

OCTOBER 27, 2021

Environmental Justice: Case Studies

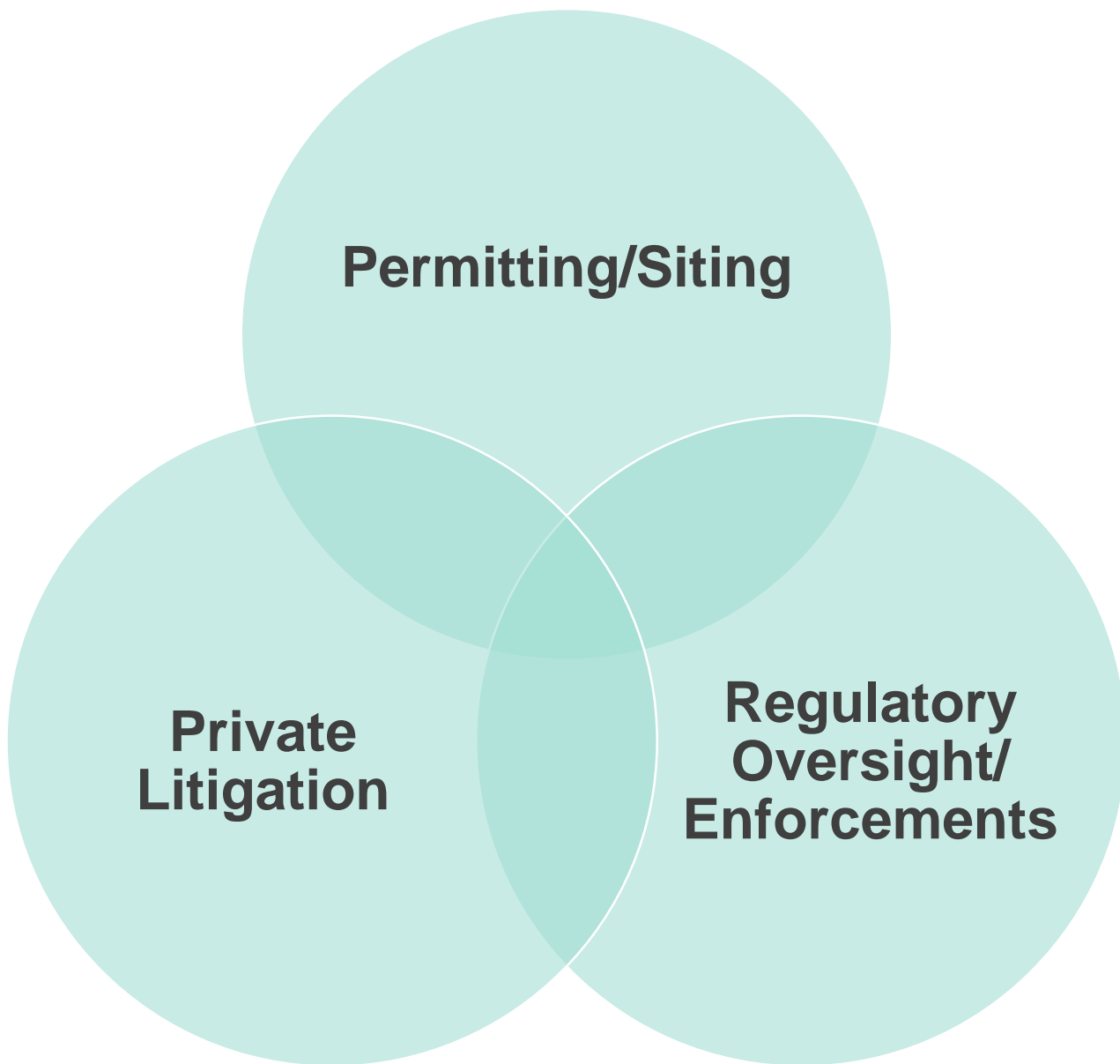
PRESENTED BY

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EJ Case Studies



Permitting/ Siting: Buckingham Compressor Station



**4th Circuit vacates state air permit for
Buckingham pipeline compressor station**

Buckingham Compressor Station

[VA DEQ Permit Board] must consider “*character and degree of injury to ... health,*” and “*suitability of the activity to the area*” and “*the potential for disproportionate impacts to minority and low income communities.*”

Va. Code Ann. § 10.1–1307(E).

DEQ

“Regardless of the percentage of the minority population, air modeling indicates that emissions from the proposed Buckingham Compressor Station will not harm human health.”

FOURTH CIRCUIT

“Even if all pollutants within the county remain below state and national air quality standards,...those living closest to the Compressor Station...will be affected more than those living in other parts of the same county.”

Permitting – Ajax Materials – Flint, MI



Minor Source Construction Permit



Michigan EGLE

- Two online information meetings and hearings
- In person comment meeting
- ≈ 3 month comment period
(July 1 – Sept. 22)
- Full dispersion modeling
- Emissions & Stack testing requirements



Region 5 USEPA

- Extensive comment letter
- EJSCREEN – 8/11 indicators exceeded 90th percentile for MI
- Cumulative impact analysis
- Continuous monitoring w/publicly available data
- Ajax should pick an alternative site

Agency Oversight: EPA External Civil Rights Compliance Office (ECRCO)



BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Agency Oversight: BAAMQD

“Whether BAAQMD discriminated against the residents of the historically Black neighborhood of Hunters Point on the basis of race... in its response to an air quality complaint and Title VI complaint.”

- Disparate Treatment (Intentional Discrimination)? → No
- Disparate Impact (Discriminatory Effect)? → No

BUT: “BAAQMD failed to comply with some of its obligations under federal nondiscrimination laws... [by] **not having in place or implementing a nondiscrimination program.**”

Agency Oversight: BAAQMD

“BAAQMD failed to comply with some of its obligations under federal nondiscrimination laws and EPA’s nondiscrimination regulation with respect

- Notice of Non-Discrimination under the Federal Non-Discrimination Laws
- Grievance Procedures to Process Discrimination Complaints filed under the Federal Non-Discrimination Laws
- Designation of Non-Discrimination Coordinator
- BAAQMD Plan to Ensure Meaningful Access to Programs and Activities for Persons with Limited English Proficiency (LEP)
- BAAQMD Plan to Ensure Meaningful Access to Programs and Activities for Persons with Disabilities
- Training

EJ Commonalities from High Profile Enforcement Cases

Analysis of Cases from: Arizona, Colorado, Louisiana, Michigan, Ohio, Oregon, Pennsylvania

SCIENCE & ENVIRONMENT

Portland's Cully neighborhood finds allies in fight for clean air



DETROIT

Marathon refinery to spend \$5M to buy out homes in SW Detroit neighborhood

Ariana Taylor The Detroit News
Published 5:37 p.m. ET Dec. 17, 2020

LDEQ and Denka sign AOC designed to reduce chloroprene emissions at LaPlace facility

Shell agrees to install fenceline air monitors at Beaver County ethane cracker plant

Commonalities and Takeaways

Common EJ Case Elements

- Air issues dominate
- Longtime community concerns/complaints before formal action
- Media/NGO/Political Involvement
- Suboptimal, short-term fixes
- Community monitoring/transparency
- Permitting Impacts

Some Takeaways

- Recognition & Outreach
- Fenceline issues – Be Neighborly!
- Data availability & Transparency

EJ in Private Lawsuits

- Private common law lawsuits seeking monetary compensation or injunctions against operations.
 - “Environmental Justice” does not provide new rights of recovery.
 - Most cases rely on traditional nuisance theories
 - Nuisance: Lawful activity causing “unreasonable” interference with others’ enjoyment of life or property.
 - Is conduct more unreasonable if plaintiffs are part of an EJ community?
- Examples
 - Local landfill operations
 - Regional air pollution

Thank You

Questions?

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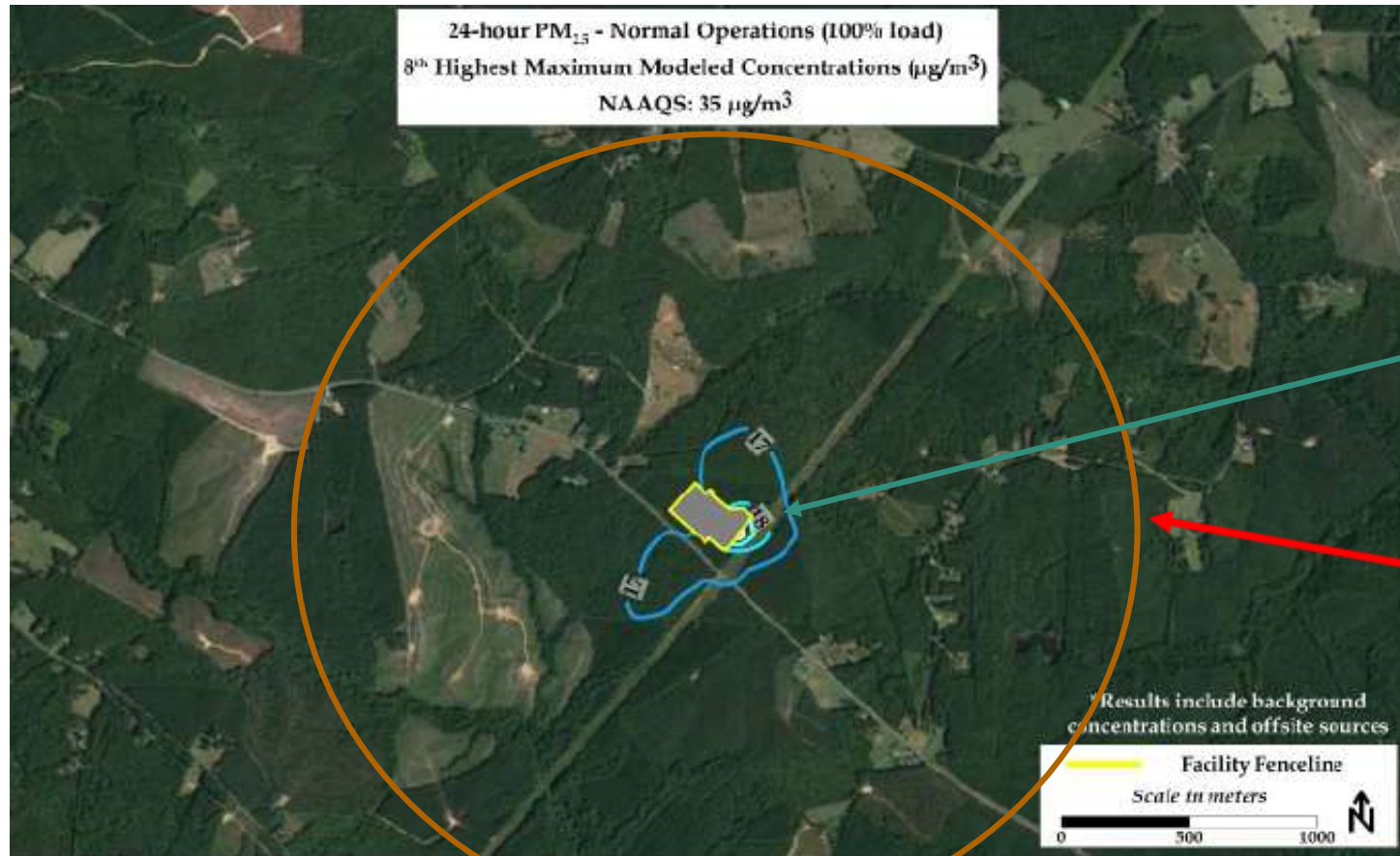


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Buckingham Compressor Station

- New compressor station in Union Hill, Buckingham County, VA
 - 53,515 hp; 4 natural gas-fired units; 67-acre site
 - FERC/EIS
 - One low-income community within one mile
 - No minority EJ populations
 - “Health impacts from compressor station emissions would be moderate because... air emissions would not exceed regulatory permissible levels.”
- Friends of Buckingham
 - 84% of [Union Hill] residents are primarily African-American descent – higher than the county-wide percentage

Buckingham Compressor Station

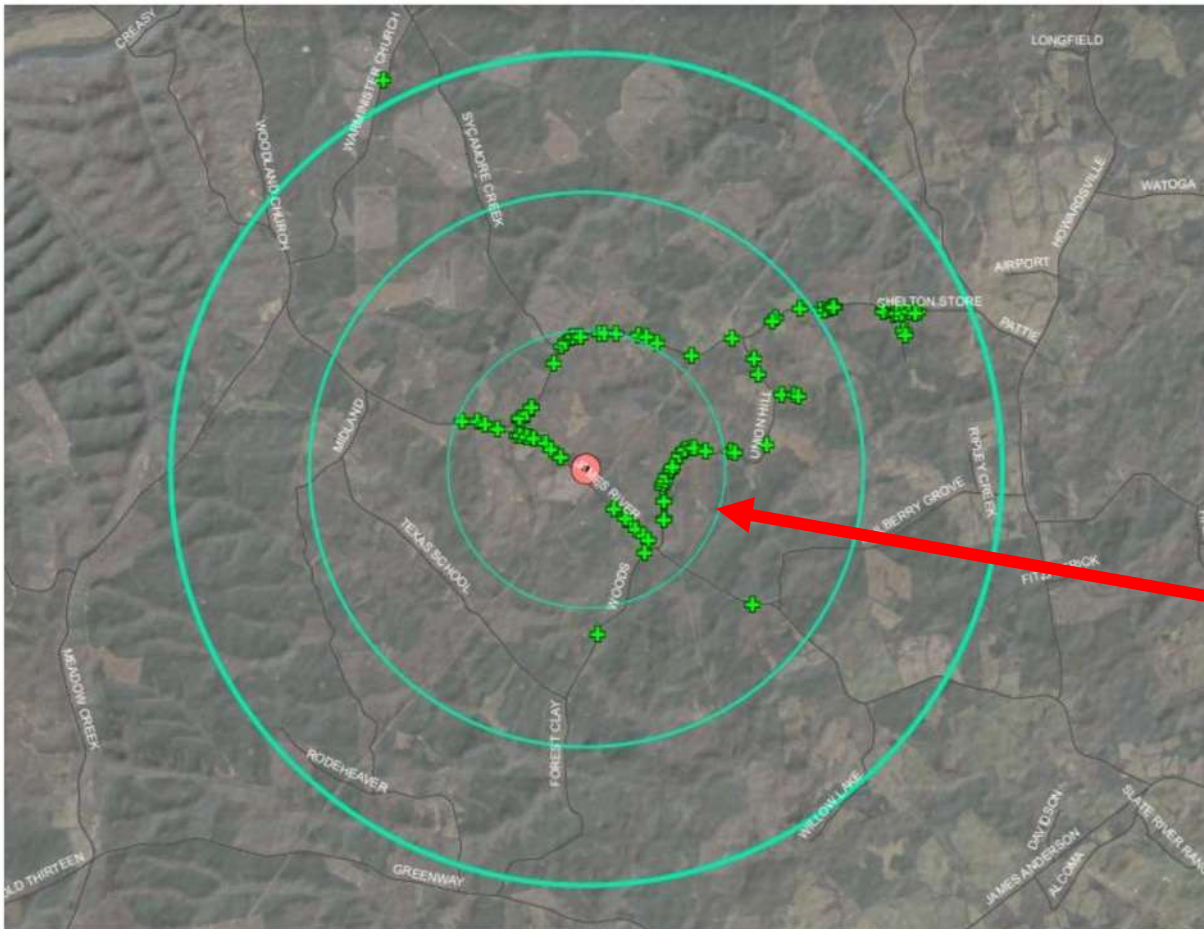


VDEQ/ACP emissions modeling:

PM_{2.5} emissions will be 50% of NAAQS well within 1 mile

1 mile radius

Buckingham Compressor Station



Friends of Buckingham:

“High percentage of Union Hill population live immediately around the proposed facility, most within 1 mile....”

1 mile