



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

Jenny Acker, Chief
Permits Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
ICGN 1003
Indianapolis, Indiana 46204

via email to jlacker@idem.in.gov

Dear Ms. Acker:

This letter is in regard to Indiana Department of Environmental Management's (IDEM's) Federally Enforceable State Operating Permit (FESOP) renewal for Maya Energy, LLC – permit number 089-44483-00594. The permit would allow Maya Energy, LLC to operate its material recovery and recycling facility at 2727 W. 35th Ave., Gary, Indiana 46408 in Lake County. The U.S. Environmental Protection Agency reviewed the draft permit and associated permit files.

EPA is committed to advancing environmental justice and incorporating equity considerations into all aspects of our work. This commitment includes improving our assessment and consideration of the impacts of permits on communities already overburdened by pollution. EPA welcomes IDEM's partnership in this important effort.

EPA has determined that the proposed location of the facility raises potential environmental justice concerns. Data from EPA's environmental justice screening tool, EJScreen, illustrate the severity of pollution and health impacts facing the community living in proximity to the Maya Energy, LLC site.¹ The neighborhoods around the proposed facility have some of the highest levels in the state for many environmental justice indexes reported by EJScreen. EJScreen is a useful first step in understanding communities that may have environmental justice concerns.

The values for 10 of the 12 environmental justice indexes for the tracts of the Black Oak and Glen Park neighborhoods around which the facility is sited exceed the 80th percentile in the state.² This includes indexes for particulate matter of less than 2.5 microns in diameter, ozone, diesel particulate matter, air toxics cancer risk, air toxics respiratory hazard, traffic proximity,

¹ EJScreen is a mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining and comparing environmental and demographic indicators.

² Data from an EJScreen standard report (Version 2.0) for tract IDs: 18089041200 and 18089012400.

lead paint, and Superfund site proximity. The population living in the area around the proposed facility is significantly comprised of people of color, those with low income, those with less than a high school education, and a high unemployment rate.² Furthermore, the facility is sited across the street from the Steel City Academy K-12 school.

EPA acknowledges the work IDEM has already undertaken on this permitting action, including providing enhanced opportunities for public participation by holding a virtual public hearing on March 1, 2022 in consideration of the significant public interest, and by extending the public comment period to March 11, 2022. We also acknowledge IDEM's standard practice of making application materials and other permit records readily available online, which can improve accessibility and transparency to the public.

Our permit comments are included in the attachment to this letter. In consideration of environmental justice and equity concerns, we also provide the following recommendations:

- On April 27, 2017, IDEM issued the new source construction and initial FESOP authorization for the source. Based on information in the renewal application, our understanding is that the facility has still not commenced construction nearly five years after initial permit issuance. We recommend that IDEM review the construction permit record, including emissions related information, air pollution control equipment, and limitations on source operation to confirm that the construction permit requirements are still protective.
- We recommend that IDEM conduct an environmental justice analysis of appropriate scope to inform the permitting decision. The analysis should include an EJScreen analysis, input from the affected community to identify their concerns, an evaluation of existing environmental data, an assessment of cumulative impacts, and an evaluation of existing demographic and public health data about the community. The analysis should evaluate the potential effects that the permitting action will have on the community, and the degree to which these effects will be disproportionately high and adverse. The analysis should further discuss mitigations the permit requires to address any identified effects.
- We recommend that IDEM consider opportunities to address disproportionately high and adverse effects that extend beyond the scope of the air permitting decision that utilize a whole-of-government approach by working with the company and local officials to reduce impacts on the surrounding neighborhood. In addition to an evaluation of other permitting and zoning requirements at the local level, EPA would recommend an assessment of the impacts from truck traffic to and from the facility on the surrounding community and potential quality of life issues such as noise and odor concerns. Given the proximity of the nearby Steel City Academy K-12 school, EPA believes that such an assessment could be important to ensuring that the project does not pose risks to sensitive populations and we are willing to provide assistance where that would be helpful.
- We recommend that, if the proposed project is permitted, data regularly generated by Maya Energy, LLC to comply with the permit be made publicly available on an easily

accessible website. The transparency of such data will promote public engagement and help build trust among all stakeholders.

Finally, because of the environmental conditions already facing this community, and the potential for additional disproportionate and adverse impacts based on race, national origin, or other protected class, the siting of this facility may raise civil rights concerns. It is important, therefore, that IDEM assess its obligations under civil rights laws and policies.

Thank you again for the opportunity to work with you on this draft permit. EPA remains committed to working together with IDEM to address our shared environmental priorities, advance equity, and reduce potential environmental and health impacts on communities such as this one.

Sincerely,

Original signed by John Mooney, 03/11/2022

John Mooney
Director
Air and Radiation Division

Attachment

Permit Comments
Maya Energy, LLC
089-44483-00594

1) Condition C.6 indicates the Permittee shall comply with the fugitive particulate matter emission limits listed in condition C.6(a)-(k) by controlling emissions according to the Fugitive Dust Control Plan (FDCP) included as Attachment A to the permit. We also note the accuracy of potential to emit (PTE) calculations regarding the proportion of uncaptured particulate emissions from the building may rely in part on the effectiveness of practices for monitoring and mitigating emissions from the building enclosure (e.g., the estimated hood capture efficiency on page 3 of Appendix A of the Technical Support Document (TSD)). As such, we request that IDEM review the permit and FDCP to ensure they contain requirements sufficient to achieve compliance.

- a. The FDCP states all doors to the process building will be kept closed except when being used. We request that IDEM revise the requirement to avoid ambiguity in the term “when being used”, consistent with the design basis and assumptions made in the TSD regarding the capture efficiency of particulate emissions and compliance with the limits in condition C.6.

For example, in the case of the tipping floors, does “when being used” mean only when a vehicle is passing through an access door, or periods during which any truck is present on the tipping floor?

- b. Condition C.6(f) requires zero percent frequency of visible emissions observations of a material during the inplant transportation of material by truck or rail at any time. The FDCP does not contain any measures related to the potential for fugitive emissions from open-bodied trucks used for inplant transportation of MSW, C&D waste, and recovered & recycled material. Examples of measures may include adhering to posted facility speed limits, or a requirement for open-bodied trucks to engage tarps during inplant transportation. We request that IDEM review the FDCP and add appropriate control, monitoring and response measures, as needed.
- c. Condition C.6(h)(1) specifies zero visible emission observations from the building enclosing the material processing equipment (except for vents). Other portions of condition C.6(h) specify grain loading and opacity limits for the building vents and activity in the building. The FDCP does not include any measures to periodically monitor for fugitive emissions from the material processing building, or what corrective actions should be taken if fugitive emissions are observed. We request that IDEM review the FDCP and add appropriate monitoring and response measures, as needed.
- d. As best practices to support effective FDCP implementation, we recommend that the FDCP include: 1) a facility layout showing the locations of potential sources of

fugitive dust at the facility; and 2) a provision for training personnel responsible for implementing the FDCP.

- 2) Form GSD-10 of application materials received by IDEM on February 21, 2017 lists various insignificant activities. These include an emergency diesel generator (Form GSD-10 page 9) and a diesel storage tank of unspecified size (page 11). However, these activities do not appear in the TSD or permit, and the TSD applicability review section indicates that the source's diesel dispensing operations do not use any petroleum liquid storage vessels. We also note the application does not appear to include combustion-related activities such as comfort air heaters or industrial/production process heaters.

Additional information regarding such emission units, if present, may be necessary to establish effective synthetic minor PTE limits and to determine the applicability of various requirements, depending on the emission units' fuel types, capacities or other parameters. We request that IDEM confirm whether these types of emission units will be present and make appropriate changes to the permit, if needed.

- 3) 326 IAC 2-8-4(2) specifies that each FESOP permit renewal shall have a permit term not to exceed ten years from the date of issuance. We recommend that IDEM consider exercising its discretion to revise permit condition B.2(a) to a permit term of 5 years in consideration of the source's construction status. Unlike typical sources receiving FESOP renewals, this source has not yet been constructed, operated, or established a record of its ability to comply with permit conditions.