



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

APR 23 2013

OFFICE OF
CIVIL RIGHTS

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In Reply Refer To:

EPA File Nos.: 03R-06-R5 &
13R-10-R5

Ms. Lisa Bonnett
Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Re: Notification of Closure for Title VI Administrative Complaints, EPA File Nos. 03R-06-R5 & 13R-10-R5

Dear Director Bonnett:

This letter constitutes closure of two administrative complaints filed with the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), on April 24, 2006, with supplements that OCR received on October 26, 2006, March 6, 2007, and May 5, 2010, by Mr. Keith Harley on behalf of South Suburban Community Opposed to Polluting our Environment (SS-COPE) against the Illinois Environmental Protection Agency (IEPA) under Title VI of the Civil Rights act of 1964, as amended 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's implementing regulations at 40 C.F.R. Part 7. By letter dated January 27, 2009, OCR accepted the following allegation for investigation under Title VI Complaint No. 03R-06-R5:

Whether Illinois EPA's issuance of an air construction permit to Geneva Energy to restart operations at a tire-to-energy facility in Ford Heights, Illinois has resulted in a disparate impact on the African American residents who live near the facility.¹

On July 23, 2010, OCR accepted the following allegation for investigation under Title VI Complaint No. 13R-10-R5:

Whether the IEPA intentionally discriminated against the African American residents of Ford Heights, Illinois, by not providing an opportunity for meaningful involvement in the decision making process with the issuance of construction permits for the Midwest Micronutrients processing facility and for the trial use of wood biomass fuel at the Geneva Energy facility.²

¹ Acceptance of Administrative Complaint Letter from Karen D. Higginbotham, Director, Office of Civil Rights, EPA, to Mr. Keith Harley, Attorney, Chicago Legal Clinic, Inc. (January 27, 2010).

The complaint investigation revealed concerns about IEPA's public involvement practices and OCR addresses those in the enclosed settlement agreement.

Title VI prohibits discrimination on the basis of race, color, or national origin under programs or activities receiving Federal financial assistance. Pursuant to EPA's Title VI implementing regulations, recipients of EPA financial assistance may not intentionally discriminate, or use criteria or methods of administering its program that have a discriminatory effect based on race, color, or national origin.

OCR investigated the complainant's allegation of disparate impact related to IEPA's issuance of an air construction permit to the Geneva Energy facility and OCR also investigated the intentional discrimination complaint in regards to IEPA's public participation program. Following its investigation spanning from 2009 to 2011, EPA and IEPA began negotiations to settle both complaints of disparate impact and intentional discrimination. OCR periodically reached out to Mr. Harley in order to keep SS-COPE apprised of new developments.

The Geneva Energy facility ceased its operations at the 1705 Cottage Grove Avenue address on August 27, 2011. The permanent shutdown of the Geneva Energy facility was confirmed by the IEPA in letters dated November 21, 2012. (*See* attached). In addition, U.S. EPA reached agreement with Geneva Energy on the terms of a consent decree to resolve allegations that the company violated the Clean Air Act. (See www.epa.gov/region5/air/enforce/genevaenergy.html).

Because the accepted allegation for complaint no. 03R-06-R5 concerns the Geneva Energy facility which is no longer operating, OCR has determined that your allegation for this complaint is moot and is being dismissed. On April 18, 2013, OCR and IEPA entered into a settlement agreement (copy enclosed) regarding complaint no. 13R-10-R5. Based on the facility closure and the execution of the settlement agreement, OCR closes both complaint investigations. OCR will continue to monitor IEPA's performance under the settlement agreement.

Resolution of these two complaints is part of OCR's broader effort to improve the manner in which it addresses Title VI. For example, the Agency has:

- increased Title VI staff in both OCR and the Office of General Counsel,
- engaged the complainant party for input during the settlement negotiation process,
- worked closely with DOJ on Title VI legal issues,
- received training from DOJ on investigations and the law,
- established an internal network of Title VI contacts to leverage the expertise of EPA's regions and programs, and
- developed an improved complaint tracking system to better monitor the progress of investigations.

² Acceptance of Administrative Complaint Letter from Rafael DeLeon, Acting Director, Office of Civil Rights, EPA, to Mr. Keith Harley, Attorney, Chicago Legal Clinic, Inc. (July 23, 2010).

If you have any questions, please feel free to call Helena Wooden-Aguilar, Assistant Director of OCR's External Compliance Program, at (202) 564-0792. My staff and I are available to address any questions you or your clients may have about the investigation or the settlement agreement. Thank you for your cooperation throughout this process.

Sincerely,



Vicki Simons
Acting Director

Enclosure(s)

cc: Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (MC 2399A)

Mr. Keith Harley, Atty
Chicago Legal Clinic, Inc.
205 West Monroe Street, 4th Floor
Chicago, IL 60606

Chris Pressnall, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Susan Hedman, Regional Administrator
Region V

Alan Walts, Director,
Director, Office of Enforcement and Compliance Assurance (OECA)
Region V