



December 2nd, 2022

Re: Docket #2022-P-Multi-0012: Bioenergy Innovation Center

Dear Secretary Garvin,

Thank you for the opportunity to comment on the expansion of the Bioenergy Innovation Center. Bioenergy Development Company, LLC (“BDC”) currently operates the Bioenergy Innovation Center, located at 28338 Enviro Way, Seaford, Delaware.¹ This facility composts waste from the poultry industry, including litter, cake, and predominantly sludge.² Using this process BDC creates biogas and digestate—highly toxic and harmful products. As further explained below, BDC wants to expand their facility to construct an “anaerobic digestion system, a wastewater pretreatment system, emergency generator, and a biogas upgrading plant” that will allow them to sell the biogas and digestate.³

To lawfully expand its facility, BDC must obtain five permits from Delaware’s Department of Natural Resources and Environmental Control (DNREC)—one Resource Recovery Permit from the Division of Waste and Hazardous Substances; two Natural Minor Permits from the Division of Air Quality; and two Wastewater Facility Construction Permits from the Division of Water.⁴ In addition to all permit-specific requirements set forth in the Delaware Administrative Code, DNREC must comply with the public notice requirements outlined in Delaware’s Freedom of Information Act (FOIA) to administer these permits.⁵

The undersigned organizations and individuals have several concerns regarding the public notice and participation requirements for this project, which violated Delaware’s Freedom of Information Act (FOIA). It is therefore both inappropriate and illegal for DNREC to approve the permits without first remedying these violations.

¹ DNREC Public Hearings, *Bioenergy Innovation Center Project*, DELAWARE DEP’T OF NAT. RES. & ENVTL. CONTROL [hereinafter DNREC], <https://dnrec.alpha.delaware.gov/public-hearings/bioenergy/> (last visited Dec. 2, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Del. C. Title 29 Chapter 1000 [Hereafter FOIA] § 10002; *see also, e.g.*, 7 DE Admin. Code §§ 1102; 1301; 7101; 7202; 7 DE Code § 6006. Note that because the Secretary’s reliance upon the recommendation of DNREC subject matter experts (acting as a subcommittee) is necessary to approve the permits, the meetings must comply with FOIA. *See Del. Op. Att’y Gen.* 16-IB17 (July 28, 2016).

Background on Biogas

Due to the serious health and environmental risks of biogas facilities, many local community members and organizations are uniquely concerned with biogas development projects.⁶ Biogas releases harmful compounds and contaminants into the air.⁷ This is why a large body of scientific literature, as well as the U.S. Department of Agriculture, notes that biogas is often highly “toxic to human health and the environment.”⁸ In addition to the existing evidence that biogas frequently includes known carcinogens, communities located next to similar facilities have an increased risk of “breathing problems, headaches, chronically reduced lung function, eye irritation, loss of appetite, and corroded teeth.”⁹ Biogas facilities are also more likely to be built in economically vulnerable communities, and the Bioenergy Innovation Center is no exception.

Equity Concerns

Compared to the rest of the state, Seaford has a disproportionately high rate of poverty and minority presence, with approximately half the population identifying as black or Hispanic.¹⁰ Additionally, English is not the primary language for many residents, creating substantial language barriers.¹¹ Many members of the Hispanic and Haitian communities only speak Spanish or Haitian Creole respectively, and as a result, have had significant difficulties accessing resources.¹² Seaford is also technologically disadvantaged. One in four households lack broadband internet access, and approximately one in five households do not have a computer.¹³

Pursuant to Delaware’s Administrative Code Governing Solid Waste, DNREC is required

⁶ Phoebe Gittelson et al., *The False Promises of Biogas: Why Biogas Is an Environmental Justice Issue*, in ENV’T JUSTICE (Mary Ann Liebert, Inc., pub., 2021), available <https://www.liebertpub.com/doi/10.1089/env.2021.0025>.

⁷ Valerio Paolini et al., *Environmental Impact of Biogas: A Short Review of Current Knowledge*, J OF ENV’L SCI. AND HEALTH PART A 53: 899–906 (Apr. 13, 2018), available <https://www.tandfonline.com/doi/full/10.1080/10934529.2018.1459076>.

⁸ *Conservation Practice Overview: CPS Anaerobic Digester (Code 366)*, U.S. DEP’T OF AGRIC. (Oct. 2017), https://www.nrcs.usda.gov/sites/default/files/2022-08/Anaerobic_Digester_366_Overview.pdf; Yin Li, et al., *Composition and Toxicity of Biogas Produced from Different Feedstocks in California*, ENV’T SCI. & TECH. 53: 11569–11579 (Sept. 3, 2019), available <https://pubs.acs.org/doi/10.1021/acs.est.9b03003>.

⁹ Gittelson, et al., *supra* note 6.

¹⁰ *QuickFacts, Seaford, Sussex County, Delaware*, U.S. CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/seafordcitydelaware,sussexcountydelaware/PST045221>.

¹¹ *Seaford Spoken Language Statistics*, LIVE STORIES (2019), <https://www.livestories.com/statistics>.

¹² Camila Fernandez, *First Ever Haitian Medical Clinic in Seaford Opens Doors*, WMDT (Dec. 9, 2019), <https://www.wmdt.com/2019/12/first-ever-haitian-medical-clinic-in-seaford-opens-doors/>; Camila Fernandez, *Newly Formed Haitian Coalition of Delaware Seeks to Improve Access to Resources for Haitian Population*, WMDT (Oct. 7, 2010), <https://www.wmdt.com/2020/10/newly-formed-haitian-coalition-of-delaware-seeks-to-improve-access-to-resources-for-haitian-population/>.

¹³ U.S. Census Bureau, *supra* note 10.

to notify the public about BDC's permitting process and allow for public comment.¹⁴ DNREC has chosen to host two public meetings regarding BDC's project. One meeting, an informal information session, was hosted on September 28th, 2022.¹⁵ The second meeting, a formal hearing, was held on October 26th, 2022.¹⁶ An information session differs greatly from a public hearing.

In an information session, the public has the opportunity to ask questions about the project that will be answered by DNREC and BDC employees.¹⁷ Questions and responses shared during an information session will not become part of the public hearing record, and are not available for review to anyone not in attendance.¹⁸ This is the only opportunity DNREC has provided for residents to ask questions about the project in a meeting. In contrast, a public hearing does not allow the public to ask questions. It only allows individuals to provide public comments on the project, and they must sign up to speak in advance via DNREC's website.¹⁹

These meetings require adequate public notice.²⁰ DNREC first notified the public about both meetings on their website and in three newspapers on August 21st, 2022.²¹ The agency scheduled both meetings to be held virtually via the web application Zoom.²² The public notices for both meetings were written in English.²³ DNREC noted that Spanish captions would be available during the meetings, but Spanish captions would not be provided for anyone "dialing in" (*i.e.*, using a phone) to attend the meeting.²⁴ Furthermore, the Spanish captions would allow participants to see written translations of what was being said, but did not provide an opportunity for Spanish speakers (or any other non-English speakers) to ask their own questions. DNREC later posted public notices in Spanish and Haitian Creole on their website over a month later on September 23rd— just five days before the September 28th informational meeting.²⁵

Many community members are concerned by these facts. As a result of poor planning and

¹⁴ 7 DE Admin. Code § 1301. Section 4.0 Permit Requirements and Administrative Procedures.

¹⁵ See *Public Information Session: Bioenergy Innovation Center Project*, DNREC, <https://dnrec.alpha.delaware.gov/events/public-information-session-bioenergy-innovation-center-project/> (last visited Dec. 2, 2022) (including the meeting date, and supplemental materials prepared for the meeting).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 7 DE Admin. Code 1301. Section 4.0 Permit Requirements and Administrative Procedures.

²¹ *Bioenergy Devco, LLC Facility Permit Application— Update*, DNREC (Sept. 23, 2022), <https://dnrec.alpha.delaware.gov/public-notices/bioenergy-devco-llc-facility-permit-application-updated/>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Public Hearings: Bioenergy Innovation Center*, DNREC <https://dnrec.alpha.delaware.gov/public-hearings/bioenergy/> (last visited Dec. 2, 2022).

inadequate notice, many people have been unable to participate in the meetings. This choice severely impacts Haitian immigrants in particular, since no Haitian Creole translations were provided during the meetings. To partially remedy the situation, local community members offered to let DNREC hold a public meeting in a local trailer park where many Haitian residents live. This offer would allow Haitian residents who did not speak English or did not have access to a computer or internet to participate in the process and have a question-and-answer session with live translations. DNREC refused to attend.

As a result, the September 28th information meeting and the October 26th formal hearing were held exclusively virtually. A PowerPoint presentation was provided at the meetings that gave a brief overview of the project based on information that was already available on DNREC's website. During the meetings, at least ten different language captions were provided, but Haitian Creole was not one of them.²⁶ Two and half weeks after the information meeting, DNREC posted two PowerPoint slides from the information session that were translated into (1) Spanish and (2) Haitian Creole on their website.²⁷ The PowerPoint slides were identical to the English ones, and did not include any of the questions or responses provided at the information session.²⁸

How DNREC Violated FOIA and Delaware's Administrative Code

Delaware's Freedom of Information Act ("FOIA") requires that all public meetings be fully open to the public.²⁹ According to the Delaware Department of Justice's 2021 FOIA Manual, a public meeting is only "fully open" if it is held in a place where anyone who wishes to attend can be reasonably accommodated.³⁰ In 2016, the Attorney General determined that a public meeting held in a facility too small to accommodate all attendees violated FOIA, because it did not give all interested parties the equal opportunity to attend.³¹ Because DNREC's public meetings were only held virtually, with limited translation opportunities, this prevented a significant portion of the affected population from attending. As a result, the meetings were not truly "open" as required by Del. C. § 10004(a) and *Del. Op. Att'y Gen.* 16-IB17. Thus, DNREC's actions violate FOIA.

Additionally, FOIA requires that public bodies give notice of their open meetings "at least 7 days in advance of the meeting."³² Because DNREC only provided public notice in

²⁶ *Id.*

²⁷ DNREC Hearings, [Spanish Powerpoint Slide], *available* <https://documents.dnrec.delaware.gov/Admin/Hearings/2022-P-MULTI-0012/Prezantasyon-Sesyon-Enfomasyon-20220928.pdf>; DNREC Hearings, [Haitian PowerPoint Slide], *available* <https://documents.dnrec.delaware.gov/Admin/Hearings/2022-P-MULTI-0012/Prezantasyon-Sesyon-Enfomasyon-20220928.pdf>.

²⁸ *Id.*

²⁹ FOIA § 1004(a), Open meetings.

³⁰ *Delaware FOIA Policy Manual*, DELWARE DEP'T OF JUSTICE, at 26 (Oct. 27, 2021), *available* <https://attorneygeneral.delaware.gov/wp-content/uploads/sites/50/2021/10/2021-FOIA-Manual-with-Appendix-A-B.pdf>.

³¹ *Del. Op. Att'y Gen.* 16-IB17, July 28th, 2016.

³² FOIA § 1004. (e)(2). Note that the failure to provide adequate notice is even more egregious given that 7 DE Admin. Code § 6006 requires 20 days of notice before a public hearing.

Haitian Creole and Spanish five days before the informational meeting on September 28th, this violates FOIA and Delaware's Administrative Code.

Furthermore, FOIA only permits public meetings to be virtual if seven requirements are met.³³ DNREC violates the second requirement which states that all virtual meetings must have an "anchor location."³⁴ An anchor location is "the physical location within the geographic jurisdiction of the public body that is open to the public and at which 1 or more members of a public body attend a virtual meeting."³⁵ No physical location was provided for the informational meeting or the public hearing. Because no anchor location existed, DNREC violated FOIA's virtual meeting requirements. Although public bodies were not required to have anchor locations during Delaware's COVID-induced state of emergency, Delaware is no longer in such a state, nor was it during either of these meetings.³⁶

Due to DNREC's violations, many residents have been robbed of their ability to meaningfully participate in the democratic process. Not only did many residents not receive enough time to plan to attend the informational meeting by being notified only a few days in advance, they were not able to participate because they lack access to a computer or internet. Although some of the residents may have been able to "dial in" to the meeting via phone, the phone option lacked Spanish and Haitian translations, and thus many would not have been able to understand what was being said. Additionally, even if translations were provided via phone, they would not have been able to ask any questions about the project given there were no translation services. DNREC's poor planning and illegal actions have disproportionately harmed these community members.

If DNREC's improper actions are not remedied, and the permit applications are approved, BDC's project will be approved without providing an opportunity for many members of the community to give comments or ask questions. This violates FOIA's fundamental principles of inclusion, equal consideration, and critical public debate.³⁷

Conclusion

Given these issues, it is both inappropriate and illegal for DNREC to grant the permits for the Bioenergy Innovation Center at this time.

Sincerely,

The Undersigned

[Signatories on the following page]

³³ FOIA § 10006A.(c)(1)-(7)

³⁴ *Id.* at (c)(2).

³⁵ FOIA § 10002. Definitions.

³⁶ *Termination of State of Emergency*, OFFICE OF GOV. JOHN CARNEY (Mar. 12, 2020), <https://governor.delaware.gov/health-soe/termination/>.

³⁷ FOIA § 10001. Declaration of Policy

Sussex Health & Environmental Network
Michael Payan
Co-founder



Sierra Club Delaware Chapter
Dustyn Thompson
Chapter Director



Latino Initiative on Restorative Justice
Charito Calvachi-Mateyko
Executive Director



Namati US Environmental Justice Program
Jay Monteverde
Program Director



Assateague Coastal Trust
Gabby Ross
Assateague Coastkeeper



Socially Responsible Agriculture Project
Maria Payan
Senior Regional Representative



Drew Serres
Network Delaware
Network Coordinator



Misondri Smartt
Opportunity Knocks Delaware
Healthcare Campaign Director



Terry Dykstra
Immigrant Justice Committee of New Castle Presbytery
314 Sentinel Lane
Newark, Delaware 19702
Chair



Rev. Dr. Lyle J. Dykstra
314 Sentinel Lane
Newark, Delaware 19702

Marlene Quinn

Marj Johnson
202 Woodhill Court
Wilmington DE 19809

Joanne McAfee-Maldonado
Immigrant Advocate
8115 N Old State Rd
Lincoln, DE 19960
Joanne.mcafee@gmail.com

Attachment 1

[Spanish translation of comments]



Diciembre 2, 2022

Re: Expediente #2022-P-Multi-0012: Centro de Innovación de Bioenergía

Estimado Secretario Garvin,

Gracias por la oportunidad de comentar sobre la expansión del Centro de Innovación de Bioenergía. La *Bioenergy Development Company*, LLC ("BDC") actualmente opera el Centro de Innovación de Bioenergía, ubicado en 28338 Enviro Way, Seaford, Delaware.¹ Esta instalación convierte en abono los desechos de la industria avícola, incluida la materia fecal, la torta y los desechos. Usando este proceso, BDC crea biogás y digestato, productos altamente tóxicos y dañinos, como se explica más adelante.² El biogás es el gas que se libera cuando se descomponen los desechos animales, mientras que el digestato son las aguas residuales que quedan. BDC quiere expandir sus instalaciones para construir un "sistema de digestión anaeróbica, un sistema de pretratamiento de aguas residuales, un generador de emergencia y una planta de mejora de biogás" que les permitirá vender el biogás y el digestato comercialmente.³

Para expandir legalmente sus instalaciones, BDC requiere cinco permisos del Departamento de Recursos Naturales y Control Ambiental (DNREC) de Delaware—un Permiso de Recuperación de Recursos de la División de Desechos y Sustancias Peligrosas; dos Permisos Naturales Menores de la División de Calidad del Aire; y dos Permisos de Construcción de Instalaciones de Aguas Residuales de la División de Agua.⁴ Adicionalmente a todos los requisitos específicos de permisos establecidos en el Código Administrativo de Delaware, DNREC deben cumplir con los requisitos de notificación pública descritos en la Ley de Libertad de Información de Delaware (FOIA) para recibir estos permisos.⁵

¹ DNREC Public Hearings, *Bioenergy Innovation Center Project*, DELAWARE DEP'T OF NAT. RES. & ENVTL. CONTROL [hereinafter DNREC], <https://dnrec.alpha.delaware.gov/public-hearings/bioenergy/> (last visited Dec. 2, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Del. C. Title 29 Chapter 1000 [Hereafter FOIA] § 10002; *see also, e.g.*, 7 DE Admin. Code §§ 1102; 1301; 7101; 7202; 7 DE Code §6006. Tenga en cuenta que debido a que la confianza del secretario en la recomendación de los expertos en la materia del DNREC (que actúan como un subcomité) es necesaria para aprobar los permisos, las reuniones deben cumplir con la FOIA. *See Del. Op. Att'y Gen.* 16-IB17 (July 28, 2016)

Las organizaciones e individuos abajo firmantes están preocupados con respecto a los requisitos de notificación pública y participación para este proyecto, los cuales han violado la Ley de Libertad de Información de Delaware (FOIA). Por lo tanto, es inapropiado e ilegal que DNREC apruebe los permisos sin antes remediar estas violaciones.

Antecedentes sobre Biogás

Debido a los graves riesgos para la salud y el medio ambiente que provienen de las instalaciones de biogás, muchos miembros y organizaciones de la comunidad local están profundamente preocupados en cuanto se refiere a proyectos de desarrollo de biogás.⁶ El biogás libera compuestos nocivos y contaminantes al aire.⁷ Esta es la razón por la que una gran cantidad de literatura científica, así como el Departamento de Agricultura de los EE. UU., señalan que el biogás suele ser altamente “tóxico para la salud humana y el medio ambiente”.⁸ Además de la evidencia existente de que el biogás contiene con frecuencia carcinógenos conocidos, las comunidades ubicadas junto a instalaciones similares tienen un mayor riesgo de “problemas respiratorios, dolores de cabeza, función pulmonar crónicamente reducida, irritación ocular, pérdida de apetito y dientes corroídos.”⁹ También es más probable que se elija que las instalaciones de biogás se construyan en comunidades económicamente vulnerables, y el Centro de Innovación de Bioenergía no es una excepción.

Preocupaciones Sobre Equidad

En comparación con el resto del estado, Seaford tiene una tasa desproporcionadamente alta de pobreza y la presencia de minorías—aproximadamente la mitad de la población se identifica como negra o hispana.¹⁰ Además, el inglés no es el idioma principal para muchos de los residentes—creando barreras idiomáticas sustanciales.¹¹ Muchos miembros de las comunidades hispana y haitiana sólo hablan español o criollo haitiano respectivamente y, como resultado, han tenido dificultades significativas para acceder a recursos informativos.¹²

⁶ Phoebe Gittelson et al., *The False Promises of Biogas: Why Biogas Is an Environmental Justice Issue*, in ENV'T JUSTICE (Mary Ann Liebert, Inc., pub., 2021), available <https://www.liebertpub.com/doi/10.1089/env.2021.0025>.

⁷ Valerio Paolini et al., *Environmental Impact of Biogas: A Short Review of Current Knowledge*, J OF ENV'L SCI. AND HEALTH PART A 53: 899–906 (Apr. 13, 2018), available <https://www.tandfonline.com/doi/full/10.1080/10934529.2018.1459076>.

⁸ *Conservation Practice Overview: CPS Anaerobic Digester (Code 366)*, U.S. DEP'T OF AGRIC. (Oct. 2017), https://www.nrcs.usda.gov/sites/default/files/2022-08/Anaerobic_Digester_366_Overview.pdf; Yin Li, et al., *Composition and Toxicity of Biogas Produced from Different Feedstocks in California*, ENV'T SCI. & TECH. 53: 11569–11579 (Sept. 3, 2019), available <https://pubs.acs.org/doi/10.1021/acs.est.9b03003>.

⁹ Gittelson, et al., *supra* note 6.

¹⁰ “QuickFacts, Seaford, Sussex County, Delaware, U.S. CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/seafordcitydelaware,sussexcountydelaware/PST045221>.

¹¹ *Seaford Spoken Language Statistics*, LIVE STORIES (2019), <https://www.livestories.com/statistics>.

¹² Camila Fernandez, *First Ever Haitian Medical Clinic in Seaford Opens Doors*, WMDT (Dec. 9, 2019), <https://www.wmdt.com/2019/12/first-ever-haitian-medical-clinic-in->

Seaford también tiene desventajas tecnológicas. Uno de cada cuatro hogares carece de acceso a Internet de banda ancha y aproximadamente uno de cada cinco hogares no tiene computadora.¹³

De conformidad con el Código Administrativo que gobierna los Residuos Sólidos de Delaware, DNREC debe notificar al público sobre el proceso de obtención de permisos de BDC y permitir comentarios públicos.¹⁴ DNREC ha elegido organizar dos reuniones públicas sobre el proyecto de BDC. Una reunión, que era una sesión de información informal, se llevó a cabo el 28 de septiembre de 2022.¹⁵ La segunda reunión, que era una audiencia formal, se llevó a cabo el 26 de octubre de 2022.¹⁶ Una sesión informativa difiere mucho de una audiencia pública.

En una sesión informativa, el público tiene la oportunidad de hacer preguntas sobre el proyecto que serán respondidas por los empleados de DNREC y BDC.¹⁷ Las preguntas y respuestas compartidas durante una sesión de información no pasarán a formar parte del registro de la audiencia pública y no estarán disponibles para su revisión por parte de nadie que no esté presente.¹⁸ Esta es la única oportunidad que DNREC ha brindado a los residentes para hacer preguntas sobre el proyecto en una reunión. Por el contrario, una audiencia pública no permite que el público haga preguntas. Sólo permite que las personas proporcionen comentarios públicos sobre el proyecto, y deben registrarse para hablar con anticipación a través del sitio web de DNREC.¹⁹

Estas reuniones requieren notificación pública adecuada.²⁰ DNREC primero notificó al público sobre ambas reuniones en su sitio web y en tres periódicos el 21 de agosto de 2022.²¹ Ambos encuentros estaban programados para realizarse de manera virtual a través de la aplicación web Zoom.²² Los avisos públicos para ambas reuniones fueron escritos en

[seaford-opens-doors/](https://www.wmdt.com/2020/10/newly-formed-haitian-coalition-of-delaware-seeks-to-improve-access-to-resources-for-haitian-population/); Camila Fernandez, *Newly Formed Haitian Coalition of Delaware Seeks to Improve Access to Resources for Haitian Population*, WMDT (Oct. 7, 2010), <https://www.wmdt.com/2020/10/newly-formed-haitian-coalition-of-delaware-seeks-to-improve-access-to-resources-for-haitian-population/>.

¹³ U.S. Census Bureau, *supra* note 10.

¹⁴ 7 DE Admin. Code § 1301. Section 4.0 Permit Requirements and Administrative Procedures.

¹⁵ See *Public Information Session: Bioenergy Innovation Center Project*, DNREC, <https://dnrec.alpha.delaware.gov/events/public-information-session-bioenergy-innovation-center-project/> (last visited Dec. 2, 2022) (incluyendo la fecha de la reunión y los materiales complementarios preparados para la reunión).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 7 DE Admin. Code 1301. Section 4.0 Permit Requirements and Administrative Procedures.

²¹ *Bioenergy Devco, LLC Facility Permit Application— Update*, DNREC (Sept. 23, 2022), <https://dnrec.alpha.delaware.gov/public-notices/bioenergy-devco-llc-facility-permit-application-updated/>.

²² *Id.*

inglés.²³ DNREC señaló que los subtítulos en español estarían disponibles durante las reuniones, pero no se proporcionarían subtítulos en español para cualquier persona que "marque" (es decir, use un teléfono) para asistir a la reunión.²⁴ Al mismo tiempo, los subtítulos en español permitirían a los participantes ver traducciones escritas de lo que se decía, pero no brindaron la oportunidad para que los hispanohablantes (o cualquier otro que no hable inglés) hicieran sus propias preguntas. DNREC luego publicó avisos públicos en español y criollo haitiano en su sitio web más de un mes después, el 23 de septiembre, sólo cinco días antes de la reunión informativa del 28 de septiembre.²⁵

Muchos miembros de la comunidad están preocupados por estos hechos. Como resultado de la mala planificación y aviso inadecuado, muchas personas no han podido participar en las reuniones. Los inmigrantes haitianos, en particular, se ven afectados negativamente por esta elección ya que no se proporcionaron traducciones al criollo haitiano durante las reuniones. Para remediar parcialmente la situación, los miembros de la comunidad local se ofrecieron a facilitar que DNREC realizara una reunión pública en un parque de casas rodantes local donde viven muchos residentes haitianos. Esta oferta permitiría, a los residentes haitianos que no hablaran inglés o no tuvieran acceso a una computadora o internet, a participar en el proceso y tener una sesión de preguntas y respuestas con traducciones en vivo. DNREC se negó a asistir.

Como resultado, la reunión informativa del 28 de septiembre y la audiencia formal del 26 de octubre se llevaron a cabo exclusivamente de manera virtual. Se proporcionó una presentación de PowerPoint en la reunión que brindó una breve descripción general del proyecto basada en información que ya estaba disponible en el sitio web de DNREC. Durante las reuniones, se proporcionaron al menos diez subtítulos en diferentes idiomas, pero el idioma criollo haitiano no fue uno de ellos.²⁶ Dos semanas y media después, DNREC publicó dos diapositivas de PowerPoint de la sesión de información que se tradujeron a (1) español y (2) criollo haitiano en su sitio web.²⁷ Las diapositivas de PowerPoint eran idénticas a las de inglés y no incluían ninguna de las preguntas o respuestas proporcionadas en la sesión de información.²⁸

Cómo DNREC violó la Ley FOIA y el Código Administrativo de Delaware

La Ley de Libre Diseminación de Información de Delaware ("FOIA") requiere que todas las reuniones públicas estén completamente abiertas al público.²⁹ De acuerdo con el Manual de la FOIA del 2021 del Departamento de Justicia de Delaware, una reunión

²³ *Id.*

²⁴ *Id.*

²⁵ *Public Hearings: Bioenergy Innovation Center*, DNREC <https://dnrec.alpha.delaware.gov/public-hearings/bioenergy/> (last visited Nov. 9, 2022).

²⁶ *Id.*

²⁷ DNREC Hearings, [Spanish Powerpoint Slide], *available* <https://documents.dnrec.delaware.gov/Admin/Hearings/2022-P-MULTI-0012/Presentacion-del-Sesion-Informativa-20220928.pdf>; DNREC Hearings, [Haitian PowerPoint Slide], *available* <https://documents.dnrec.delaware.gov/Admin/Hearings/2022-P-MULTI-0012/Prezantasyon-Sesyon-Enfomasyon-20220928.pdf>.

²⁸ *Id.*

²⁹ FOIA § 1004(a), Open meetings.

pública sólo es "totalmente abierta" si se lleva a cabo en un lugar donde cualquier persona que desee asistir pueda movilizarse razonablemente.³⁰ En 2016, el Fiscal General determinó que una reunión pública realizada en una instalación demasiado pequeña para acomodar a todos los asistentes incumplió la ley FOIA porque no les dio a todas las partes interesadas la misma oportunidad de asistir.³¹ Debido a que las reuniones públicas de DNREC sólo se llevaron a cabo virtualmente, con oportunidades limitadas de traducción, esto impidió que asistiera una parte significativa de la población afectada. Como resultado, las reuniones no fueron realmente "abiertas" como lo requiere Del. C. § 10004(a) y Del. Op. Fiscal Gen. 16-IB17. Por lo tanto, las acciones de DNREC incumplen la ley FOIA.

Además, FOIA requiere que los organismos públicos notifiquen sus reuniones abiertas "al menos 7 días antes de la reunión."³² Debido a que DNREC sólo proporcionó un aviso público en criollo haitiano y español cinco días antes de la reunión informativa del 28 de septiembre, esto viola la ley FOIA y el Código Administrativo de Delaware.

Además, FOIA sólo permite que las reuniones públicas sean virtuales si se cumplen siete requisitos.³³ DNREC viola el segundo requisito que establece que todas las reuniones virtuales deben tener una "ubicación de anclaje."³⁴ Una ubicación que sirve para anclarse es "la ubicación física dentro de la jurisdicción geográfica del organismo público que está abierta al público y en la que 1 o más miembros de un organismo público asisten a una reunión virtual."³⁵ No se proporcionó una ubicación física para la reunión informativa o la audiencia pública. Debido a que no hubo una ubicación ancla, DNREC viola los requisitos de reunión virtual de la Ley FOIA. Aunque no se requirió que los organismos públicos tuvieran ubicaciones de anclaje durante COVID (sujeto al estado de emergencia de Delaware), Delaware ya no se encuentra en tal estado, ni lo estuvo durante ninguna de estas reuniones.³⁶

Debido a las violaciones de DNREC, a muchos residentes se les ha privado de su capacidad de participar de manera significativa en el proceso democrático. Muchos residentes no sólo no recibieron suficiente tiempo para planear asistir a la reunión informativa porque sólo se les notificó con unos días de anticipación, sino que no pudieron participar porque no tienen acceso a una computadora o Internet. Aunque algunos de los residentes pudieron haber podido "marcar" a la reunión por teléfono, la opción del teléfono carecía de traducción al español y al haitiano y, por lo tanto, muchos no habrían podido entender. Además, incluso si las traducciones se hubiesen proporcionado por teléfono, los residentes no habrían podido hacer ninguna pregunta sobre el proyecto dado que no había un intérprete en vivo. Estos miembros de la comunidad han sido perjudicados de manera

³⁰ *Delaware FOIA Policy Manual*, DELWARE DEP'T OF JUSTICE, at 26 (Oct. 27, 2021), available <https://attorneygeneral.delaware.gov/wp-content/uploads/sites/50/2021/10/2021-FOIA-Manual-with-Appendix-A-B.pdf>.

³¹ *Del. Op. Att'y Gen.* 16-IB17, July 28th, 2016.

³² FOIA § 1004. (e)(2). Note that the failure to provide adequate notice is even more egregious given that 7 DE Admin. Code §6006 requires 20 days of notice before a public hearing.

³³ FOIA § 10006A.(c)(1)-(7)

³⁴ *Id.* at (c)(2).

³⁵ FOIA § 10002. Definitions.

³⁶ *Termination of State of Emergency*, OFFICE OF GOV. JOHN CARNEY (Mar. 12, 2020), <https://governor.delaware.gov/health-soe/termination/>.

desproporcionada por la mala planificación y las acciones ilegales de DNREC.

Si no se subsanan las acciones indebidas del DNREC y se aprueban las solicitudes de permisos, el proyecto de BDC se aprobará sin que muchos miembros de la abrumada comunidad tengan la oportunidad de hacer comentarios o preguntas. Esto viola los principios fundamentales de inclusión, igual consideración y debate público crítico de la FOIA.³⁷

Conclusión

Dados estos problemas, es inapropiado e ilegal que el DNREC otorgue los permisos para el Centro de Innovación de Bioenergía en este momento.

Sinceramente,

Los/Las firmantes

³⁷ FOIA § 10001. Declaration of Policy

Attachment 2

[Haitian Creole translation of comments]



2 Decem, 2022

Re: Dosye #2022-P-Multi-0012: Sant Inovasyon Bioenèji

Sekretè Garvin,

Mèsi pou opòtinite pou fè kòmantè sou ekspansyon Sant Inovasyon Bioenèji. Bioenergy Development Company, LLC ("BDC") nan momen sa Sant Inovasyon Bioenergy, chita nan 28338 Enviro Way, Seaford, Delaware.¹ Etablisman sa konpost fatra ki soti nan endistri poul la, ki gen fatra ladan, ak majorite depo.² Lè ke li sèvi avèk pwosesis sa, BDC kreye byo-gaz ak dijesta-pwodwi ki trè toksik e danjere, ou pral we plis esplikasyon de sa pi ba. Byo-gaz se gaz ki lage lè res bèt yo kraze, alòske dijestat se dlo egou ki rete dèyè. BDC vle elaji etablisman yo pou konstwi yon "sistèm dijeyon anaerobik, yon sistèm tretman dlo ize, dèlko ijans, ak yon plant amelyore byo-gaz" ki pral pèmèt yo vann byo-gaz la ak dijesta nan komèsyal. Etablisman yo pwopoze a kapab "genyen kapasite pou resevwa ak trete jiska 250,000 tòn" fatra pa ane.³

Pou elaji etablisman li a legalman, BDC mande senk pèmi nan men Depatman Resous Natirèl ak Kontwòl Anviwònman Delaware (DNREC)—yon pèmi pou Rekiperasyon Resous ki soti nan Divizyon Fatra ak Sibstans Danjere; E de pèmi minè natirèl ki soti nan Divizyon Kalite lè a; ak de Pèmi Konstriksyon Etablisman Dlo Ize nan Divizyon Dlo.⁴ Anplis de tout egzijans espesifik pou pèmi ki tabli nan Kòd Administratif Delaware, DNREC dwe respekte kondisyon piblik ki endike nan Lwa sou Libète Enfòmasyon sou Delaware (FOIA) pou administre pèmi sa yo.⁵

Òganizasyon ak moun ki siyen yo gen plizyè enkyetid konsènan piblik la ak kondisyon patisipasyon pou pwojè sa , ki vyole Lwa sou Libète Enfòmasyon sou Delaware (FOIA). Se poutèt sa li pa apwopriye e li ilegal pou DNREC apwouve pèmi yo san yo pa ranje

¹ DNREC Public Hearings, *Bioenergy Innovation Center Project*, DELAWARE DEP'T OF NAT. RES. & ENVTL. CONTROL [hereinafter DNREC], <https://dnrec.alpha.delaware.gov/public-hearings/bioenergy/> (last visited Dec. 2, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Del. C. Title 29 Chapter 1000 [Hereafter FOIA] § 10002; *see also, e.g.*, 7 DE Admin. Code §§ 1102; 1301; 7101; 7202; 7 DE Code § 6006. Remake byen ke paske sekretè a depann sou rekòmasyon ekspè nan matyè DNREC (ki aji kòm yon soukomite) nesèsè pou apwouve pèmi yo, reyinyon yo dwe konfòme yo ak FOIA. *See Del. Op. Att'y Gen.* 16-IB17 (July 28, 2016)

vyolasyon sa yo.

Istwa sou Byo-gaz

Akos de ris grav sante e ris grav anviwònman enstalasyon byo-gaz sa bi, anpil manm kominote lokal yo ak òganizasyon yo vreman konsène ak pwojè devlopman byo-gaz sa.⁶ Byo-gaz degaje e li konpoze kontaminan danjere nan lè a.⁷ Se poutèt sa anpil literati syantifik, e Depatman Agrikilti Ameriken an, fè remake ke byo-gaz souvan trè "toksik pou sante moun ak anviwònman an."⁸ Anplis de prèyè ki deja egziste ki montre ke souvan byo-gaz gen kanserojèn laden, kominote ki sitiye akote enstalasyon gen plis risk pou "pwoblèm respiratwa, maltèt, fonksyon redwi nan poumon kwonik, iritasyon je, chanjman nan apeti, ak dan korode."⁹ Yo gen plis chans pou yo bati Enstalasyon byo-gaz nan kominote vilnerab ekonomikman yo, epi Sant Inovasyon Byoenèji a pa gen okenn eksepsyon.

Enkyetid Egal

Konpare ak rès eta yo, Proposyonelman Seaford gen anpil povrete ak prezans minorite—apeprè mwatye popilasyon an idantifye kòm nwa oswa Panyòl.¹⁰ Anplis de sa, angle se pa lang prensipal pou anpil rezidans—ki kreye yon gwo baryè lang.¹¹ Anpil manm kominote Panyòl la ak Ayisyen a sèlman pale panyòl oswa kreyòl Ayisyen, e kòm rezilta, yo te gen gwo difikilte pou jwenn aksè nan resous yo.¹²

⁶ Phoebe Gittelson et al., *The False Promises of Biogas: Why Biogas Is an Environmental Justice Issue*, in ENV'T JUSTICE (Mary Ann Liebert, Inc., pub., 2021), available <https://www.liebertpub.com/doi/10.1089/env.2021.0025>.

⁷ Valerio Paolini et al., *Environmental Impact of Biogas: A Short Review of Current Knowledge*, J OF ENV'L SCI. AND HEALTH PART A 53: 899–906 (Apr. 13, 2018), available <https://www.tandfonline.com/doi/full/10.1080/10934529.2018.1459076>.

⁸ *Conservation Practice Overview: CPS Anaerobic Digester (Code 366)*, U.S. DEP'T OF AGRIC. (Oct. 2017), https://www.nrcs.usda.gov/sites/default/files/2022-08/Anaerobic_Digester_366_Overview.pdf; Yin Li, et al., *Composition and Toxicity of Biogas Produced from Different Feedstocks in California*, ENV'T SCI. & TECH. 53: 11569–11579 (Sept. 3, 2019), available <https://pubs.acs.org/doi/10.1021/acs.est.9b03003>.

⁹ Gittelson, et al., *supra* note 6.

¹⁰ "QuickFacts, Seaford, Sussex County, Delaware, U.S. CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/seafordcitydelaware,sussexcountydelaware/PST045221>.

¹¹ *Seaford Spoken Language Statistics*, LIVE STORIES (2019), <https://www.livestories.com/statistics>.

¹² Camila Fernandez, *First Ever Haitian Medical Clinic in Seaford Opens Doors*, WMDT (Dec. 9, 2019), <https://www.wmdt.com/2019/12/first-ever-haitian-medical-clinic-in-seaford-opens-doors/>; Camila Fernandez, *Newly Formed Haitian Coalition of Delaware Seeks to Improve Access to Resources for Haitian Population*, WMDT (Oct. 7, 2010), <https://www.wmdt.com/2020/10/newly-formed-haitian-coalition-of-delaware-seeks-to-improve-access-to-resources-for-haitian-population/>.

Seaford genyen yon dezavantaj de teknoloji. Youn nan kat fanmi pa gen aksè entènèt, epi apeprè youn nan senk kay pa gen yon òdinatè.¹³

Dapre Kòd Administratif Delaware ki Gouvènè Fatra Solid, DNREC oblije fè piblik la konnen pwosesis otorizasyon BDC a, epi pèmèt piblik la fè kòmantè. DNREC te chwazi òganize de reyinyon piblik konsènan pwojè BDC a.¹⁴ Youn nan reyinyon yo se te youn sesyon enfòmasyon enfòmèl, li te òganize nan dat 28 Septanm 2022.¹⁵ Dezyèm reyinyon an, youn odyans fòmèl, te fèt 26 Oktòb 2022.¹⁶ Youn seyans enfòmasyon diferan anpil ak youn odyans piblik.

Nan youn seyans enfòmasyon, piblik la gen opòtinite pou poze kesyon sou pwojè a ke anplwaye DNREC ak BDC gen chans pou l reponn.¹⁷ Kesyon ak repons yo pataje pandan youn seyans enfòmasyon pap fè pati dosye odyans piblik la, e yo pap disponib pou nenpòt moun ki pat asiste yo revize.¹⁸ Sa se sel opòtinite DNREC te bay rezidan yo poze kesyon sou pwojè a nan youn reyinyon. Okontrè, youn odyans piblik pa pèmèt piblik la poze kesyon. Li sèlman pèmèt moun bay kòmantè piblik sou pwojè a, epi yo dwe enskri pou pale davans atravè sit entènèt DNREC la.¹⁹

Reyinyon sa yo egzije bon jan avi piblik.²⁰ DNREC te premye avèti piblik la sou tou de reyinyon yo sou sit entènèt yo ak nan twa jounal nan dat 21 Out 2022.²¹ Tou de reyinyon yo te pwograme pou yo fèt atravè aplikasyon entènèt Zoom nan.²² Yo te ekri avi piblik pou tou de reyinyon yo an angle.²³ DNREC te note ke tit panyòl yo tap disponib pandan reyinyon yo, men pat tap genyen anyen pou moun ki ap fè nimewo (sa vle di, lè l sèvi avèk youn telefòn) pou patisipe nan reyinyon an.²⁴ Anplis de sa, Yo pèmèt patisipan Panyòl yo wè tradiksyon ekri, men yo pat bay moun ki pale Panyòl yo (oswa nenpòt lòt moun ki pa pale angle) pou yo poze pwòp kesyon pa yo. Apre sa, DNREC te afiche avi piblik yo an panyòl ak kreyòl Ayisyen sou sit entènèt yo jus apre youn mwa ki te 23 Septanm, sèlman

¹³ U.S. Census Bureau, *supra* note 10.

¹⁴ 7 DE Admin. Code § 1301. Section 4.0 Permit Requirements and Administrative Procedures.

¹⁵ See *Public Information Session: Bioenergy Innovation Center Project*, DNREC, <https://dnrec.alpha.delaware.gov/events/public-information-session-bioenergy-innovation-center-project/> (last visited Dec. 2, 2022) (enkli dat reyinyon an, ak materyèl siplemantè ki prepare pou reyinyon an).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 7 DE Admin. Code 1301. Section 4.0 Permit Requirements and Administrative Procedures.

²¹ *Bioenergy Devco, LLC Facility Permit Application— Update*, DNREC (Sept. 23, 2022), <https://dnrec.alpha.delaware.gov/public-notices/bioenergy-devco-llc-facility-permit-application-updated/>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

senk jou anvan reyinyon enfòmasyon 28 Septanm lan.²⁵

Anpil manm kominote a konsène pa reyalite sa yo. Kòm rezilta move planifikasyon ak tan ensifizan, anpil moun pat kapab patisipe nan reyinyon yo. Imigran Ayisyen yo, an patikilye, gen yon enpak negatif sou chwa sa paske yo pat bay okenn tradiksyon kreyòl pandan reyinyon yo. Pou jwen yon solisyon, manm kominote lokal yo te ofri pou kite DNREC fè yon reyinyon piblik nan yon pak lokal kote anpil rezidans Ayisyen ap viv. Òf sa ta pèmèt rezidans Ayisyen ki pat pale anglè, oswa ki pat gen aksè a yon òdinatè, oswa entènèt ,pou yo patisipe nan pwosesis la epi gen yon sesyon kesyon ak repons ak Intepret an dirèk. DNREC te refize patisipe.

Kòm rezilta, reyinyon enfòmasyon 28 Septanm ak odyans fòmèl 26 oktòb la te fèt sèlman vityel. Yo te bay yon prezantasyon PowerPoint nan reyinyon an ki te bay yon ti apèsi sou pwojè a ki baze sou enfòmasyon ki te deja disponib sou sit entènèt DNREC la. Pandan rankont la, yo te bay omwen dis tit nan lang diferan, men kreyòl Ayisyen pat youn nan yo.²⁶ De semèn edmi apre, DNREC afiche de PowerPoint ki soti nan seyans enfòmasyon an ki te tradui an (1) panyòl ak (2) kreyòl Ayisyen sou sit entènèt yo.²⁷ PowerPoint yo te mem jan ak sa angle yo, epi yo pat gen okenn nan kesyon oswa repons yo te bay nan sesyon enfòmasyon an laden.²⁸

Kijan DNREC te vyole FOIA ak Kòd Administratif Delaware

Lwa sou Libète Enfòmasyon sou Delaware ("FOIA") egzije pou tout reyinyon piblik yo dwe totalman ouvè a piblik la.²⁹ Dapre Manyèl FOIA 2021 Depatman Jistis Delaware a, yon reyinyon piblik se pa sèlman "konplètman ouvè" men fok li fet nan yon plas kote nenpòt moun ki vle ale ka akomode resonableman.³⁰ An 2016, Avoka Jeneral la te detèmine ke yon reyinyon piblik ki te fèt nan yon etablisman ki twò piti pou akomode tout patisipan yo te vyole FOIA, paske li pa bay tout pati ki enterese yo opòtinite egal pou yo patisipe.³¹ Paske reyinyon piblik DNREC yo te fèt sèlman virtyel, ak opòtinite tradiksyon limite, sa te anpeche yon pati enpòtan nan popilasyon ki afekte a soti ale asiste.Kòm rezilta, reyinyon yo pat vrèman ouve jan Del. C. § 10004(a) ak Del. Op. At'y Gen. 16-IB17. Kidonk, aksyon DNREC yo vyole FOIA.

²⁵ *Public Hearings: Bioenergy Innovation Center*, DNREC <https://dnrec.alpha.delaware.gov/public-hearings/bioenergy/> (last visited Dec. 2, 2022).

²⁶ *Id.*

²⁷ DNREC Hearings, [Spanish Powerpoint Slide], *available* <https://documents.dnrec.delaware.gov/Admin/Hearings/2022-P-MULTI-0012/Presentacion-del-Sesion-Informativa-20220928.pdf>; DNREC Hearings, [Haitian PowerPoint Slide], *available* <https://documents.dnrec.delaware.gov/Admin/Hearings/2022-P-MULTI-0012/Prezantasyon-Sesyon-Enfomasyon-20220928.pdf> (last visited Dec. 2, 2022).

²⁸ *Id.*

²⁹ FOIA § 1004(a), Open meetings.

³⁰ *Delaware FOIA Policy Manual*, DELWARE DEP'T OF JUSTICE, at 26 (Oct. 27, 2021), *available* <https://attorneygeneral.delaware.gov/wp-content/uploads/sites/50/2021/10/2021-FOIA-Manual-with-Appendix-A-B.pdf>.

³¹ *Del. Op. Att'y Gen.* 16-IB17, July 28th, 2016.

Anplis de sa, FOIA mande pou kò piblik yo bay avi sou reyinyon ouvè yo "omwen 7 jou avan reyinyon an."³² Paske DNREC te aveti piblik sèlman an kreyòl Ayisyen ak Panyòl senk jou anvan reyinyon enfòmasyon 28 Septanm nan, sa vyole FOIA ak Kò Administratif Delaware.

Anplis de sa, FOIA pèmèt reyinyon piblik yo sèlman vityèl si sèt kondisyon yo satisfè.³³ DNREC vyole dezyèm egzijans ki endike ke tout reyinyon vityèl yo dwe gen yon "kote prensipal."³⁴ Yon kote prensipal se "kote fizik nan zonn kò piblik la ki ouvè a piblik la epi kote 1 oswa plis manm nan kò piblik patisipe nan yon reyinyon vityèl."³⁵ Yo pa bay okenn kote fizik pou enfòmasyon reyinyon an oswa odyans piblik la. Paske kote prensipal lan pat egziste, DNREC vyole kondisyon reyinyon vityèl FOIA yo. Malgre ke kò piblik yo pat oblije gen kote prensipal pandan eta dijans Delaware ki te pwovoke nan COVID, Delaware pat nan yon eta konsa ankò pandan youn nan reyinyon sa yo.³⁶

Akòz vyolasyon DNREC yo, yo vole dwa anpil rezidans yo pou yo patisipe nan pwosesis demokratik sa. Non sèlman anpil rezidans pat resevwa ase tan pou planifye e patisipe nan reyinyon enfòmasyon yo, yo sèlman te avèti kèk jou davans, yo pat kapab patisipe paske yo pa gen aksè a yon òdinatè oswa entènèt. Malgre ke kèk nan rezidans yo te kapab nan reyinyon an pa telefòn, opsyon telefòn nan te manke tradiksyon panyòl ak kreyòl, e konsa, anpil moun pat kapab konprann sa yo te di. Anplis de sa, menm si yo te bay tradiksyon pa telefòn, yo pat ap kapab poze okenn kesyon sou pwòje a paske pat gen sèvis Intepret. Manm kominote sa yo te blese yon fason disproporsyonel akòz move planifikasyon DNREC ak aksyon ilegal yo.

Si aksyon ki pa kòrèk DNREC yo pa ranje, epi aplikasyon pou pèmi yo apwouve, pwòje BDC a pral apwouve san yo pa bay yon opòtinite pou anpil manm nan kominote a bay kòmantè oswa poze kesyon. Sa vyole prensip fondamantal FOIA sou enklizyon, konsiderasyon egal, ak deba piblik kritik.³⁷

Konklizyon

Etandone pwoblèm sa yo, li pa apwopriye e ilegal pou DNREC bay pèmi pou Sant Inovasyon Bioenèji nan moman sa a.

Sensèman,

Siyen an

³² FOIA § 1004. (e)(2). Remake byen ke echèk pou bay avi adekwat se menm plis flagran paske 7 DE Admin. Code § 6006 egzije 20 jou avi anvan yon odyans piblik.

³³ FOIA § 10006A.(c)(1)-(7)

³⁴ *Id.* at (c)(2).

³⁵ FOIA § 10002. Definitions.

³⁶ *Termination of State of Emergency*, OFFICE OF GOV. JOHN CARNEY (Mar. 12, 2020), <https://governor.delaware.gov/health-soe/termination/>.

³⁷ FOIA § 10001. Declaration of Policy