

Scott Lauder
Florida Department of Environmental Protection
Division of Air Resource Management
Office of Permitting and Compliance
2600 Blair Stone Road Mail Station #5505
Tallahassee, Florida 32399-2400
Scott.Lauder@floridaDEP.gov
DARM_Permitting@dep.state.fl.us

May 27, 2022

SUBMITTED VIA E-MAIL

Re: Comments Submitted on Behalf of Florida Rising on Draft Air Construction Permit No. 0250348-014-AC, Regarding Authorization of Non-Emergency Diesel Engines for the Miami-Dade County Resources Recovery Facility

Dear Mr. Lauder:

Please accept these comments submitted by Earthjustice on behalf of Florida Rising regarding Draft Air Construction Permit No. 0250348-014-AC (“draft permit” or “draft air construction permit”) for the Miami-Dade County Resources Recovery Facility¹ (also referred to as the “Covanta Incinerator,” “facility,” or “source”). The failure of the draft permit to meet the legal requirements, the inadequate information given regarding the “non-emergency” use of the diesel generators, and the lack of protections for the surrounding community require that the draft air construction permit be denied.

The Department of Environmental Protection’s (“DEP” or “Department”) draft permit fails to consider environmental justice or to explain what authority it relies on to propose a “new” construction permit for emissions units that have already been operating without a permit, apparently continuously. The draft permit is also problematic because it allows for multiple diesel engine emission units; an undisclosed number of diesel trucks to and from the facility daily, delivering used tires; the operation of a tire shredder in the open air; the operation of a metal recovery unit in the middle of the open air uncovered gray ash monofill (that disperses fine dust beyond its boundaries); and the transportation of metal offsite via unspecified means.

We ask that DEP immediately issue a stop work order—either independently, or in conjunction with the Environmental Protection Agency (“EPA”)—to Covanta for its metal shredding, tire shredding, and related operations, that remains in effect until the source can obtain lawful construction permits for these activities that guarantees reasonable assurances of protections for the surrounding community.²

¹ The Miami-Dade County Resources Recovery Facility is located at 6990 NW 97th Avenue, Doral, Florida, 33178.

² See 42 U.S.C. § 7603 (“the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.”).

BACKGROUND AND EXECUTIVE SUMMARY

Florida Rising is a grassroots organization whose mission is to advance economic, racial, and climate justice across Florida, especially on behalf of Black and brown communities, low-income communities, and communities disproportionately burdened by environmental harms. In Doral and throughout the state, Florida Rising fights for healthy environments free from toxic pollution and for a sustainable, just transition to clean energy that equitably centers the communities it serves.

The Covanta Incinerator is in an overburdened, environmental justice community. Within the three-mile radius surrounding the incinerator, 93% of the population are people of color, 28% are linguistically isolated, and 36% are low-income.³ Also within this radius are public and federally subsidized housing units.⁴ The community is overburdened by several sources of environmental pollution. There is a landfill (the Medley Landfill) approximately three miles away from the incinerator that also emits odors and pollutants;⁵ the incinerator is located directly between two busy highways: approximately three miles to the east and west are the Palmetto Expressway and the Florida Turnpike; and the area is in the flight path of flights to the Miami-Dade International Airport, which is approximately 5 miles away.

Additionally, diesel sanitation trucks constantly travel to and from the incinerator with waste, emitting pollutants such as black carbon, soot, nitrogen oxides, particulate matter, carbon monoxide, and volatile organic compounds.⁶ Indeed, living near an incinerator means chronic exposure to diesel fumes, classified as a carcinogen by the National Cancer Institute.⁷ That the area surrounding the incinerator is an environmental justice community is further documented in EPA's EJScreen database, showing that the community is in the 90th percentile nationally for 10 out of 12 of EPA's environmental justice indices, for 1) particulate matter 2.5, 2) ozone, 3) diesel particulate matter, 4) air toxics cancer risk, 5) air toxics respiratory hazard index, 6) traffic proximity, 7) Superfund proximity, 8) Risk Management Plan (RMP) facility proximity, 9) hazardous waste proximity, and 10) underground storage tanks.⁸

³ See EPA, EJScreen Report for Miami-Dade County Resources Recovery Facility at 2 (March 28, 2022), Attachment 1.

⁴ See EPA, EJScreen image showing public and subsidized housing for a three-mile radius surrounding the Covanta Incinerator ("EJSCREEN Public Housing") (Search performed on Dec. 9, 2021 at <https://ejscreen.epa.gov/mapper>), Attachment 2.

⁵ See generally City of Doral's 311 odor complaint log (2016-2021) (note: the undersigned received three separate logs covering different date ranges in response to records requests to the City and compiled them chronologically into one log attached here; some of the complaints pertain to the Medley Landfill, an additional source of pollution and odors in Doral and surrounding areas) ("Odor Complaint Log"), Attachment 3.

⁶ Ana Isabel Baptista & Adrienne Perovich, *U.S. Municipal Solid Waste Incinerators: An Industry in Decline*, Tishman Env't and Design Ctr., 44 (2019), <https://static1.squarespace.com/static/5d14dab43967cc000179f3d2/t/5d5c4bea0d59ad00012d220e/156632984>.

⁷ *Id.* at 45.

⁸ Attachment 1, *supra* note 3, at 1.

Not only does DEP not consider in its draft permit these varied and significant sources of pollution on the community near the incinerator, but granting this draft permit would also further contribute to the community's burden. This draft permit would authorize an unspecified number of additional diesel trucks to and from the facility and the operation of onsite trucks and dozers—activities and sources of air pollutants that are neither disclosed nor accounted for in the draft permit but should be.⁹ Furthermore, the draft permit, in authorizing scrap metal recovery, does not account for what is done with the metal once recovered and how it is transported from the site, presumably by yet more diesel trucks and emissions. Finally, photographs in DEP's Technical Evaluation and Preliminary Determination ("TEPD") clearly reveal that the landfill dust is uncontrolled and released into the atmosphere, notwithstanding construction permit application requirements to quantify, disclose, and control those emissions, which the draft permit does not.

This proposed construction permit is also in violation of Title VI of the Civil Rights Act and other civil rights laws, which DEP is required to follow as a recipient of EPA and other federal funds. Because the Notice of Intent to issue the air permit was issued and published in English only in the Daily Business Review, an inaccessible online newspaper that caters to professionals in the legal industry, DEP has discriminated against members of the Doral community on the basis of national origin, age, and disability. The air pollution this permit would authorize would also disproportionately impact the surrounding community on the basis of race, national origin, age, and sex. DEP's ongoing policies and practices that give rise to these violations have been clearly documented in Florida Rising's civil rights complaint to EPA dated March 31, 2022, and supplemented on May 6, 2022.¹⁰ The complaint and supplement are hereby incorporated by reference to demonstrate DEP's violation of key civil rights laws¹¹ through this permitting process.

In addition to the environmental justice implications and civil rights violations, it seems clear that the entire purpose of the draft permit here is to paper over ongoing violations of the CAA at the Covanta Incinerator. Apparently, these diesel generators, which are "proposed" to

⁹ See Fla. Admin. Code R. 62-210.200(232) ("Secondary Emissions" – The emissions which occur as a result of the construction or operation of a facility or a modification to a facility, but which are not discharged into the atmosphere from the facility itself. Secondary emissions may include but are not limited to emissions from ships or trains coming to or leaving a new or modified facility and emissions from any off-site support facility which would not be otherwise be constructed or increase its emissions except as a result of the construction or operation of the new or modified facility. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the facility or modification which causes the secondary emissions."); 40 CFR § 52.520(c) (incorporating by reference into SIP).

¹⁰ Florida Rising, Civil Rights Complaint against the Florida Department of Environmental Protection and Environmental Injustices in Doral and Statewide from Incinerator Permitting (March 31, 2022), Attachment 4; Florida Rising, Supplement to Civil Rights Complaint against the Florida Department of Environmental Protection and Environmental Injustices in Doral and Statewide from Incinerator Permitting (May 6, 2022), Attachment 5.

¹¹ In its civil rights complaint, Florida Rising alleged that DEP has violated Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and EPA's nondiscrimination regulations at 40 CFR Part 7.

be authorized for use 24 hours a day, 365 days a year, have been in “emergency” operation for some undisclosed amount of time. Given that the proposed permit does not contemplate an expansion of operations with the “new” continuous use of the diesel generators, there is an implication that there is no debottlenecking at the plant, and thus no increase in operations being contemplated. This implication is further supported by the fact that no debottlenecking analysis has been done. Therefore, the implication is that these “emergency” diesel generators have been engaged in continuous operation for some period of time, possibly years or even decades, belying the claim that they have only been functioning, until now, on an “emergency” basis. This is despite a clear requirement to include such use of emission sources in permitting. Rather than ratifying these unlawful activities in this draft permit, DEP should be enforcing the law against these violations.

Furthermore, even if the diesel generators had been operating under an “emergency” basis, the legal authority to do so is unclear, serving as a further basis of unlawful activity and emissions into an environmental justice community without any enforcement from DEP.

This lack of enforcement is especially concerning considering the ongoing complaints regarding the destruction of the quality of life for the surrounding community by Covanta. As recently as May 9, 2022, a complaint was filed regarding the “[v]ery heady back [sic] ashes coming [sic] from the cobanta [sic] plant.”¹² Ash from incinerators is known to contain high concentrations of toxic chemicals, including lead, cadmium, and dioxins, which can lead to increased risk of miscarriages, preterm birth, non-Hodgkin’s lymphoma, cancer, alter DNA, harm reproductive health, interfere with neurodevelopment and other bodily processes and organ systems, and lead to wheeze and fatigue in children, among other potential harms.¹³ The ongoing harms to the community were well documented in Florida Rising’s Comments on Covanta’s Title V draft permit (Draft Permit No. 020348-013-AC), and those comments are hereby incorporated by reference to show the ongoing harm to the surrounding Doral community.

Florida Rising opposes the issuance of this draft air construction permit, as it purports to authorize the construction of emissions units that have already been constructed and are in apparent present operation without lawful authority, thereby violating the Department’s own regulations. These emissions units, and the emissions associated with the activities powered by these units, already add and would continue to add pollutants to an already environmentally overburdened community. The application for these units and the draft permit are inadequate in explaining and authorizing the activities and emissions that these units allow, and the permit is deficient with regard to controlling, monitoring, recordkeeping, and reporting of activities and emissions. Until more information is provided and more practically enforceable protections for the community are required—including additional fully transparent monitoring, recordkeeping,

¹² See Miami-Dade Division of Environmental Regulatory Management Environmental Complaint Form (Email) dated May 9, 2022, Attachment 6.

¹³ Earthjustice *et al.*, *New Jersey’s Dirty Secret: The Injustice of Incinerators and Trash Energy in New Jersey’s Frontline Communities*, 3 (2021), https://earthjustice.org/sites/default/files/files/nj-incinerator-report_earthjustice-2021-02.pdf (“The Injustice of Incinerators”); Earthjustice *et al.*, *Vestiges of Environmental Racism: Closing California’s Last Two Municipal Waste Incinerators*, 8 (2021), https://earthjustice.org/sites/default/files/files/earthjustice_ca-incinerator-report_20211108.pdf.

and reporting to ensure compliance with Florida law, Florida’s State Implementation Plan (“SIP”), and the Clean Air Act (“CAA”)—the draft air construction permit must be denied.

I. CIVIL RIGHTS AND ENVIRONMENTAL JUSTICE

In approving air construction permits, DEP has a duty under state law to protect public health, safety, and welfare; prevent the creation of nuisances; and enhance the environment for the people of Florida.¹⁴ Furthermore, as a recipient of federal funding and to carry out its duty to protect public health, safety, and welfare, DEP must comply with federal civil rights and environmental justice laws and guidance in issuing this permit. For the reasons stated in these comments, DEP’s proposed action to approve the air construction permit disregards state and federal legal provisions, to the detriment of the community surrounding the incinerator.

DEP must also account for and assess the deficiencies in the draft permit detailed in these comments through an environmental justice lens given the demographics of the surrounding community and the numerous sources of pollutants they face, described above.

Where the law allows the permitting authority to exercise judgment in permitting decisions, as it does here, environmental justice considerations favor the most protective permit possible. The Covanta Incinerator is a large, complex, high-polluting facility that impacts the neighborhoods surrounding it, as evidenced by the numerous unresolved complaints about it submitted to the city of Doral.¹⁵ Environmental justice and public health factors heighten the already strong legal requirements for: (1) adequate public notice regarding the permit and its requirements; (2) meaningful, detailed statements that fully set forth the bases for permit conditions; and (3) careful, extensive emissions monitoring requirements and practical enforceability sufficient to ensure the facility is operating within its permit limits and that fugitive emissions do not bring harm to the surrounding community.

Nevertheless, because the incinerator emits multiple pollutants into an already environmentally overburdened community, there is a necessity for DEP to substantively consider the cumulative impacts of the proposed permitted activities and facility emissions on residents surrounding the incinerator. If DEP cannot assure that the community’s air quality and health will not be further impacted, the air permit application must be denied.

Unless and until DEP remedies the deficiencies in the draft permit to eliminate harm to the environmental justice communities surrounding the facility and to provide for the highest level of transparency around the facility’s operations, the permit application and draft permit should be denied.

a. State Law Requires that DEP Consider Public Safety, Health, and Welfare in this Permitting Action

Because the Covanta Incinerator is a municipal solid waste incinerator, DEP, in considering this draft permit, must harmonize its actions with Florida’s solid waste management laws.¹⁶ The Legislature has declared that the State must “regulate...[the] processing... of solid waste in order to protect the public safety, health, and welfare [and] enhance the environment for

¹⁴ Fla. Stat. § 403.702(1) (2021).

¹⁵ See generally Odor Complaint Log, Attachment 3, *supra* note 5.

¹⁶ Fla Stat. § 403.702(g) (2021).

the people of this state[.]”¹⁷ In enacting Florida’s Solid Waste Management Act, the State Legislature found that “[i]nefficient and improper methods of managing solid waste create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.”¹⁸ As discussed in the previously submitted comments regarding the draft Title V permit, for years, this incinerator has created hazards to public health, caused pollution of the air, created a public nuisance, and likely adversely affected land values, all contrary to State Legislature’s purposes in enacting this law.

The proposed permit is merely a continuation of what has unlawfully been in place for many years, and the proposed permit conditions and terms fail to control fugitive emissions and other toxic air emissions harmful to the surrounding community. Thus, the draft permit neither protects public health and welfare nor does the incinerator enhance the environment for the surrounding environmental justice community. Rather, the Covanta Incinerator does the complete opposite—it makes the surrounding area an unpleasant and intolerable place to live for much of the year, and fugitive emissions from the ash monofill contribute to such misery.

The harmful outcomes of the incinerator activities contemplated in the draft permit, including operating in an open-air environment that causes ash and dust to pollute the surrounding community,¹⁹ is contrary to DEP’s regulations for unconfined emissions of particulate matter. DEP’s regulations require that for unconfined emissions of particulate matter of this nature, “[n]o person shall cause, let, permit, suffer or allow the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities such as loading, unloading, storing or handling; without taking reasonable precautions to prevent such emissions.”²⁰ Furthermore, DEP’s draft permit fails to comply with Florida Administrative Code Rule 62-296.320(4)(c)2 because it fails to “specify the reasonable precautions to be taken by that facility to control the emissions of unconfined particulate matter.” Additionally, for the conveyor systems at the proposed metal shredding facility, the regulations specify that reasonable precautions include “[e]nclosure or covering of conveyor systems.”²¹ Finally, DEP must take the environmental air quality impacts of the practice into consideration when considering the cost to enclose the operations.²²

¹⁷ *Id.* at § 403.702(2)(a).

¹⁸ *Id.* § 403.702(1), (1)(a).

¹⁹ Specifically, the draft permit would authorize the permit applicant to use unspecified devices to mine the incinerator ash for metal fragments. Although no process description is provided, the photographs depict open-air mechanical devices with screens, large fans, conveyor belts, all of which apparently move the ash along a process stream and filter out the metal fragments. As this process occurs, the gray dust blows into the atmosphere, across the property, and appears to cross the highway into the adjacent property. Similarly, the tire shredding operation also occurs in an open-air environment, and dispersion of those materials is unknown.

²⁰ Fla. Admin. Code R. 62-296.320(4)(c)1.

²¹ Fla. Admin. Code R. 62-296.320(4)(c)3.h.

²² Fla. Admin. Code R. 62-296.320(4)(c)4 (“In determining what constitutes reasonable precautions for a particular facility, the Department shall consider the cost of the control

With the significant adverse impacts to the air quality and environment of the adjacent environmental justice neighborhoods, it is specious for Covanta and the government to suggest that electricity production by this incinerator outweighs the public harms, particularly given how little energy the Covanta Incinerator produces relative to the South Florida population,²³ the sustained operating losses to Miami-Dade County from minimal electricity sales,²⁴ and the alternatives to burning waste to produce power.

In sum, DEP must consider the health and environmental threats this incinerator poses, outlined in the sections above and below, in this draft permit process.

b. DEP Must Comply with Civil Rights Laws in this Permitting Action

As a recipient of EPA funding, DEP must comply with federal civil rights laws and EPA's nondiscrimination regulations in its agency programs and activities.²⁵ These laws—Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 (collectively referred to as “civil rights laws”)—and EPA's regulations prevent discrimination on the basis of race, national origin, age, disability, and sex in all of an agency's operations, if any part of that that agency receives federal funding.²⁶ The allegations and arguments Florida Rising raised in its civil rights complaint and complaint supplement, which are incorporated here by reference, regarding DEP's discriminatory acts and

technique or work practice, the environmental impacts of the technique or practice, and the degree of reduction of emissions expected from a particular technique or practice.”).

²³ Miami-Dade County, Resources Recovery Facility, Operations, https://www.miamidade.gov/global/service.page?Mduid_service=ser150282068351856 (last visited May 27, 2022) (“The amount of energy [from the Covanta Incinerator] is sufficient to operate the plant and to supply the electrical needs of approximately 35,000 homes”).

²⁴ See, e.g., Miami-Dade County, Dept. of Solid Waste Management, Comprehensive Annual Financial Report for 2020 at 65, <https://www.miamidade.gov/solidwaste/library/reports/comprehensive-annual-financial-report-2020.pdf> (costing the County \$56.3 million in total operating costs, yet generating only \$8.2 million in revenue from electricity sales); Comprehensive Annual Financial Report for 2019 at 11, 14, <https://www.miamidade.gov/solidwaste/library/reports/comprehensive-annual-financial-report-2019.pdf> (costing the County \$62.4 million in total operating costs, yet generating only \$10.4 million in revenue from electricity sales); Comprehensive Annual financial Report for 2018 at 11, <https://www.miamidade.gov/solidwaste/library/reports/comprehensive-annual-financial-report-2018.pdf> (costing the County \$60.3 million in total operating costs, yet generating only \$10 million in revenue from electricity sales) at 11, 14.

²⁵ See EPA grant awards to DEP from 2016 to 2021, Attachment 7; 42 U.S.C. § 2000d; 42 U.S.C. § 6101; 29 U.S.C. § 794; 40 CFR Part 7.

²⁶ 42 U.S.C. § 2000d-4a; 42 U.S.C. § 6107; 29 U.S.C. § 794(b)(1)(A); 40 C.F.R. § 7.25. See *Lopez v. City of Dallas, Tex.*, 2004 WL 2026804, at *9-10 (N.D. Tex. 2004) (citing S. Rep. 100-64); *Grimes v. Superior Home Health Care of Middle Tenn.*, 929 F. Supp. 1088, 1091-92 (M.D. Tenn. 1996) (“the [Civil Rights Restoration Act of 1987] was intended to ensure that the various civil rights statutes would apply to the entirety of any state or local institution that had a program or activity funded by the federal government.”) (internal quotes omitted).

policies also apply to DEP’s actions, omissions, and policies in effect in this permit application process.

As a Latinx community, there are high proportions of residents in the areas surrounding the Covanta Incinerator who speak a language other than English at home, who have limited English proficiency, and who are foreign-born—at rates much higher than state and national averages.²⁷ EPA’s Title VI guidance makes clear that failure to ensure meaningful access by limited English proficient (“LEP”) persons to agency programs and activities can violate Title VI and Title VI regulations against national origin discrimination.²⁸ Here, DEP has discriminated against LEP persons on the basis of national origin by issuing the Notice of Intent to issue this draft permit and the corresponding permit package in English only and by accepting as sufficient Covanta’s publication of the notice and draft permit in English only.²⁹

The fact that the notice and draft permit were published in the Daily Business Review (“DBR”) is further evidence of discrimination on the basis of national origin in this permitting process. The DBR is an English-only publication for legal professionals and law firms and is not intended to reach the Latinx communities surrounding the incinerator.³⁰ As touted on its website, the DBR exists to allow lawyers, legal professionals, and businesspeople to have “the intelligence to run their firms and practices, win their cases, close business deals and connect with colleagues and clients in the South Florida market, with a special emphasis on the intersection between law, real estate and business.”³¹ Moreover, the DBR is primarily an online publication, and as outlined in Florida Rising’s civil rights complaints, LEP persons are less likely than non-LEP persons to have a smartphone or other computer technology or internet access at home.³²

These factors involving the DBR also demonstrate that DEP violated the aforementioned civil rights laws and EPA regulations by discriminating against the public on the basis of age and disability. As with LEP persons, older persons and persons with disabilities are less likely than younger age groups and those without disabilities to have smartphone or other computer technology or internet access at home.³³

As a recipient of EPA funding, DEP is expected to follow EPA’s guidance issued to its funding recipients to ensure Title VI compliance. Specifically, here, DEP has failed to comply

²⁷ Attachment 4, *supra* note 10, at 8-9.

²⁸ EPA, Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 Fed. Reg. 35604 (June 25, 2004) (“LEP Guidance”).

²⁹ Published Notice of Intent to Issue Air Permit, Attachment 8.

³⁰ Attachment 5, *supra* note 10, at 9-10.

³¹ ALM Global, Daily Business Review, From the Editor, <https://www.alm.com/brands/daily-business-review/> (last visited March 27, 2022) (ALM is a media company that owns the Daily Business Review; see also <https://www.law.com/dailybusinessreview/>).

³² *Id.*; Attachment 4, *supra* note 10, at 22.

³³ *Id.*

with EPA’s LEP guidance and EPA’s public involvement guidance.³⁴ EPA’s nondiscrimination regulations and LEP guidance require that LEP persons are able to meaningfully access an agency’s programs and activities and confirms that written materials informing LEP persons of “rights or services [are] an important part of ‘meaningful access’[.]”³⁵ The guidance’s safe harbor provisions for Title VI compliance calls for “written translations of vital documents for each eligible LEP language group that constitutes five percent or includes 1,000 members, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.”³⁶ The predominantly Latinx population, of which 28% are linguistically isolated, surrounding the incinerator clearly exceeds these thresholds. DEP’s failure to translate into Spanish and require Spanish-language publication of this public notice—a vital document that would provide LEP persons with information about a facility’s operations that impacts their health and surrounding environment—violates Title VI and EPA’s nondiscrimination regulations and guidance.

Allowing for the English-only notice to be published in the DBR additionally violates EPA’s public involvement guidance and serves as further evidence of DEP’s failure to comply with Title VI with this draft notice. This guidance broadly defines meaningful public involvement in permitting processes by EPA funding recipients, such as DEP, as involving helping the public to “understand and assess how issues affect their communities” and “informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.”³⁷ EPA’s guidance emphasizes involving the public early and often in the permitting process, outlining concrete steps that include requiring facilities to hold pre-application meetings with the public, among other ways an agency can practically inform and engage with the public regarding permitting actions.³⁸ To publish a notice in English only in an online publication for the legal industry falls tremendously short of any attempt to inform and engage the public of this permit application and draft permit, to the point of suggesting an intent on DEP’s part to *not* inform impacted or potentially impacted community members of its permitting activities.

Incinerators are polluting facilities that emit noxious odors and criteria and hazardous air pollutants into the communities in which they are located. By failing to consider civil rights and environmental justice in this permitting action, DEP would additionally be discriminating against members of the Doral and surrounding communities on the basis of race, national origin, age, and sex if it were to grant this permit. According to census data in EPA’s EJScreen database, Florida’s incinerators are disproportionately in communities of color and communities with higher-than-average numbers of linguistically isolated people and children under age 5.³⁹ Indeed, the community surrounding the Covanta Incinerator in Doral has the *highest* percentages of people of color (93%) and linguistically isolated people (28%) out of all of the communities

³⁴ LEP Guidance, *supra* note 28; EPA, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance), 71 Fed. Reg. 14207 (March 21, 2006) (“Public Involvement Guidance”).

³⁵ LEP Guidance, *supra* note 28, at 35610.

³⁶ *Id.*

³⁷ Public Involvement Guidance, *supra* note 34, at 14210.

³⁸ *Id.* at 14212.

³⁹ Attachment 4, *supra* note 10, at 9-15.

around Florida’s 10 incinerators.⁴⁰ As to children under age 5—who are particularly vulnerable to air pollution because they are still developing⁴¹—there is a higher-than-average percentage of children under age 5 near the Covanta Incinerator.⁴²

Granting this permit would also discriminate against the surrounding community on the basis of sex: incinerator pollution has been linked with significant adverse reproductive health and outcomes, including preterm delivery, congenital anomalies, infant deaths, miscarriage, and other interference with embryonic and fetal development.⁴³

DEP has violated Title VI, EPA’s nondiscrimination regulations, and EPA’s Title VI LEP guidance by proposing the draft permit and permit notices in English only and accepting Covanta’s publication in the DBR. Furthermore, by allowing publication of the draft permit and permit notices in the DBR, DEP has also discriminated against community members near the incinerator on the basis of age and disability and has failed to comply with EPA’s public involvement guidance. Lastly, this draft permit, by permitting further pollution from the Covanta Incinerator, unlawfully discriminates against members of the public on the basis of race, national origin, age, and sex.

c. DEP Must Consider Environmental Justice in this Permitting Action

Environmental justice requires “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.”⁴⁴ As an entity subject to Title VI of the Civil Rights Act and in light of Section 403.702, Florida Statutes, regarding Florida’s solid waste laws protecting public health, safety, and welfare, DEP is required to consider environmental justice in its permitting actions.

Moreover, the fact that there is public and subsidized housing funded by the U.S. Department of Housing and Urban Development (“HUD”) within three miles of the Covanta Incinerator further implicates environmental justice.⁴⁵ This proximity between the incinerator and federally funded housing raises significant concerns that low-income families of color assisted by HUD will face disproportionate environmental burdens and health risks caused by the activities proposed under the construction permits at the incinerator.

DEP’s Draft Permit package contains no information whatsoever that it took environmental justice issues and considerations into account or that it consulted with HUD. DEP must conduct a thorough analysis of the current and potential effects to impacted communities

⁴⁰ *Id.* at 11.

⁴¹ *Id.* at 14-15.

⁴² *Id.* at 13-14.

⁴³ *Id.* at 15.

⁴⁴ EPA, Environmental Justice, <https://www.epa.gov/environmentaljustice> (last visited May 4, 2022).

⁴⁵ Attachment 2, *supra* note 4. See EPA’s Letter to U.S. Dept. of Housing and Urban Development (HUD) Re: Ajax Asphalt Plant draft Permit to Install (Sept. 16, 2021); HUD, Comment Letter to EPA Re: Ajax Asphalt Plant, Flint, Michigan (Sept. 22, 2021).

from the incinerator, including an analysis of cumulative impacts to this overburdened community. By omitting these analyses, DEP is not fulfilling its obligations under the law.

DEP has authority under the air construction program to consider and address environmental justice concerns. EPA has explained that environmental justice issues can be raised and considered in the context of a variety of actions carried out under the CAA, and air construction permits can help promote environmental justice through its underlying public participation requirements and through the requirements for monitoring, recordkeeping, compliance certification, reporting, and other measures intended to assure compliance with applicable requirements.

Under Administrator Michael Regan, EPA has made clear that environmental justice is a top priority.⁴⁶ DEP must also consider environmental justice and similarly respond. For example, on May 14, 2021, EPA issued a temporary order to halt operations at the Limetree Bay refinery in the U.S. Virgin Islands after four instances of excess emissions impacting an “overburdened community.”⁴⁷ In issuing the order, EPA explained that under its legal authorities in CAA Section 303, EPA may take this urgent measure when an entity’s actions are substantially endangering public health, welfare, or the environment. Subsequent to EPA’s order, the refinery ceased operation. Then, on July 13, 2021, the U.S. Department of Justice (“DOJ”) claimed in a federal complaint that the refinery “presents an imminent and substantial danger to public health and the environment.”⁴⁸

⁴⁶ EPA News Release, citing “Administrator Michael Regan, Remarks for White House Environmental Justice Advisory Council (WHEJAC) First Public Meeting, As Prepared for Delivery,” <https://www.epa.gov/speeches/administrator-michael-regan-remarks-white-house-environmental-justice-advisory-council> (March 30, 2021).

⁴⁷ EPA News Release, “EPA Uses Emergency Powers to Protect St. Croix Communities and Orders Limetree Bay Refinery to Pause Operations,” <https://www.epa.gov/newsreleases/epa-uses-emergency-powers-protect-st-croix-communities-and-orders-limetree-bay-refinery#:~:text=NEW%20YORK%20%E2%80%93%20The%20U.S.%20Environmental%20Protection%20Agency,that%20present%20an%20imminent%20risk%20to%20public%20health> (May 14, 2021); Clean Air Act Emergency Order, *In the matter of Limetree Bay Terminals, LLC and Limetree Bay Refining, LLC*, No. CAA-02-2021-1003, (EPA Region 2 May 14, 2021), https://www.epa.gov/sites/default/files/2021-05/documents/limetree_bay_303_order_-_caa-02-2021-1003.pdf; *see generally*, EPA, “Limetree Bay Terminals and Limetree Bay Refining, LLC,” <https://www.epa.gov/vi/limetree-bay-terminals-and-limetree-bay-refining-llc> (last visited Dec. 19, 2021).

⁴⁸ U.S. DOJ Press Release, “United States Files Complaint and Reaches Agreement on Stipulation with Limetree Bay Terminals LLC and Limetree Bay Refining LLC Relating to Petroleum Refinery in St. Croix, U.S. Virgin Islands,” (July 12, 2021) <https://www.justice.gov/opa/pr/united-states-files-complaint-and-reaches-agreement-stipulation-limetree-bay-terminals-llc>; Joint Stipulation, *U.S. v. Limetree Bay Refining, LLC et al.*, Civ. A. No. 1:21-cv-00264 (D.V.I. July 12, 2021) <https://www.justice.gov/opa/press-release/file/1411236/download>; Letter from Dore LaPosta, Director, Enforcement and Compliance Assurance Division, EPA Region 2, to Jeffrey Hersperger, Senior Vice President, Limetree Bay Terminals, LLC, “Request to Provide Information Pursuant to the Clean Air Act,

In May 2021, Administrator Regan requested that the City of Chicago prepare a robust environmental justice analysis before deciding whether to issue an operating permit for a metal shredding facility in a Southside Chicago community that is already overburdened by pollution. The city committed to conducting a health impact assessment before making a final decision on the permit.⁴⁹

As another example, on October 22, 2021, the Oregon Department of Environmental Quality signed an agreement with Owens-Brockway to pay a penalty for polluting, which included spending a portion of the penalty on a project to improve air quality in the surrounding community and either install pollution controls or cease to operate under its Title V Permit.⁵⁰

Lastly, Alabama's Jefferson County Department of Health denied renewal of the Title V Permit for the Bluestone Coke plant due to continued violations for more than ten years.⁵¹ The County also filed a complaint that "[r]esidents of predominantly Black neighborhoods near the plant... have been exposed to high-levels of toxic and visible air pollution and noxious odors for years," noting a history of heart, lung, and neurological health problems and cancer of residents in the community.⁵² The source recently reportedly ceased all operations at its facility.⁵³

Though Florida's environmental justice laws are not nearly as robust as they should be, DEP has authority and resources available to promote environmental justice under state law. The Florida State Legislature established the Florida Environmental Equity and Justice

Reference Number: CAA-02-2021-1462," (July 12, 2021),

<https://www.epa.gov/system/files/documents/2021-07/stipulation-ex.-2.pdf>.

⁴⁹ EPA Office of General Counsel, EPA Legal Tools to Advance Environmental Justice (May 26, 2022), at 3, available at <https://subscriber.politicopro.com/eenews/f/eenews/?id=00000181-0133-de59-a7ed-3137adbd0000>.

⁵⁰ State of Oregon Press Release, "DEQ enforcement finds Owens-Brockway \$1 million and requires facility to control pollution," (June 3, 2021) <https://www.oregon.gov/newsroom/pages/NewsDetail.aspx?newsid=63325>; Mutual Agreement and Final Order, *In the Matter of Owens-Brockway Glass Container Inc.*, No. AQ/V-NWR-2020-208, (Ore. Env'tl. Quality Comm'n. Oct. 22, 2021), <https://www.oregon.gov/deq/Programs/Documents/OwensBrockway2020-208MAO.pdf>; *see generally*, Oregon Department of Environmental Quality, "Supplemental Environmental Projects," <https://ordeq.org/sep> (last visited Dec. 19, 2021).

⁵¹ Letter from Jonathan Stanton, Director, Environmental Health Services, Jefferson County Department of Health, to Tiger Lambert and Freddie Revis, *et al*, Bluestone Coke, denying Operating Permit for Bluestone Coke, LLC (Aug. 11, 2011); Complaint, *Jefferson Cty Bd. of Health v. Bluestone Coke, LLC*, No. 01-CV-2021902311.00 (Jefferson Cty, Ala. Aug. 11, 2021); *see also*, CBS42 News, *Bluestone Coke allowed to continue operating despite strong objection from JCDH*, (Sept. 2, 2021) <https://www.cbs42.com/your-voice-your-station/bluestone-coke-allowed-to-continue-operating-despite-strong-objection-from-jcdh/>.

⁵² Southern Environmental Law Center Press Release, "Bluestone Coke shuts down, providing relief for surrounding communities," (Dec, 7, 2021), <https://www.southernenvironment.org/news/bluestone-coke-shuts-down-providing-relief-for-surrounding-communities/>.

⁵³ *Id.*

Commission in 1994.⁵⁴ The Commission was directed to conduct a study to determine if low-income and minority communities are more at risk from environmental hazards than the general population. It subsequently published a report concluding specific communities, in particular lower-income communities of color, were disproportionately impacted by environmental hazards throughout the State and recommended that a center for environmental equity and justice be permanently established.⁵⁵

In 1998, the Legislature formally created the Community Environmental Health Program and established the Center of Environmental Equity and Justice (“CEEJ”) at Florida Agricultural and Mechanical University (“FAMU”).⁵⁶ The mission of the CEEJ is to address environmental issues through research, education, training, and community outreach, and make recommendations to be used in developing policies that are designed to protect all citizens from exposure to environmental hazards. CEEJ is tasked with assisting DEP, and DEP otherwise has authority under State law to work with other agencies to evaluate environmental justice and equity issues.⁵⁷ DEP may:

- Examine issues relating to enforcement, evaluation, health effects and risks, and site placement;
- Provide and facilitate education and training on environmental equity and justice issues to students, citizens, and local and state government employees through traditional media networks;
- Develop research programs to elucidate and validate contaminant biomarkers of exposure, effect and susceptibility; in human populations;
- Assess environmental impacts on populations using geographical information systems and other technologies for developing strategies;
- Focus on the sampling and analysis of environmental contaminants in impacted communities;
- Serve as a statewide environmental justice technical and public information resource.⁵⁸

Based on the foregoing mandates and policy considerations, the promotion of environmental justice must be a central and critical consideration in DEP’s determination of this air construction permit application.

⁵⁴ Fla. Stat. § 760.85 (2021); 1994 Fla. Sess. Law Serv. Ch. 94-219.

⁵⁵ Richard Gragg et al., *The Location and Community Demographics of Targeted Environmental Hazardous Sites in Florida*, 12 Fla. State Univ. J. Land Use & Envtl. Law: Vol. 1 (1996), <https://ir.law.fsu.edu/jluel/vol12/iss1/1>.

⁵⁶ Fla. Stat. § 760.854 (2021); 1998 Fla. Sess. Law Serv. Ch. 98-304.

⁵⁷ Fla. Stat. § 403.061(3) (2021) (DEP may “[u]tilize the facilities and personnel of other state agencies, including the Department of Health, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.”)

⁵⁸ National Academy of Public Administration, *Models for Change: Efforts by Four States to Address Environmental Justice*, 55-56 (2002), <https://www.epa.gov/sites/default/files/2015-02/documents/napa-epa-model-4-states.pdf> (report prepared specifically for the EPA).

d. DEP Failed to Comply with Civil Rights Laws and to Include any Environmental Justice Analysis in the Draft Permit

By failing to comply with civil rights laws and regulations and failing to consider environmental justice and cumulative impacts in this draft permit and permitting process, this draft permit is unlawful. Such violations are flagrant and potentially willful, considering that DEP has been on notice of these legal requirements with the formal filing of a civil rights complaint against it, yet it has not attempted in any way to comply with civil rights and environmental justice law and guidance here. DEP, before it considers re-noticing the draft permit, must take all of these factors into account and provide a meaningful discussion and analysis of environmental justice in its permitting process. If DEP cannot ensure that its permitting action would not harm the surrounding environmental justice community or unlawfully discriminate against community members, this permit application should be denied.

II. HISTORY OF NON-COMPLIANCE AND INSUFFICIENCY OF APPLICATION

a. Given the Unlawful and Ongoing Operation of the Emissions Units, Attempts to Bypass the Air Construction Permitting Process, and Documented Pollution Impacts on the Surrounding Community, DEP Must Require a Compliance Schedule Under Title V and Should Initiate Enforcement Proceedings, Including a Supplemental Environmental Project

1. Apparent Unlawful and Ongoing Operations Prior to the Permit Application

The emission units in the draft air construction permit appear to have been around and in use for some length of time. DEP’s Technical Evaluation and Preliminary Determination (“TEPD”) regarding the draft permit describes the “proposed” units as “[c]urrently” in use but state they have been “temporary [in] nature” until “Miami-Dade County . . . decided to extend the duration of the use of the metal recovery and tire shredding operations.”⁵⁹ However, no information is provided regarding how long these emissions units have been in use, how often they are used, and when the Department learned of their use; there is also no information regarding the legal basis for allowing them to be used on a “temporary” basis without a permit. In other words, these emissions units appear to be operating in violation of Florida and federal law and are unlawfully excluded from the Title V operating permit for the facility.⁶⁰ Florida’s SIP regulations make clear that this is not the lawful process for air *construction* permits.

Most glaringly, Covanta is undergoing a Title V operating permit renewal process at this very moment which does not include these emission units that have been operating, unlawfully, for an undisclosed amount of time. This Title V draft permit does list a 535 hp diesel engine-driven emergency generator for shredder (EU 014), but it does not specify whether it is for the tire shredder or the shredder associated with the ash monofill.⁶¹ EU 014, though unregulated,

⁵⁹ TEPD at 5.

⁶⁰ See Draft Title V Draft Permit No. 0250348-013-AV at 2 (showing that the emergency diesel generator for shredding is an “[u]nregulated [e]missions [u]nit[]”).

⁶¹ *Id.* at 2, Appendix U.

appears to be distinct from the EUs this draft permit would authorize, which are listed as separate EU numbers 015, 016, and 017 in the TEPD.⁶²

Covanta's application for the Title V permit does include information regarding a 535 hp emergency diesel-fired tire shredder, and that it should be listed as a regulated emission unit.⁶³ However, as this current draft air construction permit recognizes, a regulated emissions unit cannot bypass the construction permitting process and suddenly appear in the Title V operating permit.

The Department's regulations clearly require that

Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permits issued by the Department, unless the source is exempted by Department rule. The Department may issue a permit only after it receives reasonable assurance that the installation will not cause pollution in violation of any of the provisions of Chapter 403, F.S., or the rules promulgated thereunder. A permitted installation may only be operated, maintained, constructed, expanded or modified in a manner that is consistent with the terms of the permit.⁶⁴

The facility, by operating these diesel generators, perhaps continuously, has defied the Department's requirements. By filing such a skimpy application with almost no description or analysis of the expected pollution to result from the continued operation of these diesel generators, Covanta fails to provide *any* assurance, let alone reasonable assurance, that these operations will comply with the provisions of Chapter 403, Florida Statutes.

2. Attempts to Unlawfully Bypass the Air Construction Permitting Process

The Department's rules, incorporated into the EPA-approved and federally enforceable SIP, regarding air construction permits require that "the owner or operator of any facility or emissions unit which emits or can reasonably be expected to emit any air pollutant *shall obtain* appropriate authorization from the Department *prior to* undertaking any activity at the facility or emissions unit for which such authorization is required. An air construction permit *shall be* obtained by the owner or operator of any proposed new, reconstructed, or modified facility or emissions unit, or any new pollution control equipment *prior to* the beginning of construction . . ."⁶⁵

Similar requirements are also applicable for air operation permits, with the requirement that one "shall" be obtained "prior to undertaking any activity at the . . . emissions unit for which such authorization is required."⁶⁶

⁶² TEPD at 5.

⁶³ Application for Renewal of Title V Air Operation Permit, permit no. 0250348-013-AC at PDF page 42 (Attachment MIC-FI-CV6 "Requested Administrative Changes" at 2).

⁶⁴ Fla. Admin. Code R. 62-4.030.

⁶⁵ Fla. Admin. Code R. 62-210.300(1)(a) (emphasis added); 40 CFR § 52.520(c) (incorporating into SIP).

⁶⁶ Fla. Admin. Code R. 62-210.300(2); 40 CFR § 52.520(c) (incorporating into SIP).

The only exemption regarding stationing reciprocating internal combustion engines, such as those at issue here, from these requirements, is contained in Florida Administrative Code Rule 62-210.300(3)(a)35 – and it does not apply here. To qualify for an exemption, the collective annual amount of fuel burned by all engines shall not exceed 64,000 gallons of diesel fuel.⁶⁷ The 540 HP engine for the tire shredder, on its own, let alone collectively with the others, exceeds these figures under the proposed permit (operations 365 days per year, 24 hours per day), with a fuel consumption rate of 22.46 gallons per hour,⁶⁸ equating to almost 200,000 gallons per year for just this diesel generator. As DEP’s own Technical Evaluation and Preliminary Determination notes, the exemption only applies “if collectively, all engines claiming this exemption at the same facility do not burn more than 64,000 gallons of diesel fuel annually” and the “existing stationary RICE at the” facility already “have the potential to collectively burn more than 64,000 gallons of diesel fuel,” and therefore, “the proposed new equipment is not exempt” under Florida Administrative Code Rule 210.300(3)(a)35.⁶⁹

3. Pollution Impacts on the Surrounding Community

Worse, it appears that these unpermitted emissions units, and the associated fugitive emissions from these emissions units (ash and tire shreds) may be responsible for many of the harms that are being inflicted on the surrounding community. The odor complaint log compiled by the City of Doral, while notably and understandably focused on odor, shows that deposits of black ash has been an ongoing issue for residents in the surrounding area. As an example, here are just a few of the complaints:

- “Fuerte Olor with waves of micro particles dusting our cars;”
- “Bad odor – microparticles dusting cars and plants;”
- “strong smell of garbage and in my car completely particle matter;”
- “Strong garbage odor with black dust that covers our cars placed outside of garage;”
- “Strong odor pollution with black dust covering my house, my yard, my pool and car;”
- “Strong garbage odor with black dust that covers our furniture placed outside.”⁷⁰

Given this history of ongoing non-compliance with the law and documented impacts on the surrounding community, a compliance schedule should be drawn up immediately to bring the facility into compliance with the CAA and Florida law and regulations.

4. DEP Must Require a Compliance Schedule and Should Initiate Enforcement Proceedings

Regarding how this applies to the incinerator’s operating Title V permit, the Code of Federal Regulations requires that “[a]ll sources ... have a permit to operate that assures compliance by the source with all applicable requirements”⁷¹ and states that “a permit ... may be

⁶⁷ Fla. Admin. Code R. 62-210.300(3)(a)35; 40 CFR § 52.520(c) (incorporating into SIP).

⁶⁸ Air Construction Permit Application, Table 4, PDF page 92.

⁶⁹ TEPD at 9.

⁷⁰ See Odor Complaint Log, Attachment 3, *supra* note 5, at 136-137 (specifically Complaints Odor-57, -58, -59, -60, -63, -71).

⁷¹ 40 C.F.R. § 70.1(b); Fla. Admin. Code R. 62-204.800(15) (incorporating into Florida regulations).

issued only if ... the conditions of the permit provide for compliance with all applicable requirements.”⁷² In particular, “[s]uch a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements.”⁷³ Therefore, if this air construction permit is granted, the Title V operating permit must be reopened and amended (this can be done before the Title V renewal is completed) to include a compliance schedule.⁷⁴

Additionally, the Title V permit must include “[a] schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.”⁷⁵ Given the ongoing nature of these violations and the impacts they are having on the surrounding community, the Title V permit should be reopened and amended immediately if DEP decides to move forward with finalizing this air construction permit.

The draft air construction permit also fails to include the work practice standards for fugitive emissions found in the 1994 PSD permit for the facility. As a requirement applicable to the entire facility, it must also be applicable to the emissions units that are the subject of this draft air construction permit. Therefore, the following requirement from the 1994 PSD permit must be included as federally enforceable permit terms and conditions in the air construction permit:

Fugitive (unconfined) emissions at this facility shall be adequately controlled at all times.⁷⁶

This condition must be included in this draft permit, especially since this condition has not been met by the permit applicant as demonstrated by the complaints regarding offsite particulate accumulating on the property of the neighboring environmental justice community.⁷⁷ DEP must address these noncompliance issues and also include monitoring, recordkeeping, and reporting for this requirement to assure that *all* fugitive emissions are controlled.

The well-documented impacts on the community from ash and dust demonstrate ongoing permit violations and insufficiency of monitoring. Although the Title V operating permit, as noted in the comments in that permitting process, should require stronger measures to prevent the release of fugitive emissions, the current Title V operating permit for the incinerator does require that “No person shall cause, let, permit, suffer or allow the emissions of unconfined PM from *any* activity . . . , without taking reasonable precautions to prevent such emissions.”⁷⁸ Given the noted and demonstrated complaints, including as of this month, regarding offsite particulates

⁷² 40 C.F.R. § 70.7(a)(1)(iv); Fla. Admin. Code R. 62-204.800(15) (incorporating into Florida regulations).

⁷³ 40 C.F.R. § 70.5(c)(8)(iii)(C); Fla. Admin. Code R. 62-204.800(15) (incorporating into Florida regulations).

⁷⁴ *Id.*

⁷⁵ 40 C.F.R. § 70.5(c)(8)(iv); Fla. Admin. Code R. 62-204.800(15) (incorporating into Florida regulations).

⁷⁶ FL DEP 1994 PSD Permit at 14.

⁷⁷ See Odor Complaint Log, Attachment 3, *supra* note 5, at 136-37, Complaints Odor-57, -58, -60, -63, -71, -81, -82, -83, -84, -96, -108.

⁷⁸ Permit No. 0250348-012-AV at 4.

accumulating on the neighboring properties in this environmental justice community,⁷⁹ reasonable precautions are not taking place as required. In fact, operating an emissions unit, along with associated fugitive emissions at the ash monofill, without a permit, is the opposite of reasonable precautions and instead reflects a flagrant disregard for the law and for the wellbeing of the surrounding community.

While Florida Rising recognizes that enforcement proceedings are separate from permit proceedings, the incinerator must be penalized for operating the metal shredder at the ash monofill and the tire shredder and the diesel engines without construction permits and without operating permits. Because the adjacent community has suffered harm from the air impacts of these operations, with the complained-about ash likely coming from the unpermitted ash monofill shredder and sorting operations and the tire shredder, the enforcement action must include soil testing in the surrounding community to evaluate the impact of these unpermitted air emissions, fence line monitoring of PM₁₀, and PM₁₀ monitors within the community.

Finally, Florida Rising requests that DEP include it its enforcement action a Supplemental Environmental Project that benefits the community and asks that DEP works with Florida Rising to identify a suitable project.

b. Insufficiency of Permit Application and DEP's Evaluation

Florida and federal law both require that “[e]ach applicant for an air construction permit for an emissions unit subject to this rule shall provide the Department, at a minimum, the following information: 1. [t]he nature and amounts of emissions from the emissions unit . . . [and] 2. [t]he location, design, construction, and operation of the emissions unit to the extent necessary to allow the Department to determine whether construction or modification of the emissions unit would result in violations of any applicable provisions of Chapter 403, Florida Statutes, or Department air pollution rules, or whether the construction or modification would interfere with the attainment and maintenance of any state or national ambient air quality standard.”⁸⁰

It is unclear whether these emissions units have ever been previously included in the Title V operating permit: the current draft Title V operating permit lists a 535 hp emergency generator for a shredder as emissions unit 014, which appears to be the same 535 hp emergency generator listed in the current Title V operating permit, as item 39 under list of insignificant emissions units.⁸¹

In order to qualify as an insignificant unit, such unit or activity “would neither emit *nor have the potential to emit* . . . 1,000 pounds per year or more of any hazardous air pollutant . . . , 2,500 pounds per year or more of total hazardous air pollutants, or . . . 5.0 tons per year or more of any other regulated pollutant.”⁶⁹ Covanta’s application for this air construction permit makes clear that these are not insignificant emissions units, as the 540 hp motor has the potential to emit far more than 5 tons per year for several regulated pollutants (5.20 tons for volatile organic compounds and 13.61 tons per year for carbon monoxide).⁷⁰ The same is true for the 455 kW

⁷⁹ See Odor Complaint Log, Attachment 3, *supra* note 5, at 136-37, Complaints Odor-57, -58, -60, -63, -71, -81, -82, -83, -84, -96, -108.

⁸⁰ Fla. Admin. Code R. 62-212.300(3)(a); 40 CFR § 52.520(c) (incorporating into SIP).

⁸¹ Permit No. 0250348-012-AV, Appendix I, page I-2.

engine for powering the metal recovery apparatus at the ash monofill.⁷¹ Given that the 535 hp unit in the existing operating permit may actually be the same 540 hp unit, or, at the least, close in size to the 540 hp unit, this strongly suggests that it did not qualify as an “insignificant unit.”

It is also unclear whether the 535 hp “emergency” generator will be replaced by the 540 hp generator for tire shredding that is the subject of this draft air construction permit. The TEPD for the draft air construction permit identifies the 535 HP generator as emissions unit 014 (“Emergency Diesel Engine-Driven Generator for Shredder (unregulated),”) and then adds the 540 hp generator as emissions unit 017.⁸² However, the draft permit does not identify any emissions unit as emissions unit 014; rather, it skips from emissions unit 013 to 015 (the “new” 455 kW diesel engine generator).⁸³ Neither the application nor DEP’s analysis sheds any light on this critical question to figuring out what exactly Covanta is trying to have permitted and what exactly DEP is proposing to permit with this draft air construction permit.

The application also does not make clear for any of the “new” emission units what the process flow is, i.e., what are they doing, where are they getting that material from, what are they doing to that material, and where the material goes after they finish processing (or shredding) it. Instead, all we are provided is the same uninformative process flow diagram for each unit, showing the process for a diesel engine (i.e., input of diesel fuel and combustion air, output of electric power and stack air emissions).⁸⁴ This does not provide sufficient information to understand what activities are being permitted or what the fugitive emissions associated with the emissions units are expected to be, and it fails to provide reasonable assurance to the public that the environment is being protected, therefore violating Florida and federal law.

Moreover, there is no overall emission inventory. The only emission inventory is for the emissions from combustion to power the diesel generators. This is an insult to the adjacent and impacted community. Clearly the activities from tire shredding and metal recovery emit criteria and hazardous air pollutants that are neither disclosed in the permit application nor the draft permit and must be.

For example, the draft construction permit fails to take into account the emissions from secondary sources related to the metal shredder at the ash monofill and the tire shredder and the diesel engines. “Emissions unit,” under Florida and federal law, is not so narrowly defined and encompasses associated emissions.⁸⁵ Examples of secondary emissions include emissions from the diesel truck engines that transport tires to the source and leave the source empty, diesel truck engines that arrive at the source and leave the source with metal from the metal shredder, dozers and other diesel engines operated onsite, emissions from the trucks and vehicles themselves (the open beds and tires), as well as emissions from their engines as they remain idle loading and unloading in bays or in lines, at truck washing facilities. All these emissions must be accounted for and their cumulative impacts must be assessed. Furthermore, when the tires are shredded, emissions are released from the tires, and those emissions must be accounted for. Finally, if the

⁸² TEPD at 4-5.

⁸³ Draft Permit at 3-4.

⁸⁴ Air Construction Permit Application at PDF page 82.

⁸⁵ Fla. Admin. Code R. 62-210.200(99) (“Emissions Unit” – Any part or activity of a facility that emits or has the potential to emit any air pollutant.”); 40 CFR § 52.520(c) (incorporating into SIP).

tires are burned, there must be a full accounting for all the emissions that result. DEP must require that the permit applicant redo the emission inventory with these and any other related activities and resubmit the applicant. Only then will DEP and the public be able to evaluate whether the proposed modification triggers major source status. The permit applicant is disingenuous regarding the “process flow” for its operations, merely providing the diesel engines for both operations.

DEP must require that the applicant provide the full scope of its process, from the point at which the raw materials enter the source to the point at which they leave the source. Full transparency is necessary for the impacted community to understand and assess the potential criteria and hazardous air pollutants across the entire source, not just at the engines. For example, there are an undisclosed number of diesel trucks delivering used tires to the incinerator. The public has no idea how many trucks arrive and depart on any given day, nor the amount of diesel exhaust from those trucks, the pollution in that exhaust, the PM road dust generated from the trucks that travel through their neighborhoods, and amount of dust that escapes from the uncovered truck that travel to and from the source – all must be accounted for in an emission inventory. A full and accurate emission inventory must also be prepared for the metal shredder operations, including quantification of emissions from the monofill dust that becomes airborne and leaves the source property either crossing the road or via the vehicles. Only after such an emission inventory is complete can PSD applicability for the project be determined. Assurances from the applicant that “due to the wet nature of the ash, fugitive emissions are minimal,” with no discussion of other associated emissions, is not enough.⁸⁶

Although the TEPD indicates that the shredded tires can be used as cover material at an adjacent landfill,⁸⁷ there is nothing in the permit that prohibits the tire shreds from being incinerated. If there is any possibility that they will be incinerated, the draft permit must account for those potential emissions. The permit must so disclose all potential emissions from the associated operations of these emissions units, including controls, monitoring, recordkeeping and reporting. Additionally, neither the permit application nor draft permit provide any information about the metal shredding operations and what happens to the metal when it leaves the facility: are the trucks open or closed, is the community further exposed?

DEP has a duty to ensure that the applications it receives and reviews are complete. And when an application is incomplete, DEP must request the missing information from the applicant. Here, a great deal of information was missing in the permit application (with additional deficiencies discussed below), yet DEP failed to request and obtain the missing information before placing the draft permit on public notice and comment. Given the extensive comments on the draft Title V permit, DEP was well aware of the keen public interest regarding this source. DEP should have taken the time to ensure that a robust, clear, and comprehensive draft permit was issued for public comment.

⁸⁶ TEPD at 7.

⁸⁷ TEPD at 5.

III. REGARDING EU 017, THE APPLICATION AND DRAFT PERMIT DO NOT PROVIDE SUFFICIENT PROTECTIONS OR SPECIFICITY REGARDING EMISSIONS UNITS BEING PERMITTED

The first question, regarding the “proposed” emissions unit 017, is whether this is replacing emissions unit 014. If not, it is unknown what the different purposes of these units are. As noted previously, the application and draft permit do not clarify whether, in fact, they are the same emissions unit, whether emissions unit 017 is replacing emissions unit 014, or whether they are, in fact, meant to act in tandem of some kind. This issue must be clarified before the air construction permit may be lawfully issued.

In either case, the draft air construction permit fails to provide any kind of meaningful reasonable assurances regarding the control of fugitive emissions from the activities associated with the tire shredding activities at the incinerator, and without these reasonable assurances, the draft permit should be withdrawn and only re-noticed once such reasonable assurances have been provided in accordance with Florida law.⁸⁸

Additionally, under the Power Plant Siting Act in chapter 403, Covanta must “[p]rovide reasonable assurance that operational safeguards are technically sufficient for the public welfare and protection” and “[m]inimize, through the use of reasonable and available methods, the adverse effects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and aquatic life.”⁸⁹ Covanta has failed to do this, and in issuing this draft permit, DEP is unlawfully exempting Covanta from this requirement.

The need for fugitive emissions controls in the permit should be clear—pictures provided in the TEPD, included below, show the black rubber particulate materials surrounding the ground of the tire shredding machine. The draft permit fails to consider these fugitive emissions in any meaningful way. The Department, in response to this currently unpermitted emissions source, proposes to give the incinerator six months before adding a water spray system to help control fugitive emissions.⁹⁰ Given that this emissions unit has been apparently operating unlawfully for an undisclosed amount of time, Covanta should not be given such a lengthy grace period, and as requested below, this is one of the reasons DEP should immediately issue a stop work order until sufficient measures are put in place to protect the community from the fugitive emissions.

Furthermore, given the visible black dust/fugitive emissions in the provided photograph from the TEPD (indicated with a red arrow in the picture below), there needs to be a method included in the permit for observing fugitive emissions as it pertains to the tire shredder, with action required if fugitive emissions are observed.

⁸⁸ See Fla. Admin. Code R. 62-4.030 (“The Department may issue a permit only after it receives reasonable assurance that the installation will not cause pollution in violation of any of the provisions of Chapter 403, F.S., or the rules promulgated thereunder.”).

⁸⁹ Fla. Stat. § 403.509(3) (2021).

⁹⁰ Draft Permit at 13.



Although the emissions standards for the diesel generator itself in the permit are the correct standards, given the proximity of the unit to the community and the fact that the generator is actually at a power generating unit (the incinerator, or as Covanta likes to call it, “waste-to-energy”), there is no reason that the power for the tire shredder could not be provided with an electric motor, which could be powered by the incinerator for such time as the facility continues to exist. Although it is not the Department’s role to consider the economics, given the uneconomic nature of the power produced by the incinerator and the problems Covanta has had selling it, the best thing Covanta could do with the power generated would be to power electrical motors instead of diesel generators at the site. There is no reason to make worse the emissions pollution the surrounding community is already subjected to by using diesel generators when electric motors could easily be used instead.

Additionally, the Everglades National Park is a Class I nearby area, whereby all efforts should be made to remove unneeded haze forming particles, such as those from diesel engines. Electric power sources lessen noise levels and decrease maintenance. Requiring electrification is a cost-effective pollution control method. DEP has the authority to require electrification in order to help enforce and develop its regional haze plan.

On a technical note, the TEPD says that the potential to emit is based on 8,760 hours of operation per year, while it is actually based on 8,760 hours of operation per year.⁹¹

Along with the metal recovery operations that are associated with EU 015 and EU 016, no reason is indicated that the tire shredding operation cannot take place in an enclosed space, with adequate filtration controls to eliminate the possibility of fugitive dust entering the surrounding community. These are examples of the controls that DEP should require in order to adequately protect human health.

IV. REGARDING METAL RECOVERY (EU 015 AND EU 016), THE DRAFT PERMIT DOES NOT PROVIDE SUFFICIENT PROTECTION, NOR SPECIFICITY, REGARDING THE EMISSIONS UNITS BEING PERMITTED

Beginning with EU 016, as with EU 017, the draft permit, application, and evaluation shed very little light on what exactly it is meant to do. All that is provided is that EU 016 is

⁹¹ TEPD at 7.

meant to power a shredder, but no information is provided about what is being shredded. The application for the air construction permit implies that this emissions unit is meant to power (or is already powering, since again, there is no information on how long it has been in operation) a metal shredder as part of metal recovery at the ash monofill. In any case, more information must be provided before the draft permit can be issued, as there is no way to adequately protect the community from emissions, including associated fugitive emissions, if the draft permit is not clear on what is being permitted. The harms that metal shredders can cause to surrounding communities are clear.⁹²

No matter what exactly EU 016 powers, the entire metal recovery operation could and should be in an enclosed building with proper exhaust controls, given the documented harm that is being caused to the surrounding community by fugitive emissions. Assuming it is a metal shredder provides all the more reason that the processes involved should be enclosed and contained to ensure proper protection for the community.

The permit materials are also vague as to what exactly emissions unit 015 is for, what it does, and why it needs to be a diesel generator to power it rather than electricity. The implication is that it helps convey ash from the incinerator to and from the shredders.⁹³ However, little or no information is provided regarding the potential fugitive emissions from this conveyance and process, which is also inconsistent with other information that the ash is conveyed using hauling vehicles.⁹⁴

Moreover, the materials provided indicate that the ash will be wetted throughout this process, thus minimizing the chance for fugitive emissions, but there are no permit conditions requiring this or mandating the minimization of fugitive emissions.

The need for fugitive emission controls is clear, given the ash that has been reported in the surrounding communities. Satellite imagery, included immediately below, would even seem to show, as indicated by the red arrow, ash fall on the adjacent community from the operations at the ash monofill.

⁹² See EPA, Enforcement Alert for shredders (July 2021), (“metal recycling facilities . . . are often located in densely populated areas – noncompliant shredders can have an impact on overburdened communities”) Attachment 9.

⁹³ TEPD at 8 (“With regards to fugitive PM emissions, after the combustion of the RDF in a MWC, the resulting bottom ash and metal fall into a water filled conveyor for quenching and wetting. The wet material is then conveyed by belt conveyors from the powerhouse to the ash loadout building, whether the ash is stored on the reinforced concrete floor within the structure and then transported to the metal recovery operations where ferrous and non-ferrous materials are removed.”).

⁹⁴ E-mail from Daniel White, Environmental Specialist, Covanta Dade Renewable Energy, to David Read, Permit Review Section Administrator, DEP Air Division, (April 13, 2022). (emphasis added) (“All of the ash transported by belt conveyors from the powerhouse is collected and stored in the ash loadout building. Ash is stored on the reinforced concrete floor within the structure and loaded *into hauling vehicles.*”), Attachment 10.



Given the apparent flow of fugitive emissions of ash from the ash monofill into the nearby community, fenceline monitors must be installed. Furthermore, the following basic questions regarding the contemplated (and ongoing unpermitted operations), must be answered:

- What materials are being moved?
- Where are the conveyors moving material from?
- How are emissions from the conveyors controlled along the way?
- What is the metal sorting equipment, and is it already in existence at the facility?
- What is exactly happening at the metal shredder, and for what purpose?
- What are the emissions from these operations?
- Will the applicant be taking more metal materials for processing because of this addition/expansion/permitted activity, which will in turn increase emissions of other pollutants (debottlenecking)?
- Will more trucks be driving through the ash monofill as a result?

Until these basic questions regarding what is being permitted are answered, the permit may not be issued.

The ash issues associated with the ash monofill, and hence, with the metal recovery operations taking place there, are apparent and in need of addressing. Although DEP provides a video from a different location regarding the type of operation that is contemplated, even that video and pictures shows ash all over the place, including covering trucks and SUVs going through the area. One of those pictures is reproduced directly below, with a red arrow indicating an SUV covered with apparently ash, having been kicked up by the car, and undoubtedly causing fugitive emissions. DEP must require that the permit applicant submit a plan for metal shredding

that uses an enclosed building with proper exhaust controls. That is clearly the preferred approach.



Even with an enclosed building, given how easily the ash seems to become airborne and coat vehicles moving through the area around a metal recovery operation as that contemplated here, any vehicles moving through the ash monofill must be washed before leaving the site, and this must be included as a permit condition. Given that this need is apparent in the pictures from Covanta that are meant to demonstrate the *lack* of pollution and fugitive emissions caused by the contemplated operation, there can be little doubt that actual operations would result (or already result, again, it is unclear) in even more fugitive emissions.

Furthermore, EPA Method 22, a visual observation method for fugitive emissions included in the draft air construction permit,⁹⁵ is not sufficient to ensure fugitive dust does not leave the site and enter the surrounding community, especially given the reports of black ash leaving the site. The draft permit contains no requirement of duration or frequency for the use of EPA Method 22 in observing fugitive dust. The Title V operating permit for the facility seems to

⁹⁵ Draft Permit at 13.

indicate that it only needs to be conducted once per year.⁹⁶ Given the emissions at issue, and the harms occurring to the surrounding community, this is woefully insufficient. Monitoring should be required at all times the ash monofill is uncovered, i.e., at all times. Fenceline and community monitors for PM₁₀ would help ensure that fugitive emissions and the ash are not blowing off of the site and into the surrounding community.

Finally, the construction permit must include automatic and increasing penalties for violations of the fugitive dust monitoring requirements.

The requirement in the draft permit is that if there are visible dust emissions observed using EPA Method 22 (which, again, needs to be required to be used on an ongoing basis to be meaningful), that the surface of the monofill shall be wetted within an hour.⁹⁷ This is not protective of the surrounding community. The ash monofill should be required to be wetted immediately, without delay, and operations should be ceased until fugitive emissions are brought under control. To allow operations to continue for an hour while ash blows directly onto surrounding residential homes, cars, people, their pets, and the surrounding environment (including wildlife) amounts to the intentional disregard of poisoning of the surrounding community.

The Department must do more than write in a permit condition allowing such poisoning to continue for an hour (per instance) with no remedial action whatsoever.⁹⁸ Florida and federal law specifically require that “[n]o person shall cause, let, permit, suffer or allow the emissions of unconfined particulate matter from any activity . . . without taking reasonable precautions to prevent such emissions” and that “[a]ny permit issued to a facility with emissions of unconfined particulate matter *shall* specify the reasonable precautions to be taken by that facility to control the emissions of unconfined particulate matter.”⁹⁹ Waiting an hour to take any action is not a reasonable precaution. Moreover, the reliance on rainfall to wet the ash¹⁰⁰ is faulty—many days, and sometimes weeks, can go by without rain.¹⁰¹ This is not what proper permitting, reasonable assurances, or reasonable precautions looks like. Instead, any exposed ash should be monitored

⁹⁶ Permit No. 0250348-012-AV at 20 (“During each calendar year . . . each source of fugitive emissions from ash handling activities shall be tested using EPA Method 22 for a maximum of 3 hours”).

⁹⁷ Draft Permit at 13.

⁹⁸ Fla. Admin. Code R. 62-212.300(3)(c) (“The Department shall include conditions in each permit to insure that the provisions of this rule are not violated.”); 40 CFR § 52.520(c) (incorporating into SIP).

⁹⁹ Fla. Admin. Code R. 62-296.320(4)(c); 40 CFR § 52.520(c) (incorporating into SIP).

¹⁰⁰ “With the wet ash from the ash loadout building, metal processing operations and the monofill exposed to natural rainfall . . . it is unlikely that material will become airborne during the process.” TEPD at page 8 of 11.

¹⁰¹ See National Oceanic & Atmospheric Administration, Record of Climatological Observations (documenting rainfall in Miami-Dade in 2021), Attachment 11. For example, starting on January 19, 2021, until February 1, 2021, there was zero rain, with only 0.01 inches of rain immediately preceding that period, and 0.02 inches after. This is not uncommon in the winter months, with most of the rain in the area caused by summer thunderstorms. As another example, there was zero rain, not even trace rainfall, between November 22, 2021, through December 5, 2021, another two week period.

to make sure it says wet, and permit conditions must be included to ensure that the ash, to the maximum extent possible, is covered so that it cannot blow onto the surrounding community. If Covanta cannot stop toxic dust from blowing onto the surrounding community, it simply should not be allowed to operate the incinerator.

Furthermore, relying on EPA Method 22 is not sufficient because the method depends on sufficient lighting to observe fugitive emissions¹⁰² yet the permit envisions operations at night but does not account for adequate lighting conditions. Moreover, this method does not comply with the requirement that any “handling, sizing, screening, crushing, or grinding of the materials such as, but not limited to . . . fly ash” shall be subject to EPA Method 9 for visible emissions, and that no visible emissions beyond five percent opacity be allowed, and, if necessary to comply with that requirement, the operation be “totally or partially enclose[d].”¹⁰³ Given the video provided via link in the TEPD showing the process with the ash being put through conveyors, screens, grinding, and shredders, these requirements would seem to be applicable, yet ignored by the Department.¹⁰⁴ This again shows the need for fence line monitors to protect the surrounding community.

Given the documented issues regarding fugitive emissions hurting the surrounding community, the requirement for a 500-foot offset is woefully insufficient given the demonstrated ability of the ash and particulate matter emissions to travel significant distances. Fence line monitoring should be placed in between the ash monofill and the adjacent community along NW 102nd avenue to ensure that ash is not leaving the ash monofill and entering the residential community.

Some of these issues could be solved with the use of electricity, rather than diesel generators. As pointed out above, there is no reason to use diesel generators, and hence, permit these emissions units, when electricity at the site is readily available and any emissions will add to the burden an already overburdened community.

V. DEP SHOULD REQUIRE THE INSTALLATION OF AIR MONITORS AND A LARGER BUFFER FOR SHREDDING OPERATIONS

Fenceline monitoring for PM₁₀ should be required, as well as monitors placed in the surrounding community to track fugitive emissions on the residents of Doral, given the nighttime operations proposed, the lack of a requirement that the ash is wetted, and the documented fugitive emissions. Given the need to protect the public, the permit should include a condition like the condition Indiana required in a tire shredding permit, namely:

¹⁰² See 40 CFR Part 60 Appendix A-7 Test Method 22, part 2.3 (“This method determines the amount of time that visible emissions occur . . . [and] [a]t a minimum, the observer must be trained and knowledgeable regarding the effects of background contrast, ambient lighting, observer position relative to lighting . . . on the visibility of emissions.”).

¹⁰³ Fla. Admin. Code R. 62-296.711; 40 CFR § 52.520(c) (incorporating into SIP).

¹⁰⁴ TEPD at 5.

The Permittee shall not allow fugitive dust to escape beyond the property line or boundaries of the property, right-of-way, or easement on which the source is located, in a manner that would violate 326 IAC 6-4.¹⁰⁵

Furthermore, when those monitors show exceedances, systems must be in place to immediately notify the impacted community. We welcome the opportunity to discuss with you the nature of those systems and where they should be placed to ensure the impacted community receives direct and timely notification. The monitoring data is of little use if it is collected by the source and reported to DEP a year later and never shared with the adjacent community. This is a unique situation that calls for a unique resolution.

Additionally, an offset greater than 500 feet from the property boundary should be required for all of the emissions units that are the subject of this draft permit, given the documented impacts of fugitive emissions on the surrounding community, that the tire shredding operation has already been pictured created black dust, and the seemingly unlawful operation of these emissions units.

VI. PERMIT MATERIALS FAIL TO CONSIDER OTHER RESULTING EMISSIONS INCREASES

None of the permitting materials look at the impact of emissions other than from the diesel generator themselves, implying that no increase in operations is contemplated, implying that the “emergency” generators have been operating on a non-emergency basis for quite some time, unlawfully. Assuming they have not been operating on a non-emergency basis unlawfully means that there must be an increase in operations as a result of operating the diesel generators for longer periods of time. This necessarily means that there will be a corresponding increase in other emissions associated with the newly enabled additional operations. These increased emissions must be accounted for in this permitting process. If they cannot be accounted for, that is clear evidence that the EUs have been operating continuously and unlawfully, warranting an enforcement action by DEP.

VII. DEP MUST IMMEDIATELY ISSUE A STOP WORK ORDER

In sum, all of the gaps, discrepancies, and deficiencies in the permit application and draft permit add up to the conclusion that these have been operating continuously and unlawfully, harming the surrounding community by producing black dust and fugitive emissions. As a result, the Department—either on its own or in conjunction with EPA—must immediately issue a stop work order as to all operations related to both tire and metal shredding that is not permitted.

CONCLUSION

Until all of these deficiencies are rectified, DEP should immediately issue a stop work order and either deny the permit outright or require additional information from the applicant, re-notice the permit, and then issue a draft permit that contains effective, stringent protections for the surrounding community.

¹⁰⁵ Indiana Department of Environmental Management, Operation Permit No. MSOP 071-16792-05226, Attachment 12.

Sincerely,

Dominique Burkhardt, Esq.*
Senior Attorney, Earthjustice
4500 Biscayne Blvd., Ste. 201
Miami, FL 33137
dburkhardt@earthjustice.org

Nestor Perez, Esq.*
Associate Attorney, Earthjustice
4500 Biscayne Blvd., Ste. 201
Miami, FL 33137
nperez@earthjustice.org

**Counsel for Florida Rising*

Bradley Marshall, Esq.*
Senior Attorney, Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, FL 32301
bmarshall@earthjustice.org

Sara Laumann, Esq.**
Principal, Laumann Legal
3800 Buchtel Blvd. S., #100236
Denver, CO 80210
sara@lamannlegal.com

***Earthjustice Of Counsel*

cc:

Caroline Freeman, Director
Air and Radiation Division, EPA Region 4
Freeman.Caroline@epa.gov

Ana Oquendo
Florida Title V Permit Program, Air and Radiation Division, EPA Region 4
Oquendo.Ana@epa.gov
r4titlevfl@epa.gov

Kenneth E. Free, Acting Deputy Regional Administrator
U.S. Department of Housing and Urban Development, Region IV
Kenneth.E.Free@hud.gov

Luis M. Rolle, Field Office Director
U.S. Department of Housing and Urban Development, Miami Office
Luis.M.Rolle@hud.gov

Lilian Dorka, Director
EPA External Civil Rights Compliance Office
Dorka.Lilian@epa.gov

Anhthu Hoang, Acting Deputy Director
EPA External Civil Rights Compliance Office
Hoang.Anhthu@epa.gov

Suong Vong, Team Lead
EPA External Civil Rights Compliance Office
Vong.Suong@epa.gov

Susana Palomino, Division Chief
Miami-Dade County Department of Regulatory and Economic Resources Division
of Environmental Resources Management, Air Quality Protection

Susana.Palomino@miamidade.gov
airfacilities@miamidade.gov

Daniella Levine Cava, Mayor
Miami-Dade County

Mayor@miamidade.gov