



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 22 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

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In Reply Refer to:

EPA OCR File No. 11R-11-R4

Secretary Herschel T. Vinyard
Florida Department of Environmental Protection
Bob Martinez Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Acceptance of Title VI Administrative Complaint for Investigation

Dear Secretary Vinyard:

This letter is sent to notify the Florida Department of Environmental Protection (FDEP) that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is accepting the following administrative complaint from David Ludder, Esq., dated November 30, 2011, filed against FDEP. The complaint alleges that the Florida Department of Environmental Protection (FDEP) violated Title VI of the Civil Rights Act of 1964, as amended, (Title VI), 42 U.S.C. §§2000d *et seq.*, and EPA's regulations implementing Title VI, found at 40 C.F.R. Part 7.

Under EPA's nondiscrimination regulations, a recipient of Federal financial assistance may not discriminate on the basis of race, color, national origin, sex, or disability. Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of complaints to determine acceptance, rejection, or referral.¹ To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe alleged discriminatory acts that violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, disability, or gender). Third, it must be filed within 180 calendar days of the alleged discriminatory act.² Finally, it must be filed against a recipient of EPA assistance that committed the alleged discriminatory act.³ For reasons listed below, EPA OCR is accepting the following allegation for investigation.

Complaint Allegation

The complaint alleges that FDEP committed a discriminatory act by the issuance of Air Permit No. 0450012-002-AC to Northwest Florida Renewable Energy Center, LLC, and

¹ 40 C.F.R. § 7.120(d)(1).

² 40 C.F.R. § 7.120(b)(2).

³ 40 C.F.R. § 7.15.

authorizing "the construction of a nominal 55 megawatts (MWnet) biomass fed gasification and combined cycle (BGCC) power plant called the NWFREC. The impacts alleged are "(1) human exposure to facility emissions, particularly carcinogens; (2) light "pollution" resulting from operation of an elevated flare; and (3) increased traffic congestion, accident risk, vehicular emissions and noise from increased truck traffic."

OCR is accepting the following allegation for investigation:

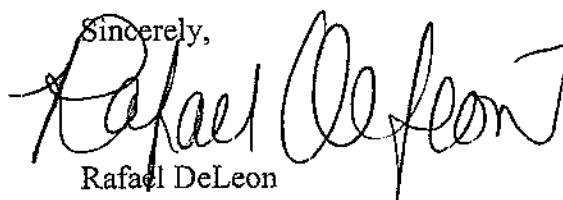
FDEP's authorization of the permit for the NWFREC is discriminatory because the alleged adverse impacts will fall disparately upon African Americans within 2.0 kilometers of the facility.

This allegation is accepted for investigation because it meets all four of EPA's jurisdictional requirements as outlined above. First, the complaint is in writing. Second, the complaint describes an alleged disparate act that may violate Title VI of the Civil Rights Act of 1964, and more specifically in this instance, EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. Third, the complaint was filed within 180 days of the date of the alleged discriminatory act, which was the issuance of Air Permit No. 0450012-002-AC to Northwest Florida Renewable Energy Center, LLC on June 9, 2011. Finally, the Florida Department of the Environment is a recipient of EPA financial assistance.

Pursuant to 40 C.F.R. § 7.120 (d)(1)(iii), OCR requests that FDEP make a written submission within thirty (30) calendar days of receiving this letter responding to, rebutting, or denying the allegations raised in the complaint. OCR will discuss offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders.

If you have any questions, please contact Jonathan Stein by telephone at (202) 564-2088, by email at stein.jonathan@epa.gov, or by mail at U.S. EPA, Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C., 20460.

Sincerely,

A handwritten signature in black ink, appearing to read "Rafael DeLeon". The signature is fluid and cursive, with a large, stylized "R" and "D".

Rafael DeLeon
Director

cc: Steve Pressman, Associate General Counsel
Civil Rights & Finance Law Office (MC 2399A)
U.S. EPA Office of General Counsel

Naima Halim-Chestnut, EEO Officer
U.S. EPA Region 4
61 Forsyth Street, S.W.

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