



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
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May 19, 2011

**VIA ELECTRONIC TRANSMISSION
and FIRST CLASS MAIL**

Honorable Rick Scott, Governor
Office of Governor
State of Florida
The Capitol
400 S. Monroe Street
Tallahassee, Florida 32399-0001

Honorable Herschel T. Vinyard, Jr., Secretary
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, M.S. 10
Tallahassee, Florida 32399-3000

Dear Governor Scott and Secretary Vinyard:

The National Association for the Advancement of Colored People (NAACP) and its members throughout the state of Florida are writing to express our grave concern regarding the permitting of the Northwest Florida Renewable Energy Center (DEP File No. 0450012-002-AC), a biomass gasification facility proposed in Port St. Joe, Florida. As the nation's oldest and largest civil rights organization, the NAACP has members throughout the state of Florida and specifically, members in the predominantly African American Millview community located within two miles of the proposed facility, who will be disparately impacted by the permitting of this facility. Therefore, the interests of the NAACP and its members will be affected by the permitting of the Northwest Florida Renewable Energy Center.

We understand the necessity for increased energy production to serve the needs of the people of Florida and greater employment opportunities to meet the economic needs of this community. However, we believe that in achieving these important aims the permitting process must consider and adhere to applicable civil rights laws. Based on our understanding, this facility will pose significant negative environmental and health impacts on the predominantly African American Millview community and the neighboring community of Highland View.

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Impact on Millview

Millville is within two miles of the proposed facility. Based on responses to the Department's request for additional information, this facility will require over 40 trucks a day to transport the biomass. The fumes, dust, ash, and emissions produced by this facility will impact the health and quality of life of residents in this community. From our understanding, on an annual basis, these residents will be exposed to emissions from this facility that include 11 tons of hazardous air pollutants, 72 tons of particulate matter (PM10), 25 tons of sulfur dioxide (SO₂), 24 tons of volatile organic compounds (VOCs), and 96 tons of carbon monoxide (CO). These levels of emissions mean the air quality for these residents will be significantly diminished, and there will likely be higher incidents of respiratory ailments, cancer, and heart disease.

Previously, this facility was proposed in Leon County. The Leon County Branch of the NAACP along with other organizations protested the development of the facility for the very same reason we protest the permitting of this facility: the negative environmental and health effects of the facility, which will disparately impact an African American community.

Title VI Claim

The negative environmental and health effects on the surrounding African American community pose significant potential civil rights violations. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, states:

No 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.

Through the Environmental Protection Agency's (EPA) regulations implementing Title VI, the prohibition of discrimination covers intentional discrimination and discriminatory effects (40 C.F.R. § 7.35(a); 40 C.F.R. § 7.35(b)). Therefore, facially neutral policies with the effect of discriminating are also prohibited, unless they are justified or there is no less discriminatory alternative. This nondiscrimination mandate applies to any program receiving EPA funds (40 C.F.R. § 7.35).

As a recipient of tens of millions of dollars of federal funds from the U.S. Environmental Protection Agency (EPA), the Florida Department of Environmental Protection must uphold Title VI's nondiscrimination requirement. Further, through its acceptance of grants from EPA, the Department has agreed to be contractually bound by the requirements of Title VI (EPA Standard Form 424B (Rev 4-2012)). This obligation of nondiscrimination extends for the duration of the Department's funding from EPA. If EPA's Office of Civil Rights determines that a recipient has violated its nondiscrimination obligation, EPA has the authority to "terminate or refuse to award or to continue assistance." (40 C.F.R. § 7.130(a)).

Because Title VI prohibits discriminatory effects, the Department has an obligation in this case to evaluate and determine if this facility has a discriminatory effect on the health and environment of

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the predominantly African American Millview community. The Department's evaluation of the disparate impact of the facility on the Millview community should result in the denial of the remaining permitting for this facility. We request that you use your discretionary authority to stay the issuance of the final permits for the Northwest Florida Renewable Energy Center pending an independent evaluation by the State of Florida to determine the discriminatory effects of the facility on the surrounding communities.

We look forward to a favorable resolution of this matter. If you would like to discuss the contents of this letter, please contact me at 410-580-5792 or dgilmore@naacpnet.org.

Sincerely,

A handwritten signature in blue ink that reads "Dorcas R. Gilmore". The signature is fluid and cursive, with the first name being the most prominent.

Dorcas R. Gilmore
Assistant General Counsel

cc: Adora Obi Nweze, President of Florida State Conference of the NAACP
Lewis Jennings, NAACP Area Director for Area 1 and 2
Heather Abrams, EPA Region 4