

January 20, 2010

Honorable Helena Wooden-Aguilar

Acting Assistant Director

External Compliance and Complaint Program

Office of Civil Rights

Environmental Protection Agency *via fax to 202-233-0630*

Washington, D.C. 20460

RE: January 19, 2009 Environmental Justice Complaint Against City of St. Augustine, Florida, EPA OCR Case No. 01R-09-R4

Dear Ms. Aguilar:

Thank you for your letter. In response, please be advised:

1. **The actions complained of are all continuing violations under civil rights case law and ongoing and Respondents Florida Department of Environmental Protection (FDEP) and City of St. Augustine have turned the historic African-American Lincolnville neighborhood into "the Pollution Peninsula." The January 19, 2009 complaint is timely, both under the continuing violation doctrine and under equitable tolling and because during the six months preceding the complaint:**
 - a. The City of St. Augustine commenced its FDEP-ordered cleanup of the Old City Reservoir without complying with citizens' requests for transparency, including webcams to allow citizens to monitor environmental compliance, with no subsequent report or meeting to inform citizens about the cleanup and its progress. This is a continuing violation.
 - b. The City of St. Augustine and FDEP continued to refuse to investigate the full extent and effects of pollution on public health, including infant and child mortality affecting the African-American population. We believe this is an obstruction of justice and also a continuing violation under civil rights case law.
 - c. The City of St. Augustine mocked our reporting raw sewage spills to the National Response Center, with Chief Operating Officer John Regan on-camera at the September 8, 2008 City Commission meeting mocking the report of (b)(6) Privacy, (b)(7)(C) Enf. Privacy on September 5, 2008.
 - d. The City of St. Augustine falsely represented that the source of the sewage was a homeless camp, a supposition it knew was false when made, having had notice over the years of the decrepit condition of its underwater sewage pipes.
 - e. The FDEP and the Florida Department of Administrative Hearings continued to refuse to rule upon or respond to Petitioners and Intervenor's May 20, 2008

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Motion in Opposition to FDEP's Motion to Relinquish Jurisdiction, and to Request the Administrative Law Judge to Maintain Continuing Jurisdiction, Notice of Objection to Filing of New Amended Consent Decree, and Motion for Leave to File Petition for Award of Legal and Research and Other Fees and Expenses.

- f. Respondents have refused to discuss or rule on the merits of the motion, depriving the people of a ruling on the merits.
- g. The FDEP continues to refuse to take any criminal action against the City of St. Augustine.
- 2. **After January 19, 2009, the discriminatory actions continued, including:**
 - a. On May 21, 2009, the City of St. Augustine spilled some 1875 gallons of raw sewage in Maria Sanchez Lake, without providing notice of the spill to neighbors. ✓
 - b. As a result of the City's intentional lack of signage and notice, including failure to post signs until after Memorial Day, African-Americans and other citizens were seen fishing in contaminated waters on Memorial Day, presenting risk of death. ✓
 - c. FDEP failed to take adequate enforcement action, with no fine proposed and no criminal prosecution.
 - d. The City of St. Augustine dumped 611,294 gallons of raw sewage in our San Sebastian River May 29-30, 2009, an act of environmental racism. ✓
 - e. The City of St. Augustine Commissioners and Chief Operating Officer John Regan mocked Petitioners' reporting raw sewage in our San Sebastian River at the October 8, 2008 City Commission meeting.
 - f. It is believed that the City of St. Augustine staff placed anonymous postings on anonymous KKK-style hate websites, working in concert with others, continuing the mockery on **(b)(6) Privacy, (b)(7)(C) Enf. Privacy**
 - g. In response to spill of 611,294 gallons of raw sewage in our San Sebastian River, FDEP took no meaningful enforcement action, with a small fine proposed. We have requested a hearing before an ALJ.
 - h. FDEP proposed an Outstanding Florida Waters designation for Matanzas River, but only south of the SR 312 Bridge, excluding the polluted waters of the City of St. Augustine. The process is ongoing, with a workshop meeting held on January 19, 2010 before DEP representatives at St. Augustine City Hall.
 - i. The City of St. Augustine refused to provide videotape or television coverage of the January 19, 2010 workshop.

- j. At the January 19, 2010 workshop, City of St. Augustine Chief Operating Officer John Regan asked if the City could have veto power over the Outstanding Florida Waters petition as owner of the submerged lands south of the SR 312 bridge.
- k. At the January 19, 2010 workshop, City of St. Augustine Chief Operating Officer John Regan refused to answer questions on environmental crimes.
- 3. It is our understanding that FDEP has received EPA funds.
- 4. It is our understanding that both FDEO and the City of St. Augustine are seeking EPA and other federal grants.

Please let us know if you have further questions.

We will be meeting today with an EPA criminal investigator.

We look forward to meeting with your investigator on our January 19, 2009 complaint.

With kindest regards, we are

Sincerely yours,

(b)(6) Privacy, (b)(7)(C) Enf. Privacy



(b)(6) Privacy, (b)(7)(C) Enf. Privacy



St. Augustine, Florida 32084

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

