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Sent: Thursday, January 14, 2021 8:44 PM
To: envcomments
Cc: Susan Mudd; Tiffany Werner
Subject: Large Facility Recycling Facility Application by General III
Attachments: 2021.01.14 ELPC General III Comments.pdf

[Warning: External email]

To whom it may concern,
Please find attached comments by the Environmental Law & Policy Center on the Large Recycling Facility Permit Application of General III, LLC d/b/a Southside Recycling.

Thank you,
Kiana Courtney

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ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

January 14, 2021

Chicago Department of Public Health
Attn: Commissioner Allison Arwady, M.D.
333 S State St., #200
Chicago, IL 60604

Submitted electronically to envcomments@cityofchicago.org.

RE: Comments on the Proposed Issuance of Large Recycling Facility Permit to General III, LLC, d/b/a Southside Recycling

To Chicago Public Health Department:

The Environmental Law & Policy Center (“ELPC”), on behalf of itself and its members, submit these comments on the Large Recycling Facility Permit Application of General III, LLC d/b/a Southside Recycling (“Application”) for a permit to operate a large scrap metal recycling facility proposed to be located at 11600 South Burley Avenue in Chicago, IL. ELPC is the Midwest’s leading public interest environmental legal advocacy organization and works to protect the environment and public health.

The City of Chicago (the “City”) through the Chicago Department of Public Health (“CDPH”) should deny the application of General III, LLC, doing business as Southside Recycling, but also known as the RMG Expansion (hereinafter “General III” or the “Facility”) draft permit for a large recycling facility. There are several issues with the Application: (1) General III’s Application is incomplete; (2) the Application will place a cumulative burden on the surrounding community; and (3) the Application fails to demonstrate that it will be protective of air quality and public health. In consideration of the Application, the City has a duty to not only consider the cumulative burden General Iron will place on the community, but also the past history of General Iron. The City must also consider the need to incorporate the community’s voice throughout this permitting process. Given these considerations, the City should not find that this Application is worthy of a draft recycling facility permit.

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ELPC also supports the comments of local groups directly affected by the burden posed by General III, including Southeast Environmental Task Force and Southeast Side Coalition to Ban Petcoke, as well as the comments of NRDC.

I. Authority of CDPH

The Rules for Large Recycling Facility (“Rules” or “Recycling Rules”)¹ were established to provide explanations, guidelines, and requirements regarding the operation, location, design, and permitting of a Large Recycling Facility in such so that the Commission is able to ensure that the facility does not create a public nuisance nor threaten the public health, safety, and the environment. The Rules found that such facilities should be located in areas where the surrounding uses are consistent with the industrial nature of Recycling Facilities and should be operated so that the environmental impacts can be minimized.² Furthermore, the Rules find that recycling facilities can be significant sources of dust, contaminated storm and process water discharges, metal-containing particulate or vapor, and possible radiation with the potential to harm human health and the environment, and cause a public nuisance or adversely impact the surrounding area or surrounding users. The Rules also note that recycling facilities can present a high risk of fire and explosion and significant source of noise. Accordingly, CDPH has a duty to protect communities from the nuisance, environmental, and public health harms that may arise from the placement and operation of a facility.

The requirements set in the Rules are merely minimum standards for a Permit Application.³ CDPH can request additional information due to the complexity of the facility in order to ensure that the facility will not create a public nuisance or to ensure that the public health, safety, and the environment are protected.⁴ The Rules include prohibitions on the emission of fugitive dust into the atmosphere,⁵ visible dust traveling outside the boundaries of a recycling facility,⁶ and the idling and back up of vehicles onto public roads or rights-of-way at any time. The Rules also set opacity limits on dust⁷ and require air quality monitoring,⁸ a contingency plan describing mitigative actions that will be taken when the monitors detect PM10 or other parameters that exceed the Recordable Action Level,⁹ a plan fire prevention,¹⁰ and contingency plan to prevent or minimize any dust emissions, and pavement maintenance and cleaning to ensure there is no auto shredder residue (“ASR”) within at least a quarter-mile from the facility.¹¹ When reviewing the requirements and the standards for a permit application, CPDH can notify an applicant of deficiencies. The Rules, however, do not indicate that once completed an applicant should be awarded a permit.

¹ Rules for Large Facility Recycling, City of Chicago (June 5, 2020).

² *Id.*

³ *Id.* § 1.

⁴ *Id.* § 4.7.7.12

⁵ *Id.* § 4.7.2.

⁶ *Id.* § 4.7.3.

⁷ *Id.* § 4.7.4.

⁸ *Id.* § 4.7.7.

⁹ *Id.* § 4.7.7.

¹⁰ *Id.* § 4.7.7 and 4.13.

¹¹ *Id.* § 4.14.

Furthermore, CDPH should not propose a draft permit when the application has unremedied deficiencies. In fact, the 2014 Recycling Rules¹² allow the denial of a permit application where the applicant has within the past has been found in violation of any federal, state, or local air quality law or regulation.¹³ In its determination of whether to accept General III's application and propose a draft permit, CDPH should, as directed by the Rules, consider the numerous and well documented past violations of General III and RMG at its recently closed northside location.

In addition to its authority under the Recycling Rules, the City also has home rule authority giving it the ability to deny applications that fail to meet the requirements of the Recycling Rules or violate other rules or provisions, such as nuisance law.¹⁴ As such, the City should not take a complete application to mean that the City must propose a draft permit. This authority also gives CDPH the ability to impose emissions standards that are greater than that of Illinois Environmental Protection Agency ("IEPA"). IEPA's standards would be the floor rather than the ceiling for the measures Chicago can take to protect public health. If CDPH chooses to propose a permit it is not bound to the limitations set by Illinois Environmental Protection Agency ("IEPA"). Through the Recycling Rules, CDPH can set more stringent limitations and require additional monitoring and recordkeeping under its authority to protect public health and the environment.

II. General Iron's History of Pollution

The Applicant's Facility is located at 11600 Burley Ave, in the East Side community. It however did not start at that location. General III's assets come from General Iron on the north side of the City.

General Iron (as GII, LLC, hereinafter "GII") did business on the north side of the City at 1909 N Clifton Avenue for decades. The area around GII is only 16% minority and 14% low income within a half-mile of the facility. This site is the locus of numerous neighborhood complaints, explosions on May 18, 2020, and September 18, 2020, a fire on November, 10, 2020, and a US EPA Administrative Consent Order, calling for pollution control equipment to reduce air emissions from the facility.¹⁵ RMG attained GII assets in 2019, which overlaps with several

¹² These rules supplement the requirements contained in the Recycling Facility Rules dated March 19, 2014, as amended.

¹³ 2014 rules, S 4 Note that the 2020 Rules include this in the definition of a consequential recycling facility: "a Large Recycling Facility that either: (1) is located within 660 feet of a sensitive area, (2) has been found in violation of any federal, state, or local air quality law or regulation in the past 3 years, (3) conducts the mechanical shredding of vehicles, operates a metal Shredder with a manufacturer-rated capacity of more than 25 tons per hour, or utilizes Mechanical Sorting Equipment in the Processing of ASRs; or (4) Is a Class V Facility."

¹⁴ Under the Illinois Constitution a home rule unit may "exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of public health, safety, morals and welfare; to license; to tax; and to incur debt." Ill. Const. 1970, art. VII, § 6(a).

¹⁵ See e.g. Chicago Department of Public Health, Air Pollution, Odor or Dust Complaint for 1909 N Clifton Ave, 60614, Submitted on: November 21, 2019, Service Request Number SR19-02994914; Chicago Dept of Public Health, "Statement from CDPH on Citations to General Iron on Explosions at the Facility," Public Health (May 21, 2020), https://www.chicago.gov/city/en/depts/cdpH/provdrs/healthy_communities/news/2020/may/statement-from-cdpH-on-citations-to-general-iron-on-explosions-a.html; US Env't. Protection Agency, *Administrative Consent*

of these violations. North Branch residents continually and still see auto-fluff on their streets, in, on and around their property, despite the City settling with General Iron in November 2020 for its violations.¹⁶

In order to make way for the Lincoln Yards development in the North Branch, GII, through RMG, found a new place to dump its wares in the Receiving Zone on the southeast side of the City—ultimately forming General III, doing business as Southside Recycling. General Iron is therefore closing its doors in a developing well-off majority white neighborhood and moving its assets to the Southeast side. The Southeast side community is an environmental justice community by Illinois EPA standards¹⁷ and has been identified by CDPH as a community that “should be prioritized for efforts to mitigate and reduce air pollution to better protect public health.”¹⁸ The Southeast side community is in the 83rd percentile in the state of Illinois for its racially and ethnically marginalized populations, in the 83rd percentile in the state for linguistically isolated populations, and in the 85th percentile for low-income populations. Within a mile of General III are Washington High School and several parks. The community faces increased truck traffic and several other sources of air pollution including the existing RMG facilities and at least 10 other permitted facilities in the area that will continue to negatively impact the health of area residents and pollute the community.

There can be no doubt that permitting General III will increase the pollution burden the Southeast Side bears, running counter to the City’s initiative to mitigate and reduce air pollution to better protect public health. In addition to the depreciation of air quality from emissions, General III estimates it will generate 8,000 gallons of used oil per year, 300 gallons of parts washer solvent per year, 150,000 tons per year of “shredder fluff”, and 15 tons of PCB ballast and capacitors (a TSCA waste) per year.¹⁹

General III is expanding on a site where there are other RMG-controlled facilities: Reserve Marine Terminals, Napuck Salvage of Waupaca, South Shore Recycling, and RSR Partners.²⁰ Similar to General Iron at Clifton Ave, RMG’s existing facilities have also operated without adequate permits, and violated air requirements in 2019. Because this is an expansion,²¹ it begs the question of whether the facilities will be operating in conjunction with one another. The Application fails to note the environmental impact these facilities will have in conjunction with the General III facility. If they are sharing resources, then the combined pollution burden should be in each of the plans, studies, and reports required in the application.

Order EPA-5-19-113(a)-IL-081 (Aug 22, 2019), https://www.epa.gov/sites/production/files/2019-08/documents/general_iron_industries_inc_aco.pdf.

¹⁶ Michael Hawthorne, *General Iron scrap shredder pays \$18,000 fine for explosion, noxious air pollution on the North Side*, Chicago Tribune (Nov. 2, 2020).

¹⁷ A minority population greater than 74.8% and a low-income population greater than 64.8%. Illinois EPA EJ Start. <https://www.arcgis.com/apps/webappviewer/index.html?id=f154845da68a4a3f837cd3b880b0233c>

¹⁸ City of Chicago, Air Quality and Health Report (2020), https://www.chicago.gov/city/en/depts/cdph/provdrs/healthy_communities/svcs/air-quality-and-health.html.

¹⁹ Application § 2.19 at 5.

²⁰ Application at 1.

²¹ Application at C-9 and C-10.

Due to North Branch neighborhood concerns about GII and General III the emissions and residual waste (“shredder fluff”) drifting from the Clifton Ave site, ELPC worked with North Branch residents from October 2019 through June 2020 to monitor the surrounding neighborhood for particulate matter.²² ELPC’s air quality monitoring program partners with neighborhood residents, community organizations, and students to conduct air quality monitoring, collecting, and mapping small particulate levels, using AirBeam monitors. The AirBeam monitors have been tested against the Federal Reference Monitors and provide particulate matter (“PM”) measurements (PM 1, PM 2.5, and PM 10) in real time on a second by second basis. ELPC began this project in part due to the distance of the federal monitors from communities suffering from disproportionately worse air quality. Data showed concentrations of poor air quality close to the General Iron facility. ELPC also worked with neighbors to test the auto-fluff that drifted from the Clifton Ave site.²³ The samples were gathered in August 2020 by a resident from their deck and alleyway, rather than on the street to ensure that they were not contaminated by metals that would likely come from car brakes and tires. Results showed that there were concentrations of heavy metals, including arsenic, chromium, strontium, and zinc.

III. CDPH Must Deny General III’s Application

A. CDPH Should Deny General III’s Application Because It Is Deficiently Incomplete

An application for a permit to operate a Large Recycling Facility must provide sufficient information to demonstrate that the Facility will be designed and operated in a manner that prevents public nuisance and protects public health, safety, and the environment.²⁴ On December 23, 2020, CDPH sent a letter to General III noting that the application was incomplete with numerous substantial deficiencies. ELPC is appreciative of CDPH recognizing many deficiencies in the Application. However, the Application is not limited to those deficiencies.

1. Air Quality

The Deficiency Letter states that General III failed to include information about the “Air Study,” pursuant to paragraph 3.9.21.1 of the Rules. Under the Rules, a Design Report for a consequential facility should contain an Air Quality Impact Assessment that includes but is not necessarily limited to: an emissions and air dispersion modeling study of the Facility and its operations that evaluates PM10 emissions.²⁵ If the facility receives scrap metal, the modeling study should also include the following HAPs: antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, nickel, and selenium compounds.²⁶ General III is a consequential facility

²² See maps with monitoring data at airqualitychicago.org. The AirBeam monitors have been tested against the Federal Reference Monitors and provide particulate matter (“PM”) measurements (PM 1, PM 2.5, and PM 10) in real time on a second by second basis. ELPC began this project in part due to the distance of the federal monitors from communities that suffer from disproportionately worse air quality.

²³ Residents and ELPC were concerned about the composition of the fluff due to claims at a public meeting on the General Iron explosion that the fluff was not hazardous or toxic by the City.

²⁴ Recycling Rules § 1.

²⁵ Recycling Rules § 3.9.21.1.

²⁶ *Id.*

and would receive scrap metal.²⁷As noted above, ELPC has reason to believe that the shredder fluff contains at least arsenic and chromium. The Application should include modeling of HAPs. General III states in its Application that this information was provided to CDPH at a different time, but the public has not had the opportunity to review that portion of the application.

The Rules note that diesel emissions from on-road mobile sources are not required to be included in the modeling study. However, CDPH has the ability to ask for more information than provided for in the Rules. CDPH should require modeling of constituents that derive from the additional truck traffic from General III's operations. Truck traffic is a part of the raw material receiving and handling operations as noted in the Air Study. Although General III may have submitted to IEPA or to CDPH similar information on a different occasion as indicated in its application, materials about vehicle traffic were not available for public review in this Application.

Due to the presence of diesel emissions, General Iron should also have to model for PM2.5, NOx, VOCs, and other pollutants that derive from diesel pollution, as well as any other potential emissions at the site. For instance, as particulate matter exposure is linked to asthma, COPD, and other lung and heart diseases, it would serve the interests of public health and be aligned with CDPH initiatives to review the variety of pollutants that would impact the nearby community and school.

Modeling should not be limited to the sources listed in the Application. It should also include the impact from the shredder fluff or ASR left in open piles. It is unclear the impact that the piles have on emissions, and in the interest of protecting public health and the environment, CDPH should have the data to understand the ASR/shredder fluff's impact on air quality. Moreover, the study should not be limited to the area that is General III, but should also account for the emissions from other operations at RMG. As an extension of RMG, General III is contributing to the existing pollutants emitted from the various facilities. These emissions do not exist in silos and should not be modeled as such. Indeed, they are in close proximity, the emissions are additive and residents, students and others nearby will experience all of them, not just the latest pollution additions to the neighborhood.

General III failed to provide information for its operating plan. Under the consequential facility air quality monitoring requirements, General III fails to provide an adequate dust contingency plan that describes the mitigative actions that will be taken when the monitors detect PM10 or other parameters that exceed the RAL under these rules or in the permit.²⁸ General III should include information about how it will notify and engage with the surrounding community. The Application is also missing information about opacity of dust. Similarly, General III fails to include how it will ascertain whether the ASR and shredder fluff travels outside of the facility in accordance with maintaining and cleaning the pavement within a quarter-mile of the facility.

2. NPDES Permit and Water Usage

In the Deficiency Letter, CDPH stated that GIII failed to include the relevant NPDES permit. The Application mentions that water will be used for shredder processing, fire suppression,

²⁷ Application § 3.3 at 7.

²⁸ Recycling Rules § 4.7.7.12

dust control and employee facilities. General Iron intends to connect to the MWRD and therefore fails to provide information about potential discharges. Because the Calumet River is the western boarder of the General III area, the Application should include the potential constituents that could be discharged from its operations. General III should not simply assume that the City's infrastructure should bear its pollutant load. The Application should also account for how General III pollutants would combine with the existing burden from the existing facilities. This should be inclusive of its operations, which inherently includes pollutants that derive from vehicle traffic. The effects of truck parking and loading should also therefore be included an assessment of water contamination.

3. Traffic

The Design Report should demonstrate that the Facility is designed and located to minimize the impact on the existing traffic flow in the surrounding area.²⁹ The Deficiency Letter also takes issue with the traffic information provided. The Letter (1) asked the applicant to provide a traffic study in the actual application; (2) noted that the IEPA Air Permit limited facility vehicle traffic to 14 hours per day on weekdays and 12 hours per day on weekends, which conflicts with the 24/7 operation proposed in the Application; and (3) asked General III to provide a stacking plan of all trucks and vehicles during the Facility's peak AM and PM traffic hours. General III fails to include additional information about the vehicle traffic. The Application states that the vast majority of material received at the proposed facility will be delivered by semi-trailers and the remaining portion will enter the facility in pickup truck sized vehicles driven by peddlers.³⁰ Industrial sites attract additional vehicle usage, which contributes to increased black carbon, particulate matter, and nitrous oxide (NOx) pollution.³¹ To provide CDPH with an adequate picture of the impact to mobile emissions, General III should account for its anticipated truck traffic based on recent adequate data. This should include the class of vehicle, the anticipated volume, and its plans to minimize truck traffic to meet the requirements of the Rules. This accounting should reflect traffic at peak hours. It should also account for existing vehicles held at and traffic generated by the other RMG facilities at the site. Furthermore, it should include the truck traffic routes and plans for the vehicles that will carry out the ASR. General III cannot just simply promise "there will be minimal impact to existing traffic flows"³² and list its own vehicles to satisfy the Rules' requirements.

CDPH must therefore deny General III's Application because without the above information, General III's application incomplete and substantially deficient.

B. CDPH Must Protect Public Health and the Environment from General III

CDPH has a duty to protect the public. If CDPH chooses to propose a draft permit for the facility, it has the authority to incorporate requirements to protect public health and the environment. While these provisions provide accountability of General III, they would not prevent the public harm brought by allowing General III to operate in this community. General III should

²⁹ Recycling Rules § 3.9.13.

³⁰ Application at V-11.

³¹ See Environmental Defense Fund, Houston Air Quality Mapping, *available at* <https://www.edf.org/airqualitymaps/houston/findings> (Air quality around metal facilities resembled air quality around highways due to increased diesel truck emissions and wheel dust).

³² Application § 2.18 at 5.

instead be sited elsewhere away from schools, parks, and residential areas. Nevertheless, if CDPH chooses to propose a permit it should include provisions that limit vehicular traffic, accordingly limiting diesel pollution, and provide information to the public.

1. Cumulative Impact on the Community

In its determination of whether to propose a permit to General III, CDPH should consider the cumulative burden that the surrounding community bears. The Southeast Side is currently a sacrifice zone—but it should not bear this burden. It now bears the disproportionate health and economic sacrifices that more privileged neighborhoods can avoid. It is zoned to be the receiving dump of the region’s unwanted facilities and trash.

While we understand that the City plans to address cumulative burdens on communities in the near future, it still already has an initiative to protect communities that are disproportionately impacted today.³³ The City has acknowledged that it is committed to systematic regulatory reform aimed at mitigating air pollution and protecting our communities. CDPH should not ignore the problem now, as this only compounds the harm it intends to later fix.

The City of Chicago, and thereby CDPH, has the authority to incorporate consideration of the cumulative burden on the community. The City should recognize that General III’s added operations to RMG and the other industries in the community will increase the pollution burden on the surrounding community. The community is already exposed to a litany of contaminants like petroleum coke, manganese,³⁴ the expansion of a contaminated disposal facility,³⁵ and the historical pollution from the Schroud Superfund and other sites. The additional diesel pollution and waste brought through General III should be viewed in conjunction with at least the other RMG facilities on site, if not with the other emitters in the community. CDPH should also consider that by adding to the burden of the Southeast Side, it is widening the disparity between this community and other neighborhoods like North Branch.

Thus, in preparing a draft permit CDPH should limit the pollution from the facility based on the cumulative burden that the Southeast community faces and will continue to face with the RMG expansion.

2. Traffic

CDPH has the authority to impose additional restrictions under the Rules to protect public health and prevent a nuisance. The additional vehicular traffic equates to a nuisance because it will exacerbate the truck traffic and increase the diesel pollution already burdening the community. CDPH must impose limitations on the amount of traffic that General III receives. This can be done by limiting the hours of delivery, for instance. The Applicant should be required keep a log of its vehicle activity which should be publicly available. The log should note incoming and outgoing

³³ City of Chicago, Air Quality and Health Report (2020).

³⁴ Michael Hawthorne, “Petcoke piles gone, but another dangerous pollutant discovered in the air,” Chicago Tribune, (Feb. 21, 2017) <https://www.chicagotribune.com/news/breaking/ct-manganese-pollution-chicago-met-20170218-story.html>.

³⁵ Annemarie Mannion, Community Groups Vow to Fight Plan for ‘Mountain of Dredge’ on Chicago’s Southeast Side, WTTW (Oct 27, 2020).

traffic and the class of vehicle. Maintenance of this log is important to reduce the pollution burden from diesel truck traffic. CDPH should also require General III to keep a log of its vehicular, and in particular diesel traffic activity, which should also be publicly available.

3. Air Quality Monitoring

The Rules primarily require monitoring of PM 10. PM 10, however, is likely not the only threat to the Southeast Side community from the General III and RMG operations. Monitoring should include other constituents, including but not limited to heavy metals, VOCs, NOx, and PM 2.5.

Under the Rules, the Design Report should also contain a monitoring plan that describes the placement and operation of PM10 monitors, a weather station and a schedule/plan for quarterly testing. Here, CDPH should not limit monitoring to PM10 because other constituents could potentially travel to the nearby public high school and parks. The Rules give CDPH the authority to require the installation of additional air monitors if existing air monitors in the facility cause a dust nuisance. CDPH could also require additional monitors if it determines that the current number or placement of air monitors at the facility is ineffective or inadequate. If the Commissioner cannot adequately assess the health impacts of a facility's emissions, CDPH can also require other methods when a facility's PM10 monitoring does not provide sufficient information about fugitive dust.³⁶ Given the history of General Iron and RMG and the presence of heavy metals in the shredder fluff outside the Clifton Ave. location, the City should not give General III the opportunity to again be a nuisance. CDPH should determine that the number of air monitors proposed is inadequate and require monitoring of other constituents.

The monitoring data should also be readily accessible to the public. The Design Plan must also include a Dust Monitoring Contingency Plan. This Plan should include immediate and adequate notice to the community when there is an event.

4. Shredder Fluff and Auto Shredder Residue

The Application notes that the shredder fluff or auto shredder residue ("ASR") will be stored in open piles, open storage bins, and would be loaded into trucks and sent to a landfill for use as alternate daily cover. Given the dismal history of handling shredder fluff at the Clifton Ave. location, General III's plan must raise flags for CDPH reviewers. Adequate controls to actually completely cover the shredder fluff and other ASR piles during storage and transport are needed. This community has already seen through petcoke pollution the damages from uncovered waste.³⁷ As noted above, the shredder fluff likely contains heavy metals. Due to the presence of the heavy metals in the auto-fluff at a nearby residence, ELPC urges CDPH to have a third-party lab take several additional samples of the autofluff to determine the constituents and concentrations of the pollutants in the auto-fluff. Any permit should also require ongoing monitoring and regular

³⁶ Recycling Rule § 4.7.7.2-3.

³⁷ See e.g. Nicole Greenfield, "A Dirty Battle in Chicago's Backyard," NRDC (Aug 13, 2015) <https://www.nrdc.org/stories/dirty-battle-chicagos-backyards>.

testing of the constituents of the ASR and shredder fluff. This information should also be readily available on a publicly accessible database.

The Application also notes the Calumet River is the western property boundary. The shredder is staged to be near the Calumet River. Given the history of the shredder fluff and ASR traveling off-property, and the open storage and transport of the shredder fluff and ASR, CDPH should consider whether the fluff has ability to land in the Calumet River.

5. *Publicly Available Data*

Online public reporting provides the public an effective tool to conduct their own monitoring and raise compliance issues when they arise. Online public reporting promotes accountability and transparency. There is precedent for online public reporting in the 2015 federal Coal Ash Rule³⁸ and in Illinois EPA's proposed set of coal ash rules,³⁹ which require regulated facilities to post all of their compliance reports on a website hosted by the regulated facility. Public reporting is also required in the Consent Decree covering the Chicago Police Department, which requires the Department to maintain a website and publicly post a variety of compliance reports.⁴⁰

The reporting required under the Rules should be in a place where the community has ready access to them, for instance on a publicly available website. The website should take into account the language diversity among the affected community residents. The data hosted on the site should include the data from the monthly and quarterly reports. The community should also have adequate access to existing monitoring data. Access to the fence-line monitoring data could help the community make decisions about their health, while also holding the Applicant accountable.

IV. CDPH Should Provide the Public an Opportunity to be Heard at a Hearing

Illinois law recognizes that hearings afford a community the opportunity to comment by facilitating the submission of views and comments that might not otherwise be submitted.⁴¹ Because the Rules found that a Large Recycling Facility can have significant environmental pollution, which ultimately affects the surrounding community, there are likely several individuals that will have input on the adequacy of a potential draft permit. Given the substantial deficiencies of the existing application, the public should have an opportunity to comment on a complete application. While the public does have the ability to comment in writing, written comments should not be the only voice given to the public on an issue of great import. Accordingly, if CDPH chooses to propose a draft permit for the facility, it should give the public an opportunity to comment at a hearing.

V. Conclusion

³⁸ *Disposal of Coal Combustion Residuals from Electric Utilities*, U.S. ENV'T. PROT. AGENCY ("Additionally, the rule sets out recordkeeping and reporting requirements as well as the requirement for each facility to establish and post specific information to a publicly-accessible website."), <https://www.epa.gov/coalash/coal-ash-rule#summary>, archived at <https://perma.cc/4JD9-UN8Q>.

³⁹ See Proposed 35 I.A.C. § 845

⁴⁰ See Consent Decree at ¶¶ 634, 664 (Jan. 31, 2019), *Illinois v. City of Chicago*, Case No. 17-6260 (N.D. Ill.).

⁴¹ See e.g. Illinois APA § 5-40(b)(5).

For these reasons CDPH should deny General III's Large Recycling Facility application. CDPH has the authority and a duty to deny General III's application permit. General III must cure all deficiencies before CDPH proposes a permit that is protective of public health and the environment.

Thank you for the opportunity to submit and your consideration of these comments.

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