



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

APR 23 2013

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail#: 7004-1160-0002-3622-7861

**In Reply Refer To:**

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

Mr. Keith Harley, Atty  
Chicago Legal Clinic, Inc.  
205 West Monroe Street, 4<sup>th</sup> Floor  
Chicago, IL 60606-5013

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

Dear Mr. Harley:

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 you 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.<sup>1</sup>

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.<sup>2</sup>

<sup>1</sup> 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).

<sup>2</sup> 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).

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 intentional discrimination regarding to IEPA's public participation program. EPA and IEPA began negotiations to settle both complaints of disparate impact and intentional discrimination and periodically reached out to keep you and your clients, SS-COPE, updated on new developments. In addition, OCR provided SS-COPE with the opportunity to submit recommendations in a proposed settlement between IEPA and EPA. On December 6, 2011, you submitted a list of recommendations to be considered by EPA and IEPA. EPA shared the recommendations with IEPA, which include, but are not limited to the following:

- revisions to the Environmental Justice Public Participation Plan to require public notice to the public for all permitting determinations in potential EJ communities;
- posting of information to its website in reference to grievances received pursuant to IEPA's EJ Grievance Procedure and will include IEPA's response;
- and the development of an online permit tracking system webpage which would identify all projects in potential EJ communities and notification to the EJ community.

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](http://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.

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)

Susan Hedman, Regional Administrator  
Region V

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