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EDITOR'S PICK

GARD seeks judicial review after judge dismisses Fulcrum Bioenergy complaint

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A rendering of the Fulcrum BioEnergy plant planned for Gary.
Provided

Alex Dalton

The grassroots environmental group Gary Advocates for Responsible Development (GARD) is seeking judicial review of a complaint against the Indiana Department of Environmental Management (IDEM) that was dismissed last month.

In 2022, GARD filed a petition with the Indiana Office of Environmental Adjudication (OEA) in which it claimed that IDEM acted improperly when it granted a federally enforceable state operating permit (FESOP) to Fulcrum Bioenergy for a planned trash-to-fuel facility at Buffington Harbor earlier that year.



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California-based Fulcrum says that its Centerpoint Biorefinery will turn household waste and other organic materials in to a more environmentally friendly kind of jet fuel. First announced in 2018, the unbuilt facility has proven controversial in Gary.

The organization argued that IDEM did not have sufficient information to show that the Centerpoint facility would have low enough air emissions to qualify as a "minor" source of airborne pollution, a designation that is required for FESOP eligibility.

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In November, GARD filed a motion for summary judgement in the case. IDEM and Fulcrum did the same. On April 18th, the OEA sided with the agency and dismissed GARD's petition.

Environmental Law Judge Lori Kyle Endris wrote that IDEM "properly prescribed permit limits" and "complied with all applicable regulations to ensure public participation and protective of human health."

With its petition filed on Monday, GARD is seeking a review of the case by a Lake County Judge.

In a statement, Mike Zoeller, an attorney with the Conservation Law Center who is representing GARD in the Fulcrum case, wrote that "the OEA's decision is arbitrary, capricious, an abuse of discretion, contrary to law, unsupported by evidence and should be set aside."

"It ignored GARD's legal arguments and failed to identify any substantial evidence supporting IDEM's decision," he added.

GARD's complaint against IDEM over the Fulcrum permit will be one of the final cases handled by the OEA. House Enrolled Act 1003, which abolishes the office as part of a move to consolidate Indiana's administrative appeals process under Indiana's Office of Administrative Law, was signed by Indiana Governor Eric Holcomb on March 13 and will take effect on July 1.

As a candidate during last year's Mayoral election, Gary Mayor Eddie Melton voiced opposition to the refinery project. Asked by The Times earlier this month whether his administration will block construction of the Centerpoint Biorefinery by denying building permits, he said "it's too soon to make that determination."

The city has pledged not to issue any building permits to Maya Energy, a planned waste recycling plant that has drawn a similar environmental backlash from GARD and other concerned community members.

Fulcrum did not immediately return a request for comment.