



March 9, 2023

Senate Committee on Energy and Environment
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony in Support of Senate Bill 488

Dear Chair Sollman, Vice-Chair Findley, and Members of the Senate Committee on Energy and Environment:

Thank you for the opportunity to provide testimony on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights, with more than 28,000 supporters statewide.

The ACLU of Oregon strongly supports Senate Bill 488 (-3 Amendment), which would require the Covanta Marion incinerator to meet federal emissions limits for “large medical waste incinerators” if it accepts over 500 pounds of medical waste per hour.

The modern environmental justice movement arose alongside the Civil Rights Movement, as disparately impacted communities of color began organizing to address inequity within environmental protection. As awareness grew, studies demonstrated the pervasive correlation between race, economic status, and the location of hazardous waste landfills. A pivotal 1987 report found race was the single strongest variable in predicting the location of waste facilities.¹

More recent studies show Latine Americans and Black Americans are exposed to 63 percent and 56 percent more pollution than they produce, while non-Hispanic white Americans are exposed to 17 percent less pollution than they produce.² Poisoned drinking water in Flint, Michigan and toxic air in Louisiana's “Cancer Alley” reveal the continued deadly consequences of environmental racism in the United States. While Oregon is often cast as a leader on national environmental issues, our state has its own history and enduring practice of environmental racism.

¹ Toxic Wastes and Race in the United States, Commission for Racial Justice, United Church of Christ, 1987, www.ucc.org/wp-content/uploads/2020/12/ToxicWastesRace.pdf; Robert D. Bullard, Paul Mohai, Robin Saha and Beverly Wright, Toxic Wastes And Race At Twenty: Why Race Still Matters After All Of These Years, Environmental Law Vol. 38, No. 2 (Spring 2008), pp. 371-411, <https://www.jstor.org/stable/43267204>.

² Analysis on exposure from 2003-2015. Christopher W. Tessum et al., “Inequity in Consumption of Goods and Services Adds to Racial-Ethnic Disparities in Air Pollution Exposure,” Proceedings of the National Academy of Sciences (March 2019).

The expanded and under-regulated operation of the Covanta Marion incinerator shows the continued legacy of environmental racism in our state. Under the incinerator's latest contract with Marion County, Covanta can take in up to 18,000 tons of medical waste and unlimited industrial waste from other U.S. states and Canada.

The EPA typically places more stringent regulations on hospital/medical/infectious waste incinerators, as these facilities risk emitting harmful quantities of hydrogen chloride, sulfur dioxide, carbon monoxide, nitrogen dioxide, cadmium, lead and mercury.³ Covanta Marion, however, has evaded these regulatory protections. Because the facility also processes large amounts of household and business waste, the incinerator is currently categorized as a less-regulated "large municipal waste combustor."⁴

This means residents near the incinerator are breathing direct byproducts of medical waste incineration without the full protective limitations of federal law intended for such operations. These residents will be the ones who experience the health consequences of this waste incineration.

Unfortunately, the placement of the Covanta Marion incinerator continues the discriminatory pattern of proximity to historically marginalized communities. The communities near the Marion County incinerator, including Brooks, Woodburn, Gervais, Keizer, and Salem, are communities that have a significantly higher Latine population than the rest of Oregon. These communities are also home to a higher proportion of persons who speak a language other than English at home. Indeed, the community closest to the facility is the small, unincorporated town of Brooks, a town with a population that is 40 percent Spanish-speaking and almost half Latine.

Bilingual canvassing conducted by the Oregon Physicians for Social Responsibility and Clean Air in Brooks found that residents are concerned about the potential health impacts of Covanta's operations, yet no health risk assessment has been performed.

As Oregonians work to confront the enduring legacy of racism and colonialism in our state, we cannot ignore the harmful impacts of environmental racism. By applying federal protections to Covanta's incineration of large quantities of medical waste, Senate Bill 488 would tighten the cap on harmful emissions of hydrogen chloride, sulfur dioxide, carbon monoxide, nitrogen dioxide, cadmium, lead and mercury.

This is a common-sense regulation and an important step toward keeping Oregon's most marginalized communities safe.

The ACLU of Oregon urges you to pass Senate Bill 488 out of committee.

Respectfully,

Emily Hawley
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³ Hospital, Medical, and Infectious Waste Incinerators (HMIWI): New Source Performance Standards (NSPS), Emission Guidelines, and Federal Plan Requirements Regulations, U.S. Environmental Protection Agency, <https://www.epa.gov/stationary-sources-air-pollution/hospital-medical-and-infectious-waste-incinerators-hmiwi-new>.

⁴ Large Municipal Waste Combustors (LMWC): New Source Performance Standards (NSPS) and Emissions Guidelines, U.S. Environmental Protection Agency, <https://www.epa.gov/stationary-sources-air-pollution/large-municipal-waste-combustors-lmwc-new-source-performance>.