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Gary citizen group fights back against Fulcrum harassment

(August 14, 2023...Gary, IN) ---In an ongoing challenge to Fulcrum Centerpoint's air pollution permit, Gary Advocates for Responsible Development (GARD) is asking the administrative law judge overseeing the case to put an end to Fulcrum's harassing litigation conduct. Fulcrum, a large California corporation wants to build what it calls a "biorefinery" that will "gasify" garbage and turn it into a sustainable source of jet fuel. GARD appealed Fulcrum's air permit out of concern that the planned operation will add even more toxic air emissions to Gary's already unhealthy air.

According to a legal filing submitted in the case last week by GARD's attorneys at the Environmental Law and Policy Center and the Conservation Law Center, Fulcrum is abusing discovery by demanding GARD members turn over private information such as communications with their spouses and employers, access to their social media accounts, and their subjective views on the causes of blight in Gary, among other things that have nothing to do with Fulcrum's air pollution permit.

GARD President Dorreen Carey said, "We believe Fulcrum is doing this because it has no evidence to back up its public claims that its planned garbage gasification operation will be a 'minor source' of air pollution in Gary. If it did, Fulcrum would provide that evidence to us instead of trying to prevent concerned residents from asking questions of our state government that we have every right to ask about the impacts of Fulcrum's plans on our health and environment."

Fulcrum claims it needs this personal information from GARD's members to show that GARD does not have "administrative standing" to challenge Fulcrum's air permit. But since none of the intrusive information Fulcrum demands has anything to do with the legal requirements for standing, GARD's attorneys see it as nothing more than a fishing expedition aimed at intimidating GARD's members, wasting their non-profit attorneys' time and limited resources, and deflecting attention away from the merits of the case.

"As a public interest environmental lawyer who has represented many citizen groups fighting to protect their communities, this is unfortunately not the first time I've seen a powerful, well-resourced company like Fulcrum resort to these sort of scorched-earth litigation tactics to scare people away from exercising their legal rights," said Kim Ferraro, Senior Attorney at the Conservation Law Center at IU Mauer School of Law in Bloomington. "GARD's members have every right to join together and question whether the state agency charged with protecting Indiana's environment, followed the law when it issued an air permit allowing Fulcrum to spew more toxic emissions into the already very

dirty air that Gary residents have to breathe. Fulcrum apparently doesn't want that scrutiny and is paying its team of lawyers to shut the citizens down. We're asking the administrative law judge to intervene and tell Fulcrum to stop harassing our clients so we can get on with the merits of the case—which is whether Fulcrum's air permit complies with the law and is protective of human health and the environment.”

On that front, GARD members are very concerned about the potential air emissions from Fulcrum's planned operation. According to GARD's legal filing, Fulcrum intends to process 1,650 tons of trash every day that could potentially emit more than 1,400 tons of harmful volatile organic compounds (VOCs) each year. In comparison, BP's largest U.S. refinery in nearby Whiting reported only 488 tons of VOC emissions in 2022.

Gary residents already breathe some of the most polluted air in the country. Designated by the Environmental Protection Agency (EPA) as an Environmental Justice (EJ) community, Gary is surrounded by numerous Superfund sites, unregulated dump areas and by steel mills that line the lakefront. Because of the historical level of pollution in the air, soil and water, Gary residents have higher than average cancer and respiratory disease rates. Adding one more polluting industry would impact the cumulative effect already in place and further violate the rights of Gary citizens to breathe clean air.

“We hope the administrative judge will tell Fulcrum to stop being a bully and trying to intimidate a citizen group that is rightly concerned with the health and welfare of the people of Gary,” said Dorreen Carey.

Gary Advocates for Responsible Development (GARD) are an ad hoc group of Gary residents and regional supporters advocating for a healthy and sustainable future in Gary, Indiana. GARD is represented by Kim Ferraro, Senior Attorney, Conservation Law Center and Michael J. Zoeller, Senior Attorney, Environmental Law and Policy Center.
