city to complete lead pipe replacement by August 2023 and creating procedures if the City cannot meet the August deadline); see also e.g., Matthew Kristofferson, *Flint Water Crisis Worsened Birth Outcomes, Disproportionally Affected Black Babies*, YSPH Study Finds, Yale School of Public Health (October 19, 2021) available [here](#).

⁶ Informal Resolution Agreement between Michigan Department of Environment, Great Lakes, and Energy (EGLE) and United States Environmental Protection Agency (EPA) Complaint No. 01RNO-22-R5, EPA-EJECRC, (Aug. 10, 2023), Section II, ¶ G, available [here](#).

⁷ See EJ Screen Report for the City of Flint, *supra* n.7, at 2.

⁸ *Id.* (reflecting high indices for exposure to particulates, diesel, toxic releases, and lead paint, as well as proximity to traffic, Risk Management Program facilities, hazardous waste facilities, and underground storage tanks); see also Martine Vrijheid, *Health Effects of Residence Near Hazardous Waste Landfill Sites: A Review*, 108 Env't Health Perspectives 1, (March 2000) available [here](#).

residents of this community. EGLE and EPA Region 5 have a responsibility to address the cumulative environmental burdens shouldered by Flint and communities like it.⁹

EGLE’s enforcement of the CAA in the City of Flint is lacking. Major sources routinely violate the terms of their permits. EGLE often takes years to address high priority violations.¹⁰ There is inadequate air monitoring, which means EGLE does not even know the full extent of air emissions and violations in the community. What’s more, Genesee Township recently sold two parcels in the Dort-Carpenter Industrial Park and a large dirt separating operation and a truck depot will be sited next door to the Ajax plant.¹¹ On top of that, the State of Michigan is now planning to accelerate permitting of new industrial sources in the City and across the state—including developments at the GM Buick City brownfield and in the Dort-Carpenter Industrial Park.¹² Flint residents should not be expected to sacrifice their health and quality of life for Michigan’s ambitious industrial development plans.

The circumstances facing Flint residents necessitate decisive action by EPA Region 5. The next section details examples of problematic facilities requiring attention.

II. Non-Compliance by Major Sources in Flint

There are many facilities in Flint that merit attention. Genesee Power Station and Universal Coating, located on the same block as the Ajax asphalt plant in the Dort-Carpenter Industrial Park, are just two major sources in the Flint area with problematic compliance histories.¹³ Based on our review, there is a clear pattern of high priority violations that EGLE has left unaddressed for years on end. The unlawful and unaddressed emissions have resulted in real harm to the community; as Region 5 is well aware, for many pollutants there is no safe level of exposure.¹⁴ Region 5 should scrutinize these two sources closely and work with EGLE to improve compliance moving forward.

A. Genesee Power Station: Opacity Violations

The Genesee Power Station (“GPS”) is a biomass and waste wood fueled electricity generating station.¹⁵ GPS emits large amounts of particulate matter, volatile organic compounds (“VOC”), and hazardous air pollutants (“HAP”).¹⁶ Based on a Freedom of Information Act request

⁹ See Letter to EGLE from Deputy Administrator Janet McCabe, (March 23, 2022), *available here*.

¹⁰ See e.g., Detailed Facility Report, Universal Coating, Inc. (retrieved on Aug. 14, 2023), Attachment 4.

¹¹ *Response to Freedom of Information Act Request by St. Francis Prayer Center*, Genesee Township, (July 26, 2023), Attachment 5.

¹² Executive Directive 2023-04, Expediting Permit Applications & Adding Accountability Measures, (August 3, 2023) *available here*. See also Kate Stockrahm, *New development coming to Buick City, Flint’s largest brownfield*, Flint Beat, (April 4, 2023) *available here*.

¹³ *Quarterly Excess Emissions and Monitoring System Performance, 2023 First Quarter*, Genesee Power Station (Apr. 14, 2023) at 22, Attachment 6 (reflecting 75 opacity violations in the first quarter of 2023); see also Detailed Facility Report, Universal Coating, Inc. (retrieved on Aug. 14, 2023), Attachment 4.

¹⁴ See e.g., *Xylene*, EPA Health Effects Notebook for Hazardous Air Pollutants, *available here*.

¹⁵ Renewable Operating Permit for Genesee Power Station, ROP-N3560-2018, at 11 *available here* (EGLE is currently working on the new Renewable Operating Permit for this source).

¹⁶ See *Id.* This plant was also the subject of a 1992 Title VI complaint that resulted in findings of discrimination by the EPA. More specifically, EPA found that EGLE discriminated against local African American residents during the permitting process authorizing GPS. The local community has long complained that the plant is harming their health

for excess emissions reports from Flint-area stationary sources—for which EGLE did not provide data from 2021—it is apparent that the agency takes a “relaxed” approach to enforcing the terms of its permits.¹⁷ GPS routinely violates the opacity limit in its permit. GPS’s permit requires that opacity not exceed 10% based on a 6-minute averaging time.¹⁸ This emissions limit is federally enforceable.¹⁹ We have identified at least **193 violations** of the opacity standard since 2022. None of these violations have resulted in corrective action by EGLE. From January – March 2023 alone, GPS caused **75 opacity violations**.²⁰ Similarly, from January 1 – September 30, 2022, the facility caused **118 excess opacity violations**.²¹ Considering the preexisting environmental and public health burdens faced by this community, EPA Region 5 must address this pattern of flagrant violation of opacity limits and inaction by EGLE.

The link between opacity exceedances and harmful emissions is well established in the scientific literature.²² Excess opacity emissions are often indicative of a larger problem at a facility. For example, opacity violations can indicate that a facility is creating unaccounted-for fugitive emissions, that there are problems with the sensitivity of continuous emissions monitors that are captured by the continuous opacity monitor, or that the facility is creating nuisances such as odor and soot accumulation.²³ Over many decades, the local community has complained that the plant

and welfare. These harms range from odor interfering with the enjoyment of the outdoors, increased asthma, and other harms to human health. *See generally* EPA Case Resolution Letter, Case No. 01R-94-R5, (January 19, 2017) [available here](#).

¹⁷ *See Freedom of Information Act Request for Excess Emissions Reports for Flint Area Sources*, Flint Community Groups, (Jul. 20, 2023), Attachment 7.

¹⁸ Renewable Operating Permit for Genesee Power Station, ROP-N3560-2018, at 12 [available here](#)

¹⁹ Mich Admin Code R 336.1301(1)(c), 336.2810, 40 CFR 52.21(j), 40 C.F.R. § 49.124(d) (Rule for limiting visible emissions).

²⁰ *Quarterly Excess Emissions and Monitoring System Performance, 2023 First Quarter*, Genesee Power Station (Apr. 14, 2023) at 22, Attachment 6 (reflecting 75 opacity violations in the first quarter of 2023); *see also* Detailed Facility Report, Universal Coating, *supra* n.12.

²¹ *Quarterly Excess Emissions and Monitoring System Performance, 2022 First Quarter*, Genesee Power Station (Apr. 25, 2022) at 23, Attachment 8 (reflecting 83 opacity violations in the first quarter of 2023); *Quarterly Excess Emissions and Monitoring System Performance, 2022 Second Quarter*, Genesee Power Station (July 22, 2022) at 9, Attachment 9 (reflecting 8 opacity violations in the first quarter of 2023); *Quarterly Excess Emissions and Monitoring System Performance, 2022 Third Quarter*, Genesee Power Station (October 22, 2022) at 11, Attachment 10 (reflecting 27 opacity violations)

²² *See e.g.*, Ke Du et. al., *Digital Optical Method to quantify the visual opacity of fugitive plumes*, 77 Atmospheric Environment 983-989 (2013) (summarizing scientific literature on opacity: “[EPA] describes visibility impairment caused by suspended particulate matter (PM) as the best understood environmental effect of air pollution. PM impacts visibility and plays a major role in climate change by scattering and absorbing solar radiation [and] ha[s] positive correlations with the occurrence of human respiratory and cardiac illnesses. To protect air quality, anthropogenic PM sources have been regulated by opacity . . . standards.”) (internal citations omitted) [available here](#). EPA and the States have refined opacity regulation as a form of air quality improvement over more than a century. EGLE’s failure to enforce even this basic air quality restriction against one of the largest sources in Flint is alarming. *See Visible Emissions Field Manual, EPA Methods 9 and 22: A Brief History of Opacity*, US EPA, at 3 [available here](#).

²³ *See* Du et. al (2013) (“For sources of visible PM emissions, opacity was reported to be more lenient than the corresponding mass emission standards, **thus violating the opacity standard is an indication of violating the mass emission standard.**”). *see also* Guidelines For Evaluation of Visible Emissions: Certification, Field Procedures, Legal Aspects, and Background Materials, US EPA, (April 1975) at Sec. 1.1 [available here](#) (“The benefits of basing emissions statutes on opacity, or density, are quite evident, even though equipment and fuel regulations have increasingly assumed precedence in control legislation. When the visual standard is specific with reference to a cutoff point and time interval, it is simply and directly enforced. All enforcement officers need do is observe an emission of an opacity or density beyond that allowed by the regulations for a minimum time interval in order to cite a violator for excessive emissions.”).

is harming their health and welfare.²⁴ These harms range from odor which interferes with the enjoyment of the outdoors, increased asthma, and other impacts to human health.²⁵

GPS's pattern of violating its permit conditions and EGLE's careless approach to permit enforcement in Flint merit closer review by EPA.

B. Universal Coating: Violations—Hazardous Air Pollution Controls.

Universal Coating is a metal coating and engraving facility and is a significant source of highly flammable ethylbenzene, xylene, and other hazardous volatile organic compounds.²⁶ According to the National Institutes of Health, “[a]cute (short-term) exposure to ethylbenzene in humans results in respiratory effects, such as throat irritation and chest constriction, irritation of the eyes, and neurological effects such as dizziness.”²⁷ As for Xylene, EPA's Office of Air Toxics states the following impacts: “acute inhalation exposure to mixed xylenes in humans results in irritation of the eyes, nose, and throat, gastrointestinal effects, eye irritation, and neurological effects. Chronic (long-term) inhalation exposure of humans to mixed xylenes results primarily in central nervous system (CNS) effects, such as headache, dizziness, fatigue, tremors, and incoordination; respiratory, cardiovascular, and kidney effects have also been reported.”²⁸ These compounds contribute to the high rates of cardiovascular and respiratory disease in this community and overall reduced quality of life.²⁹

Universal Coating has repeatedly violated the terms of its permit meant to control and reduce harmful pollution. In November 2015, EGLE inspected Universal Coating's facility and determined that the company was not properly maintaining control technology meant to mitigate harmful emissions from its spray lines.³⁰ This resulted in illegal excess HAP emissions.³¹ Specifically, EGLE found that “the Company failed to maintain the minimum catalyst bed inlet temperature associated with the catalytic oxidizer, exceeded the volatile organic compound (VOC) emission limit for [its spray lines], exceeded the major source threshold for hazardous air pollutants (HAP) without obtaining a Title V Renewable Operating Permit (ROP), and exceeded the facility wide tons per year emission limit for a HAP,” likely for ethylbenzene.³² Attempting to remedy these compliance issues, EGLE and Universal Coating entered into an Administrative Consent Order in 2017 modifying the conditions for the spray lines. The agreement does not consider

²⁴ See generally Letter to U.S. Dep't of Housing and Urban Development from Flint Community Based Organizations, (June 26, 2023), Attachment 11 (detailing interviews with local residents about the history of the industrial park's effect on their health and welfare).

²⁵ *Id.* EGLE has declined to use its discretion to address these issues. See Mich Admin Code 336.1901 (permitting EGLE to address any form of nuisance stemming from an industrial operation).

²⁶ Permit to Install 184-20, Universal Coating, N7256, (March 9, 2021) at 7 MI-EGLE available [here](#) (list of emissions units and control technology).

²⁷ National Institutes of Health: National Center for Biotechnology Information (2023). *PubChem Compound Summary for Xylene*. (Retrieved August 14, 2023) Sec. 11: Safety and Hazards, available [here](#).

²⁸ National Institutes of Health: National Center for Biotechnology Information (2023). *PubChem Compound Summary for CID 7500, Ethylbenzene*. (Retrieved August 14, 2023) Sec. 11: Safety and Hazards, available [here](#).

²⁹ See EJ Screen Report for the City of Flint, US EPA EJScreens, (retrieved Aug. 14, 2023), Attachment 2.

³⁰ Notice of Violation, March 16, 2016, available [here](#).

³¹ *Id.*

³² *In the Matter of Universal Coating, Inc.*, AQD No. 5-2017, available [here](#); see also PTI 184-20, Universal Coating at 24 available [here](#) (listing relevant ethylbenzene limit as 8.9 tpy).

Universal Coating's emissions in the context of the cumulative burdens facing the community. EPA should evaluate whether Universal Coating is in compliance with HAP standards.³³

Meanwhile, Universal Coating continued to violate the operational and technology requirements of its permit. The company violated its permit in 2019 by improperly training its staff and repeatedly failed to timely submit hazardous air pollutant reports in 2020 and 2021.³⁴ In addition, between August 17, 2020 and August 30, 2021, Universal Coating did not maintain the appropriate temperature for its "Burnoff" emissions unit.³⁵ This emissions control technology mitigates emissions resulting from painting and greasing metal parts by burning off hazardous pollutants before they are released into the air.³⁶ Failing to maintain high temperatures in this unit results in increased emissions of hazardous chemicals with acute and chronic health impacts. Universal Coating's violations lasted more than a year and resulted in real harm to the community in the form of increased exposure to toxic air contaminants.³⁷ Despite this, Universal Coating is currently seeking to install two additional spray lines at its coating facility and there is no indication EGLE plans to push back.³⁸ This pattern of repeated violation should raise significant red flags as to EGLE's capacity to effectively administer its CAA permitting program in Flint.

Residents living adjacent to the Dort-Carpenter Industrial Park report diminished health and property value, nuisance odors, soot, and reduced quality of life.³⁹ The lived-experience of these residents reflects the reality that EGLE has not done enough to enforce the CAA in Flint and continues to rush to permit new sources in this area. EPA Region 5 should step in and take action to ensure that the letter and purpose of the CAA is upheld for the residents of Flint.

III. Requested Action

Based on the poor facility compliance record, and inadequate EGLE enforcement, for at least two of the facilities in the Dort-Carpenter Industrial Park, EPA Region 5 should scrutinize all sources of air pollution affecting Flint residents. Region 5 is not only co-regulator with EGLE, but it also has the responsibility to ensure that State agencies are in compliance with federal environmental standards and their own state implementation plans.⁴⁰ EGLE has shown an inability

³³ *Id.*

³⁴ Renewable Operating Permit Deviation Report, Universal Coating (Jan-June 2019) Attachment 12 (showing staffing problems); Renewable Operating Permit Deviation Report, Universal Coating (Jan-June 2021) Attachment 13 (showing problems with HAP report submittals). Renewable Operating Permit Deviation Report, Universal Coating (Jan-June 2022) Attachment 14 (showing problems with HAP report submittals).

³⁵ See Notice of Violation, August 30, 2021, [available here](#); see also Notice of Violation, August 17, 2020, [available here](#). See PTI 184-20, Universal Coating at 9-13 [available here](#) (citing R 336.1910)

³⁶ See PTI 184-20, Universal Coating at 9-13 [available here](#) (technological requirements for mitigating HAPs from Universal Coating's industrial process).

³⁷ See Notice of Violation, August 30, 2021, [available here](#) ("August 17, 2020, the AQD sent Universal Coating a Violation Notice citing violations discovered as a result of an inspection conducted on date January 23, 2020 and requested your written response by September 8, 2020. A response has been provided by Universal Coating for this violation, but EGLE AQD still considers this previous violation unresolved and an ongoing issue due to the recent observations on August 13, 2021.")

³⁸ Permit to Install Application, Universal Coating, (June 1, 2023), [available here](#).

³⁹ Letter to U.S. Dep't of Housing and Urban Development from Flint Community Based Organizations, (June 26, 2023) Attachment 11 (detailing interviews with local residents about the history of the industrial park's effect on their health and welfare).

⁴⁰ 42 U.S.C. § 7410(a) ("Adoption of plan by State; submission to Administrator; content of plan; revision; new sources; indirect source review program; supplemental or intermittent control systems").

or an unwillingness to seriously review, investigate, and enforce CAA permits in the City of Flint and residents are paying the price. EPA Region 5 must act.

A. Compliance Review of All Sources

EPA Region 5 should carry out an immediate comprehensive compliance review for all stationary sources, major and minor, that have a potential to impact air quality in Flint. Region 5 should pay especially close attention to sources located in the Dort-Carpenter Industrial Park. It should investigate whether all major and minor stationary sources affecting air quality in the Flint area are in compliance with their permits. In addition, EPA should review the reports submitted by stationary sources to EGLE under Michigan’s SIP for accuracy and compliance.⁴¹ The goal of the community is one that EPA should share – to ensure that the citizens of Flint have clean air to breathe and do not have to bear the externalized costs of industrial development. Ensuring that existing sources affecting Flint residents are in minimum compliance with federal and state standards is a clear first step.

B. Increased Air Monitoring in the Community

EGLE and EPA’s enforcement of the CAA in Flint should be guided by monitoring data that produces comprehensive and neighborhood-level information about air emissions and air quality. The Flint Complainants have consistently advocated for federal reference monitoring or federal equivalent monitoring near the Dort-Carpenter Industrial Park, specifically for the purpose of monitoring compliance and guiding enforcement investigations. In June 2023, the Flint Complainants submitted comments to EGLE summarizing their concerns and requesting enhanced community-level monitoring.⁴² In response, EGLE provided some plans for marginal improvements to its monitoring network in Flint such as installing a trace metals monitor at the Whaley Park monitoring station.⁴³ In addition, EGLE noted that EPA Region 5 conducted mobile monitoring in the area of the Dort-Carpenter Industrial Park in June 2023.⁴⁴ Despite progress on these discrete issues, additional air quality monitoring measures are warranted to advance environmental justice in Flint.

First, EPA should implement the enhancements to EGLE’s monitoring network requested in the Flint Complainants’ comments during the next annual review. These include adding additional parameters to the Whaley Park monitor and placing supplementary federal reference monitors in Flint. In addition, St. Francis Prayer Center, located steps from the Dort-Carpenter Industrial Park, has requested EGLE provide an Aeroqual Pro handheld monitor to allow for community monitoring of a wide array of pollutants.⁴⁵ These measures will generate more

⁴¹ Mich Admin Code 336.2818(3)

⁴² Flint Community Group Comments on EGLE’s 2024 Annual Ambient Air Monitoring Network Review Plan, (June 30, 2023), Attachment 15.

⁴³ Response to Flint Community Group Comments, EGLE, (July 25, 2023) at 2, Attachment 16. The agency also agreed to establish sites for purple air monitoring and technical assistance to the community for interpreting the data.
Id.

⁴⁴ *Id.*

⁴⁵ Flint Community Group Comments on EGLE’s 2024 Annual Ambient Air Monitoring Network Review Plan, (June 30, 2023), Attachment 15.

representative data that EGLE and EPA can use to conduct accurate CAA new source review and enforcement in Flint.⁴⁶

Second, we request that the mobile monitoring conducted by EPA in June 2023 be repeated over a period of several weeks to improve its accuracy. One-time mobile monitoring does not provide sufficient data to accurately capture the impact of industrial stationary sources and mobile sources on air quality in Flint. Mobile monitoring should be repeated under a variety of meteorological conditions and at varied times of day and days of the week. Region 5 should share the results of its mobile monitoring with the Flint complainants and provide for a public hearing for the community to ask questions about the results.

Third, EPA Region 5 should take steps to closely scrutinize the emissions from Genesee Power Station, Universal Coating, and other Flint-area facilities. EPA Region 5 should use its authority under section 114 of the CAA to gather information about stationary sources with repeat violations.⁴⁷ That information gathering should include the installation of federal reference monitors and federal equivalent monitors⁴⁸ around the fence line of sources with violations, such as Genesee Power Station and Universal Coating, to obtain an accurate assessment of CAA compliance. As EPA Region 5 knows, this type of enhanced air monitoring proved helpful to better understand the sources of harmful air emissions on the Southeast Side of Chicago. There, EPA issued section 114 requests to several facilities, including S.H. Bell, and these requests required air monitor installation.⁴⁹ The installed PM2.5 and PM10 air monitors at the S.H. Bell facility revealed significant manganese and other emissions that led to an enforcement action. Subsequent changes to the facility's operations reduced the exposure of the surrounding community to harmful emissions.⁵⁰ This example reinforces that without such monitoring, it is often difficult to understand what is in the air. We expect additional monitoring to provide critical information in Flint that can lead to changes that will reduce harmful emissions in the community.

C. Advancing Environmental Justice through Cross-Program Action

In addition to the air quality issues facing Flint, residents of this community are also more likely to live near hazardous waste sites and experience contaminated drinking water.⁵¹ Region 5 should initiate a plan for cross-programmatic action to address air quality issues in Flint in conjunction with remediation of hazardous waste sites and improving drinking water quality.

The PACE-EH opportunity provided for in the Title VI Informal Resolution Agreement will generate important data on the health of the community and its exposure to environmental

⁴⁶ Flint Community Group Comments on EGLE's 2024 Annual Ambient Air Monitoring Network Review Plan, (June 30, 2023), Attachment 15.

⁴⁷ 42 U.S.C. § 7414.

⁴⁸ 42 U.S.C. § 7414(a)(1)(C) ("install, use, and maintain such monitoring equipment").

⁴⁹ Section 114 Request, S.H. Bell, US EPA, (Mar. 4, 2015) App. B at 1 *available here* ("Within 30 days of receipt of this information request, SHB shall submit proposed monitoring site locations for continuous Federal Equivalent Method (FEM) real-time PM10 monitoring and Federal Reference Method (FRM) PM10 filter-based monitoring at the facility for EPA review and approval prior to establishing the monitoring sites."); *see also* Notice of Violation, S.H. Bell, US EPA (Aug. 7, 2017) *available here*.

⁵⁰ *S.H. Bell Chicago Facility, Air Monitoring*, US EPA, (last updated July 28, 2023) *available here* ("Since EPA issued the S.H. Bell Chicago Notice of Violation - August 2017 and engaged in settlement negotiations with S.H. Bell, the average manganese concentration between September 2017 through July 2018 (11 months) is 0.089 µg/m³. That is below the minimal risk level for chronic inhalation exposure to manganese, which is 0.3 µg/m³.")

⁵¹ EJ Screen Report for the City of Flint, US EPA EJScreen, (retrieved Aug. 14, 2023), Attachment 2

risk.⁵² But the data is only meaningful if regulators use it to improve conditions for the public. As EPA continues to marshal resources to advance the Biden administration's environmental justice policy goals, it must ensure that it works with communities to address all forms of environmental and public health risk that they face.⁵³

Advancing environmental justice for Flint will take time, dedication, and resources. We hope that EPA Region 5 is committed to improving enforcement of and compliance with the CAA in overburdened communities. Our clients stand ready to assist and push EPA to improve environmental conditions and public health for residents of the City of Flint.

Sincerely,

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⁵² *Resolution Letter of EPA Complaint no. 01RNO-22-R5*, U.S. Env't Protection Agency, (Aug 10, 2023), available [here](#)

⁵³ Executive Order 14096, *Revitalizing Our Nation's Commitment to Environmental Justice for All* (Apr. 23, 2023), available [here](#). Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, Sec. 219 (Jan. 27, 2023) available [here](#).