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Rev. Thomas J. Paprocki, President
Edward Grossman, Executive Director
Marta C. Bukata, Deputy Director
Keith I. Harley – kharley@kentlaw.edu
Greta Doumanian
Bess Schenkier

Downtown Office
211 W. Wacker, Suite 750
Chicago, IL 60606

Phone (312) 726-2938
Fax (312) 726-5206
TDD (773) 731-3477

June 14, 2011

Ed Bakowski
Steve Nightingale
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Sent via e-mail to: Ed.Bakowski@illinois.gov; Steve.Nightingale@illinois.gov

Re: Indiana Recycling and Renewable Fuels, 1301 S. State, Chicago Heights, IL

Dear Mr. Bakowski and Mr. Nightingale:

Please be advised that I represent the South Suburban Citizens Opposed To Polluting Our Environment (“SS-COPE”). SS-COPE is a not-for-profit organization dedicated to ensuring regulated entities and regulators act in compliance with the environmental laws designed to protect the health, safety and welfare of members of the public. SS-COPE's members are residents of south suburban Cook County, including Chicago Heights, IL. SS-COPE seeks a full and complete opportunity for public participation in ongoing Illinois Environmental Protection Agency (“IL EPA”) permitting processes. Accordingly, SS-COPE is now making a formal request for a public meeting and subsequent written comment period on any IL EPA permitting activity related to Indiana Recycling and Renewable Fuels, 1301 S. State, Chicago Heights, IL. In addition, in light of the characteristics of the immediately surrounding area, SS-COPE is formally requesting IL EPA to conduct an environmental justice analysis of any proposed permit.

The Indiana Recycling and Renewable Fuels facility is designed to receive 2,700 tons per day of municipal solid waste every day (775,000 tons per year). This waste will be directed to Chicago Heights from up to 41 municipalities. The waste will be delivered in 150 truck loads each day (54,750 waste delivery trucks each year). The waste – consisting of residential, commercial, institutional and light manufacturing waste – will be processed to remove recyclables and to generate refuse-derived fuel. There will also be a “residue” that will be stored on-site until it is transported to be landfilled. The application estimates 50 trucks will transport recyclables, residue and RDF from the facility each day. In total, up to 200 trucks will exit the facility each day (150 after delivering waste, and 50 carrying recyclables, residue and RDF). This is 73,000 trucks exiting the facility each year.

A public hearing is particularly important in this case because this waste-to-fuel processing facility would operate in the midst of a heavily populated area in Cook County. According to the U.S. EPA's Environmental & Compliance History Online (ECHO), 5,936 people live within one mile of the proposed facility, 25,561 people live within 2 miles, and 60,405 live within 3 miles. It will be constructed in an air quality region that does not attain ambient air quality standards for ozone and fine particulates. It will be located in an area that is already impacted by multiple industrial and commercial sources of air pollution and waste processing operations. The operation of the facility would entail the daily importing and processing hundreds of tons of municipal solid waste in the midst of this densely populated area.

In addition, more than 78% of the residents living within a one mile radius of the proposed facility are minorities, triggering IL EPA's environmental justice public participation and permit review guidelines. This not only includes a full and complete opportunity for public participation including a public hearing, but also IL EPA's obligations to ensure that local residents do not experience a significant, adverse and disproportionate impact as a result of a decision to issue a permit to this facility.

IL EPA, as a federally funded entity, has a legal obligation to consider environmental justice issues in compliance with Title VI.¹ As articulated in Title VI, recipients of federal funds have an affirmative obligation to ensure non-discrimination. As such, because IL EPA is a state agency that receives funding from a federal entity, the U.S. Environmental Protection Agency (U.S. EPA), it has a legal duty to ensure non-discrimination in this case. IL EPA will violate its legal responsibilities under Title VI if it allows the permitting of the facility in question without an environmental justice analysis, and without providing a full and complete opportunity for public participation.

The community within one mile of the proposed facility, is disproportionately minority and poor by comparison to Cook County and Illinois. According to the 2000 census, more than 78% of the population within one mile of the proposed facility is African-American or Hispanic, and 25% of the total population in this area is living below poverty level. These numbers are extremely high compared to statewide figures of 32.2% minority and 10.4% of people living below poverty level.² These numbers are also extremely high compared to countywide figures of 52.4% minority and 13.3% of people living below poverty level. As the area surrounding the proposed facility is disproportionately minority and poor, it is exactly the type of area that is meant for protection under Title VI and/or Illinois environmental justice policies.

SS-COPE requests an analysis of whether the proposed facility and permit might result in a significant, adverse, disproportionate impact on the residents who live nearest to the facility. These impacts may occur even though the facility's contribution to regional air quality conditions may be negligible.

¹ "No person in the United States shall, on the ground of race, color, or national origin, . . . be subjected to discrimination under any program or activity receiving Federal financial assistance." Title VI of the Civil rights Act of 1964, 42 U.S.C. 2000d.

² Illinois statistics are 1999 statistics, according to the 2000 census.

There are several issues that SS-COPE believes justify a public meeting, written comment period and a determination by IL EPA if this facility could create a significant, adverse and disproportionate impact on nearby communities in Chicago Heights. These issues include the local air quality impacts arising from more than 120,000 trucks entering or leaving the facility every year that the facility operates. The applicant will store recyclables that have been mixed with organic waste and residue from its waste processing operation in outdoor trailers, raising concerns about local odor and vector impacts. The RDF will be generated not only from household wastes, but also from commercial, institutional and light manufacturing waste, suggesting the most stringent protocols must be used to exclude hazardous waste. Especially because the RDF is not derived solely from household waste, this product – and the process generating it - could involve hazardous constituents that would change the regulatory regime that applies to this facility. It is not clear what experience, if any, the applicant has in operating this type of facility. SS-COPE is concerned about the overall viability of this venture, including what independent financial assurances are in place to address the aggregated waste if the facility fails, cannot secure the waste stream it anticipates or experiences malfunctions and outage periods. Local impacts may include deposition patterns of air pollutants, the cumulative impacts of this and existing facilities, and odor and noise. These issues are particularly important because the facility would operate in proximity to schools, parks and residential neighborhoods.

Please direct any questions or your response to this letter to me at the Chicago Legal Clinic at the letterhead address. Thank you for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink that reads "Keith Harley". The signature is written in a cursive, flowing style.

Keith Harley
Attorney at Law