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**From:** Kiana Courtney <KCourtney@elpc.org>  
**Sent:** Friday, January 29, 2021 6:22 PM  
**To:** envcomments  
**Cc:** Tiffany Werner; Susan Mudd  
**Subject:** ELPC Comments on General III LRF Permit Application  
**Attachments:** 2021.01.29 ELPC Comments on General III Permit Application .pdf

[Warning: External email]

To whom it may concern:

Please find attached ELPC's comments on General III, LLC's Application for a Large Facility Recycling Permit. Thank you for your consideration of these comments.

Sincerely,  
Kiana Courtney

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## ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

January 29, 2021

Chicago Department of Public Health  
Attn: Commissioner Allison Arwady, M.D.  
333 S State St., #200  
Chicago, IL 60604

Submitted electronically to [envcomments@cityofchicago.org](mailto:envcomments@cityofchicago.org).

**RE: Comments on the Proposed Issuance of Large Recycling Facility Permit to General III, LLC, d/b/a Southside Recycling**

To Chicago Public Health Department:

The Environmental Law & Policy Center (“ELPC”), on behalf of itself and its members, submit this second set of comments on the Large Recycling Facility Permit Application of General III, LLC d/b/a Southside Recycling (“Application”) for a permit to operate a large scrap metal recycling facility proposed to be located at 11600 South Burley Avenue in Chicago, IL. ELPC is the Midwest’s leading public interest environmental legal advocacy organization and works to protect the environment and public health.

The City of Chicago (the “City”) through the Chicago Department of Public Health (“CDPH”) should deny the Application of General III, LLC, doing business as Southside Recycling, but also known as the Reserve Management Group (“RMG”) Expansion (hereinafter “General III” or the “Facility”) for a draft permit for a large recycling facility. ELPC first submitted comments on January 14, 2021, raising several issues with the Application. The same day, CDPH provided notice that General III submitted an amended application. The concerns raised in ELPC’s first comments still stand. There are several issues with the Application: (1) General III’s Application is incomplete; (2) the Application will place a cumulative burden on the surrounding community; and (3) the Application fails to demonstrate that it will be protective of air quality and public health. In consideration of the Application, the City has the authority and a duty to consider both the cumulative burden General III will place on the surrounding Southeast Side community

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and the violation history of General Iron and RMG. Given these considerations, the City should deny this Application.

### **I. CDPH has the Authority to Deny the Application and to Consider the Cumulative Burden on the Community**

To avoid duplicity from ELPC's first set of comments, we incorporate them herein. We would like to reiterate, however, that CDPH should find that it has the authority to place greater limitations on the recycling permit than those set by IEPA with the operating permit. CDPH also has the authority to deny the permit application.

The health, safety, and wellbeing of all communities should always be a priority of CPDH. The Department and the Mayor acknowledged this when releasing the Air Quality and Health Report in the summer of 2020. Thus, CDPH has a duty to consider the cumulative burden that a frontline community faces when a new facility is added to that burden. As noted in ELPC's first set of comments, the Southeast Side is an environmental justice community. It disproportionately bears the pollution burden in Chicago. This concern was elevated nationally with President Biden's Executive Order that calls for the federal prioritization of environmental justice.<sup>1</sup> While this is a municipal permit, CDPH should still take heed of this mandate. We appreciate that CDPH acknowledged that the East Side is an area for concern. We therefore hope that CDPH will follow through and consider the cumulative burden on the Southeast Side community from the addition of General III to the other RMG facilities, as well as the numerous other nearby industrial and pollution sources.

Failure to consider these impacts will put the community in greater harm's way.

### **II. General Iron's Addendum is Insufficient**

In ELPC's first set of comments, we explained that the November Application failed to include information needed under the Recycling Rules outside of what CDPH listed in its deficiency letter. This included, but is not limited to: (1) information about other pollutants and controls for pollutants, such as PM<sub>2.5</sub> and Nitrogen Oxide (NOx), and volatile organic compounds; (2) information about the air emissions from the operations (including vehicular traffic) from the other RMG facilities; (3) an adequate dust contingency plan that describes the mitigative actions that will be taken when the monitors detect PM<sub>10</sub> or other parameters that exceed the RAL under these rules or in the permit; and (4) a plan for how General III will notify and engage with the surrounding community when there is an event.

As CDPH makes its determination on General III's Application, CDPH must incorporate in its analysis not only the missing information, but also the past violations of General Iron (GII,

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<sup>1</sup> EO 13390 (Jan 20, 2021), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>.

LLC) and of RMG.<sup>2</sup> The violation history is applicable because the Application and Addendum often reference and draw upon General III's experience at the "Existing Facility"<sup>3</sup> in the North Branch—further demonstrating the connection between the two entities—and because CDPH and the RMG have stated that General III is an expansion of RMG. Thus, CDPH must consider the violations of both entities when reviewing this Application, as mandated by the Recycling Rules.<sup>4</sup>

Accordingly, the Application is still deficient and CDPH should not propose a permit without more comprehensive information. Rather, CDPH must deny the Application.

### **III. General III's Addendum Raises More Questions That Should Be Answered Before CDPH Proposes a Permit**

#### ***A. The Impact of Vehicular and Truck Traffic***

In its deficiency letter, CDPH asked for a stacking plan of all trucks and vehicles during peak hours.<sup>5</sup> The stacking plan states that the estimated peak traffic is 40 trucks per hour<sup>6</sup> and General III's traffic study shows that minimal impacts to traffic from General III's operations can be achieved with improvements to traffic light timing, shuttle service, and public transit.<sup>7</sup> The Application also notes that there is plenty of space on site for the trucks and vehicles.<sup>8</sup> Having ample space however, does not mean that the community is no longer exposed to the many unhealthy consequences of truck and vehicle traffic. As mentioned in ELPC's first set of comments, diesel truck traffic produces particulate matter, NOx, and numerous toxins. Whether on the street or within the property lines of General III, the vehicular traffic will still expose residents to these additional air pollutants. General III must include these potential exposures in its Application.

CDPH also raised concern about whether General III is capable of meeting peak demand. General III indicates in its Application that it is more than capable because it has the capacity to process 150,000 tons of material per month.<sup>9</sup> Notably though, with increased processing and shredding of metals likely comes increased emissions. It is unclear in the Application whether there will be measures to ensure that the Facility will be held to the 100,000 ton per month

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<sup>2</sup> See e.g. Michael Hawthorne, "Chronic polluter General Iron is moving from its wealthy, white North Side home to a low-income Latino neighborhood. The feds want to know why." *Chicago Tribune* (Oct. 20, 2020) (citing Illinois Environmental Protection Agency, Violation Notice A-2019-00200 (Dec. 20, 2019), available at <https://www.documentcloud.org/documents/6772585-VN-South-Chicago-Property-Mgmt-031600GYI-122019.html>).

<sup>3</sup> See e.g. Application, Addendum 1 at 5, 7, 8, 11, 17, 18.

<sup>4</sup> Rules and Regulations for Recycling Facilities, § 4 (March 2014) ("The Commissioner may deny or refuse to review a permit if the evaluation shows that the applicant . . . has violated any federal, state, or local laws, regulations, standards, permit conditions, or ordinances in the operation of any . . . recycling facility"); Rules for Large Facility Recycling, City of Chicago (June 5, 2020)

<sup>5</sup> Application, Addendum 1 at 10.

<sup>6</sup> Application, Addendum 1, Attachment M.

<sup>7</sup> Application, Addendum 1, Attachment N.

<sup>8</sup> Application, Addendum 1, Attachment M.

<sup>9</sup> Application at 6; Addendum 1 at 15.

limitation required in the IEPA permit. If CDPH decides to propose a draft permit, it should also consider how it will ensure and enforce that General III does not surpass its processing capacity if faced with peak demand.

CDPH also asked General III to provide an operating plan for the vehicles used at the Facility. These vehicles include front end loaders, skid steers, forklifts, fuel trucks, water trucks, a maintenance truck, and a sweeper. These vehicles all likely are fueled by diesel. To ensure that operations if permitted are protective of air quality, CDPH should require that General III utilize electric vehicles or vehicles are of the most protective class. For instance, General III should be required to use electric forklifts<sup>10</sup> or at least Tier 4/ Tier 4 Final forklifts if the forklifts must be powered by diesel fuel.

Ultimately, the Application still lacks information on vehicular activity and does not appear to be protective of air quality. CDPH should reject the Application.

### ***B. The Composition and Disposal of Auto Shredder Fluff***

In its Addendum, General III indicates that the waste characterization for the shredder fluff at the North Branch facility demonstrates that it is nonhazardous.<sup>11</sup> General III's findings state that the auto shredder residue or fluff ("ASR") has been composed of arsenic, cadmium, chromium, selenium, and silver (less than 0.1 mg/L each), barium (0.370 mg/L), lead (0.480 mg/L), mercury (less than 0.01 mg/L), and PCBs. As explained in ELPC's first set of comments, the accuracy of General III's results is questionable because of the varying sources of the ASR.<sup>12</sup> Given that the composition of what is shredder fluctuates,<sup>13</sup> it is plausible that this sample is not representative of ASR seen in North Branch nor to be seen on the East Side.

General III states that the North Branch waste cannot be indicative of the new facility and that new waste must be obtained once the facility is operational. Indeed, if General III does not know the characterization of the waste, it should not be able to claim that "no treatment is necessary to render shredder fluff a non-hazardous waste prior to shipment offsite." Even if the waste is not classified as hazardous waste under the Resource Conservation and Recovery Act,<sup>14</sup> that waste can still be harmful. CDPH should not solely rely upon the claims of General III. An independent entity should collect and test a variety of samples of the waste generated on a consistent and frequent basis because the materials that General III processes will vary over time. This

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<sup>10</sup> Electric vehicles are not a new technology. See e.g. Zero-Emission Technology Inventory, available at <https://globaldrivetozero.org/tools/zero-emission-technology-inventory/>.

<sup>11</sup> Application, Addendum 1, Attachment CC.

<sup>12</sup> In addition to arsenic and chromium, a sample found at a residence showed amount of zinc and strontium. See ELPC's first set of comments.

<sup>13</sup> Because "scrap metal is very heterogeneous in nature, no two loads of incoming material are the same." Application, Addendum 1 at 7.

<sup>14</sup> Waste is hazardous if it is specifically listed on one of four lists or meets the characteristic of a hazardous waste (ignitability, corrosivity, reactivity, or toxicity).

information should also be publicly available as the composition of the ASR has an impact on public health.

ELPC has remaining concerns regarding the transportation for disposal of the ASR and other residue. In ELPC's first set of comments, we raised a concern about ASR and other substances getting into the Calumet River. General III states in its Addendum that operations will not conflict with its NDPEs permit,<sup>15</sup> there is a retaining wall, and it will operate in accordance with the SPCC Plan.<sup>16</sup> However, the SPCC Plan and the retaining wall do not alleviate this concern. If the piles are transported while uncovered from storage bins to storage piles or elsewhere, wind can carry residue off-site, including to the Calumet River, just as the wind carried the auto shredder fluff a half-mile away from the North Branch facility. Furthermore, General III notes that there will be a process to treat the water from the facility. However, these plans and the limits that the water will meet are not evident in the Application. General III should have to provide this information to CDPH and the public should be able to review it.

### ***C. Additional Concerns About Air Pollution***

#### *1. Fugitive Pollution*

In response to CDPH's request, General III provided its Fugitive Particulate Operating Program. The Addendum notes that General III does not know the effectiveness of the street sweeper for removing particulates such as PM<sub>10</sub>.<sup>17</sup> General Iron should be required to demonstrate that its measures for cleaning and maintenance as required under Section 3.10.10 of the Recycling Rules, can in fact control and remediate particulate matter pollution offsite.

#### *2. Air Quality Modeling and Monitoring*

In its deficiency letter, CDPH asked General III to provide more information about the staging space. General III stated that the "drawings it had provided were intended to show the approximate locations of storage and staging piles and to demonstrate that the amount of space available at the Facility for such activities is more than adequate."<sup>18</sup> While General III may have the space for its operations, General III's uncertainty about the locations for staging, spacing, and storage of waste<sup>19</sup> raises questions about the adequacy of the placement of the air monitors and Dust Bosses. The placement should be reflective of potential sources of pollution. CDPH should ascertain whether the placement of the air monitors and Dust Bosses will actually be protective of air quality.

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<sup>15</sup> Application, Addendum 1 Attachment K, but the NPDES permit was not actually included in the posted Application.

<sup>16</sup> Application, Addendum 1 at 11.

<sup>17</sup> Application, Addendum 1 at 22.

<sup>18</sup> Application, Addendum 1 at 7-8.

<sup>19</sup> *See id.*



CDPH also asked General III to provide more information about modeling and monitoring of air emissions.<sup>20</sup> The Application indicates that there will be an upwind monitor at the northwestern corner of the property and two downwind monitors on the eastern and western lines of the property.<sup>21</sup> Placement of monitors is important because it helps determine the level of dust and other air pollution exposure to the neighboring frontline community. An exceedance of the PM<sub>10</sub> RAL occurs when “during the same 15-minute period, the PM<sub>10</sub> concentration measured at the downwind PM<sub>10</sub> monitor minus the PM<sub>10</sub> concentration measured at the upwind PM<sub>10</sub> monitor exceeds the PM<sub>10</sub> RAL (150 ug/m<sup>3</sup>) for the same 15-minute block average period.”<sup>22</sup> This methodology is concerning because the prevailing winds in the area blow from west to east towards Washington High School and the residential area—meaning the upwind background monitor is placed where General III suspects that it may detect facility emissions.<sup>23</sup>

CDPH has the ability to protect public health by ensuring that the placement and frequency of the monitoring adequately determines background levels and the Facility’s emissions. Measures should be in place to ensure that background levels are accurate. There should also be fence-line monitoring to detect the emissions that would migrate towards the school, parks, and residential area. Accordingly, the RAL calculation or the placement of the monitors should be revisited. Furthermore, if CDPH grants General III a permit, the monitoring data should be readily accessible to the public. The surrounding community is downwind from the facility and should have access to information that affects public health.

This Application is therefore not protective of public health and CDPH should deny it.

#### ***D. Public reporting***

As explained in ELPC’s first set of comments, the public should have access to the air quality, water quality, waste management, and traffic information that General III gathers. In gathering this information there are areas where General III can be more prescriptive. For instance, General III provides an example of the information that will be recorded for each load of material entering and exiting the facility.<sup>24</sup> This recordkeeping is insufficient to accurately show the impact of the operations. General III should record more information on the vehicle type rather than just that is presumably a truck, as all trucks are not the same.<sup>25</sup> This would help track the amount of particulate matter, NO<sub>x</sub>, and other pollutants generated from General III’s operations. If CDPH chooses to propose a draft permit, it must require adequate data from General III to protect the public health.

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<sup>20</sup> Application, Addendum 1 at 12-15.

<sup>21</sup> Application, Section V: Dust Monitoring Plan at 65; Application, Addendum 1 at 15.

<sup>22</sup> Application, Section V: Dust Monitoring Plan at 65.

<sup>23</sup> Application, Addendum 1 at 15.

<sup>24</sup> Application, Addendum 1 at 16 and Attachment U.

<sup>25</sup> Application, Addendum 1, Attachment U, Example of Load Tracking Documentation (There is a column for vehicle type and the letter T is listed in all of the rows).

#### **IV. Conclusion**

For these reasons CDPH should deny General III's Large Recycling Facility Application. CDPH has the authority and a duty to deny General III's Application permit. General III must cure all deficiencies before CDPH proposes a permit meant to adequately protect public health and the environment.

Thank you for the opportunity to submit and your consideration of these comments.

/s Kiana Courtney  
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