

From: Dominique Burkhardt <dburkhardt@earthjustice.org>

Sent: Friday, March 10, 2023 1:06 PM

To: Vong, Suong <Vong.Suong@epa.gov>; Bradley Marshall <bmarshall@earthjustice.org>; Louis, Nestor <Louis.Nestor@epa.gov>

Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>; Johnson, Johahna (she/her/hers) <Johnson.Johahna@epa.gov>; Hudson, Monique <Hudson.Monique@epa.gov>;

Sweeney, Al (they/them/theirs) <Sweeney.Alfred@epa.gov>; Nestor Perez <nperez@earthjustice.org>

Subject: RE: Request for Meeting with Florida DEP Complainants - EPA Complaint No. 05RNO-22-R4

Good Afternoon Ms. Vong,

We look forward to meeting with you and your team on Monday afternoon. In advance of the meeting, we have contacted Florida's DEP for an update on the Title V permit renewal process for the Doral incinerator, and I followed up with them this morning. We hope to have an update from them that we can provide to you on Monday; otherwise, we will provide to you the latest information we have.

Separately, we wanted to bring to your attention information that we believe reinforces EPA's jurisdiction to accept our complaint:

In the 180 days prior to our Title VI/civil rights complaint, dated March 31, 2022, DEP issued final Title V air permit renewals for two incinerators in Tampa, Florida:

1. The Hillsborough County Resources Recovery Facility -- final permit dated **December 13, 2021**; and
2. The McKay Bay Refuse-to-Energy facility -- final permit dated **November 24, 2021**.

For your reference, these permit documents are saved and organized [here](#).

These incinerators are discussed in our complaint. As shown in the chart on page 11 of our initial complaint and discussed in Section C, these facilities are in communities with disproportionately high percentages of people of color and limited English proficient people, yet according to the permit files, DEP failed to translate vital permit documents and public notices, and it failed to consider protected classes of people, environmental justice, and cumulative impacts in its permitting. As shown on page 13 of our complaint, these two facilities are also in communities with disproportionately high percentages of young children, under age 5, further warranting the need for DEP to consider harms to protected classes of people – especially those that are vulnerable to air pollution – in its permitting practices.

As you are aware, our complaint is not limited to the Doral incinerator, since our client, Florida Rising, is a statewide organization that works on behalf of communities of color that are burdened by environmental harms. Rather, our complaint links discriminatory acts from the Doral incinerator's permit renewal process to DEP's ongoing discriminatory policies and practices, especially by its Air Division. Though argued in our complaint, for reference here, these ongoing discriminatory policies and practices are:

1. **Failure to maintain an LEP policy to meaningfully provide access to limited English proficient persons;**
 - a. *This LEP policy would be in accordance with EPA's LEP guidance and includes translating vital permit documents and public notices, making these documents available in*

accessible public newspapers, and providing competent language interpreters for public meetings/hearings;

2. Failure to maintain a public involvement plan (PIP) to meaningfully provide for public participation;

a. This PIP plan would be in accordance with EPA's public participation guidance and includes having accessible online public meetings as well as in-person meeting components accessible for the public and accommodating of age, disability, and technological access; and

3. Failure to maintain a policy for affirmatively assessing environmental justice, disparate impacts, and cumulative impacts in its permitting decisions;

a. These considerations would be in accordance with recently promulgated EPA guidance, including 1) "EPA Legal Tools to Advance Environmental Justice," 2) "EPA Legal Tools to Advance Environmental Justice: Cumulative Impacts Addendum," 3) "EPA Interim Environmental Justice and Civil rights in Permitting Frequently Asked Questions," and 4) EPA Memorandum and Attachment, "Principles for Addressing Environmental Justice in Air Permitting."

Action by EPA on our complaint, with our client's involvement and participation, would remedy the disproportionate harms flowing from these discriminatory policies and practices that impact Doral community members, Tampa community members, and protected classes of people near Florida's other incinerators.

At Monday's meeting, we would be interested in hearing your reactions to this new information, including whether it is sufficient to provide this for your consideration via email, or whether it would be necessary to provide a supplemental filing to our complaint.

Thank you so much,

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