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# Environmental Justice: U.S. Environmental Protection Agency Announces Acceptance of Administrative Complaint Addressing North Carolina Department of Environmental Quality Title VI Violation

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The United States Environmental Protection Agency (“EPA”) transmitted a January 13th letter to the Southern Environmental Law Center stating it was accepting for investigation an administrative complaint filed against the North Carolina Department of Environmental Quality (“DEQ”). See EPA Complaint No. 05RNO-21-R4.

The complaint had alleged that DEQ discriminates against:

. . . Black, Latino and Native American residents of Duplin and Sampson Counties on the basis of race and national origin in violation of Title VI of the Civil Rights Act of 1964, . . . and EPA’s nondiscrimination regulation, at 40 C.F.R. Part 7, . . .

The administrative complaint is stated to have specifically addressed DEQ’s issuance of:

. . . three (3) individual swine animal waste management system permits and one (1) certificate of coverage, that authorize the construction and operation of anaerobic digestion animal waste treatment systems to produce renewable energy.

Title VI of the Civil Rights Act prohibits intentional discrimination or discriminatory effect. However, the statute provides no private right of action. Nevertheless, federal agencies (such as EPA) have regulations (e.g., 40 C.F.R. Pt. 7) that attempt to address such issues that come up within the scope of its activities. EPA’s External Civil Rights Compliance Office is the component of the agency that addresses such issues in terms of enforcement of civil rights laws and identifying potential violations of Title VI. The remedies are limited to removal of EPA funding.

EPA notes in the January 13th letter that it conducted a preliminary review of the administrative complaint to determine acceptance, rejection or referral to the appropriate federal agency. It determined that the complaint met the jurisdictional requirements for acceptance. These include:

1. Allegations in writing
2. Allegation discrimination occurred in violation of EPA's nondiscrimination regulations
3. Alleged discriminatory acts occurred within 180 days of the filing of the complaint
4. Alleged discriminatory acts by DEQ, which is a recipient of EPA financial assistance, occurred

EPA states it will investigate the following issues:

1. Whether NC DEQ discriminated on the basis of race and national origin against the residents of Duplin and Sampson Counties in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation at 40 CFR Part 7 by issuing three (3) individual swine animal waste management system permits and one (1) certificate of coverage that authorize the construction and operation of anaerobic digestion animal waste treatment systems to produce renewable energy; and
2. Whether NC DEQ has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to the NC DEQ's services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether the NC DEQ has a public participation policy and process that is consistent with Title VI and the other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.

The initiation of an investigation by EPA is noted to not constitute a decision on the merits.

A copy of the January 13th letter can be downloaded [here](#).