

NAACP Perth Amboy Area Branch  
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April 30, 2023

Shawn LaTourette, Commissioner  
NJ Department of Environmental Protection  
Mail Code 401-07  
401 East State Street  
PO Box 402  
Trenton, NJ 08625-0420

RE: Environmental justice comments/concerns regarding CPV's Woodbridge/Keasbey Energy

Hello Commissioner LaTourette,

Please accept this letter on behalf of the Perth Amboy Branch of the NAACP, the nation's oldest and largest civil rights organization. For over 80 years, our branch has proudly served the people of Perth Amboy, Woodbridge, Sayreville, South Amboy, and Carteret.

Having reviewed the February 24 NJ Department of Environmental Protection response to the Branch's prior letter, we raise the following items and questions in response to the clarifications, labeled 1-9, corresponding with numbered points in the NJDEP's letter:

1. The notice with the incorrect dates was sent to Food & Water Watch and no subsequent correction was sent. Food & Water Watch subsequently shared the erroneous notice with our organization. It is also not clear whether any other individuals or organizations were sent notices with the incorrect dates. **Were incorrect notices also sent out to other individuals or organizations? Why was no effort made to correct the erroneous notice sent to Food & Water Watch on January 18? Should NJDEP not have followed up, and provided a correct notice in the same manner that the incorrect notice was provided?**
2. In reference to the lack of the promised documentation on CPV's website, we pointed out that their website did not include the documentation. CPV informed NJDEP on January 17 that, "The documents on the website are not live yet, but we will be posting them on there prior to sending out the notice." **Why didn't CPV post the documents on their website prior to sending out the notice, as they promised? On what date were the documents finally posted to the CPV website?**
3. Regarding the lack of printed copies of the application at the advertised location, we have become aware that, even after February 3, copies were not available for the public to retrieve and review on their own time. Instead, one of our members was told they could only review the document on the premises of Town Hall, during business hours,

and if they wanted a copy to take with them, that they would be required to file a request pursuant to the Open Public Records Act, that they would be charged for it, and that it would “cost a lot of money.” **How does failing to fulfill the promises in a public notice, and requiring both payment and a formal written request to obtain this record, comport with the department’s stated desire for environmental justice and CPV’s recommendation that residents review the application?**

4. NJDEP cites that AO 2021-25 requires the applicant to “hold a dedicated public hearing, with at least thirty (30) days advance notice.” However, AO 2021-25 does not make any mention of a 30-day advance notice minimum. Rather, section 2(a) states that the hearing be held in a manner “determined by the Department as consistent with the Environmental Justice Law, so as to maximize participation of individuals within the subject overburdened community.” The Environmental Justice Law requires notice of not less than 60 days. According to a February 2 email NJDEP sent to CPV, the Spanish language notice had not yet been posted to CPV’s website, and their website on the project in question still included outdated information from 2022. CPV apparently did not publish the Spanish language notice until February 3, a scant 25 days before the hearing date, and they only published said notice on their own website. **Why did NJDEP allow the applicant to proceed with a lower standard of 25-day notice for the Spanish language notice? How can NJDEP say that CPV met the supposed 30-day notice requirement if their own website did not have complete information until after February 2? Does NJDEP have a different standard for the timeliness of the publication of Spanish language notices and English language notices? Did this timeline maximize participation of individuals within the overburdened community?**
5. The applicant failed to publish any notice in any newspapers circulated in the overburdened community. We have confirmed with Gannett, the publishers of the Courier News that it is not circulated in Woodbridge, where Gannett circulates a different publication that did not contain the notice. Additionally, there is no record of the notice being publicized in any non-English newspaper, another inconsistent deviation from the statute. There are several Spanish language newspapers circulated in the area, including Reporte Hispano, El Americano, El Especialito, and Latinos Unidos de NJ. **Did CPV attempt to publish their notice in any of these publications? Does NJDEP believe CPV’s choice to notice the hearing only on its own website and in the Courier News maximized participation of individuals within the overburdened community?**
6. Nothing further to add.
7. Nothing further to add.
8. While we appreciate the fact that Microsoft Teams allows closed captioning in multiple languages, this fact was not advertised prior to the hearing. **Can NJDEP confirm the accuracy of the Spanish language captions? Did anyone use this feature successfully? What about individuals who were unable to join using the Teams app due to lack of an internet-capable device, and forced to participate via telephone were effectively unable to follow the proceedings in a language other than English?**
9. For the record, many of our members are also members of Food & Water Watch, the organization that repeatedly reached out on behalf of their members to request a

meeting to “share concerns and ask questions about this matter.” Food & Water Watch was promised a meeting by the Office of Permitting and Project Navigation and asked to produce a list of questions for the meeting. Food & Water Watch did so and kept our organization informed of their correspondence. We were assured that we would be included in the meeting when it occurred. NJDEP told Food & Water Watch that the meeting was “definitely going to happen” and repeatedly thanked them for their patience. NJDEP also said that the delay was because NJDEP was waiting for the answers to be approved by the “C-suite” at NJDEP. Then, on January 18, NJDEP reneged on their promise to meet with us, and provided the erroneous meeting notice to Food & Water Watch, telling them to direct comments and questions to the AO 2021-25 public hearing process. **Why didn’t NJDEP honor its commitment to meet with us? Why didn’t NJDEP answer the questions submitted by Food & Water Watch in July 2022?**

One of the most critical questions that our coalition had been asking was whether CPV’s existing facility in Keasbey had been found to have violated any laws. It has since come to our attention that there were a slew of violations investigated, and many confirmed by NJDEP, between 2015 and 2021. This news did not come to us via an answer to Food & Water Watch’s direct question sent on July 26, 2022. Instead, this came from a news report published on March 10, 2023 on NJ.com. (excerpts of both displayed below)

Re: [EXTERNAL] Re: Meeting on Woodbridge CPV air-permit application



© Charlie Kratovil <ckratovil@fwwatch...> Tuesday, July 26, 2022 at 9:55 AM

To: Pepe, David [DEP]

Cc: Matthew Smith; Steitz, Francis [DEP]

- **Violations** – Have there been any violations? If so, what has NJDEP done to hold CPV accountable for them?

As the project in question is approaching a permit decision, we would like to schedule this initial meeting for some time in July. I can make myself available any day, and some of our members who are concerned about the project would also like to join this. Can you please confirm you’ve received the questions? Thanks again.

Sincerely,

Charlie Kratovil  
[ckratovil@fwwatch.org](mailto:ckratovil@fwwatch.org)

Fight like you live here.

### Company proposing N.J. county’s 7th power plant is cited for air quality violations

Updated: Mar. 10, 2023, 1:22 a.m. | Published: Mar. 08, 2023, 6:47 p.m.



These revelations were made public ten days after the hearing to which NJDEP directed our questions, instead of answering those questions in a meeting as NJDEP had repeatedly promised to do in 2022. The timeline suggests that NJDEP had knowledge of these violations for several years, yet withheld this knowledge from the public until after the February 28 public hearing took place. It now appears NJDEP is refusing to explain the inconsistencies with the timeline and the delay in this enforcement action by refusing to answer questions. **Why didn’t NJDEP answer the questions posed directly to Mr. David Pepe on this topic in 2022? Is it true that CPV “self-reported” their violations in 2019? Why didn’t NJDEP promptly investigate and take enforcement action? What took so long for NJDEP to conduct their investigations? Is NJDEP giving special treatment to CPV? Why did NJDEP hold off on processing these violations until after the February 28 hearing?**

Our branch does not want to assume the worst about NJDEP, as we all believe in your mission and truly wish to have a constructive and supportive relationship with your agency. But the facts here suggest that NJDEP pulled a disingenuous bait and switch on community advocates, declining to engage in a substantive dialogue and refusing to meet with opponents of the project or answer their questions. This all smacks of NJDEP putting a proverbial thumb on the scale in favor of CPV's application by withholding the critical information regarding violations in advance of the recent hearing. If there's another explanation for why the community has been given this runaround, we would like to hear it.

It is deeply insulting that NJDEP has brushed aside CPV's violations, including their failures to live up to the AO 2021-25 requirements, and it sends a message that polluters like CPV have the upper hand, or an unfair advantage, in these so-called "environmental justice" proceedings. From our vantage point, this process has reflected the exact opposite of what was envisioned when the environmental justice law was signed 32 months ago.

Instead of a community-driven, fair, or inclusive process, thus far NJDEP's handling of CPV's application has proven to be convoluted, opaque, and slanted in favor of the applicant. The above facts have led us to these conclusions, and leaves us to question the integrity of the process and why NJDEP is seemingly ignoring community voices while helping a polluter that has already violated the law secure approvals for another destructive project.

If CPV is approved to construct another gas power plant at this location, it will harm public health and worsen the climate crisis. It is absurd to even consider such a proposal in 2023, and the Perth Amboy Area Branch of the NAACP requests that CPV withdraw their application.

The Perth Amboy Area Branch of the NAACP also requests that NJDEP extend the public comment period, compel CPV to hold additional hybrid public hearings, to produce an environmental justice impact statement, and to commit to expanded outreach and promotion efforts for those hearings. We also request answers to each of the questions contained in this message, and look forward to hearing back as soon as possible.

Sincerely,



Jimmy Dabrowski, Secretary,  
on behalf of Rev. Donna Stewart, President  
NAACP Perth Amboy Area Branch

Cc: Governor Philip D. Murphy, Chief Counsel Parimal Garg, NJDEP Office of Environmental Justice Director Kandyce Perry, and Scott Kjellberg, Competitive Power Ventures [for inclusion in official record as a comment in the environmental justice review]