



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Byhalia Connection Pipeline/Tennessee Department of Environment and Conservation: Memphis Community Against Pollution, Inc., Title VI Civil Rights Act Submits Complaint to U.S. Environmental Protection Agency

05/25/2021

Memphis Community Against Pollution, Inc., (“MCAP”) submitted a May 16th Complaint (“Complaint”) against the Tennessee Department of Environment and Conservation (“TDEC”) alleging a violation of Title VI of the Civil Rights Act of 1964 (“Act”).

The Southern Environmental Law Center submitted the Complaint on behalf of MCAP.

MCAP alleges that TDEC’s issuance of an Aquatic Resource Alteration Permit and Clean Water Act Section 401 Certification for the Byhalia Connection Pipeline (“Pipeline”) will result in:

... unjustified disparate adverse impacts on the basis of race against African Americans in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, as well as the Title VI implementing regulations of the United States Environmental Protection Agency (“EPA”), 40 C.F.R. Part 7.

The Complaint describes the Pipeline as a proposed 49-mile high-pressure crude oil pipeline that would run through the municipal wellfield that supplies drinking water for historic Black neighborhoods in Memphis, Tennessee. The proposed pipeline is stated to follow a route through communities that are 97 percent Black, low-income, and “already burdened by dozens of industrial facilities and major pollution sources.”

MCAP states that TDEC issued the previously referenced permits without any justification or explanation for the alleged disparate impacts. As a result, it alleges that TDEC has violated Title VI of the Act which provides:

... [n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Complaint alleges further Title VI violations because the TDEC has not adopted:

. . . a policy of not considering disproportionate impacts and environmental justice in its permitting decisions, as the agency explains in the Notice of Determination for the Byhalia Pipeline Permit.

The remedy sought is EPA requiring TDEC to revoke the permits. The organization argues that TDEC then should fully consider the disproportionate adverse impacts that result from the current Pipeline route, and whether those impacts are justified. Further, it requests that EPA provide guidance to TDEC for development of a permit approval process that appropriately considers the potential for disproportionate impacts.

The components of the Complaint include:

- Jurisdiction
- Background
- The Southwest Memphis Community
- The Proposed Byhalia Connection Pipeline
- The ARAP and Section 401 Certification Process
- Legal Violation
- The Byhalia Pipeline Permit issued by TDEC has clear adverse impacts, including risking the contamination of the drinking water source for southwest Memphis.
- The adverse impacts facilitated by TDEC's grant of the Byhalia Pipeline Permit are disproportionately borne by a group protected by Title VI.
- TDEC has not articulated a "substantial legitimate justification" for its decision to issue the Byhalia Pipeline Permit without any consideration of disproportionate adverse impacts on minority communities or potential effects on drinking water
- Undisclosed Information
- Relief Requested

A copy of the May 16th Complaint can be downloaded [here](#).