

October 18, 2005

Nikki L. Tinsley, Inspector General
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Avenue, N.W. (2410T)
Washington, DC 20460

Dear Inspector General Tinsley:

We are writing to you on behalf of Public Employees for Environmental Responsibility (PEER) in connection with actions taken (and not taken) by the EPA's Region IV, Criminal Investigation Division (EPA-CID), in response to numerous complaints received by residents who live in Echols and Lowndes Counties in south-central Georgia. The complaints concern enforcement of the Clean Water Act and, more specifically, the NPDES Program which is a part thereof. The RCRA program is also implicated in this matter. Both of these programs have been delegated by the EPA to the State of Georgia for administration.

As you may be aware, there have been significant, protracted discussions, as well as litigation on the issue of the management of surface and ground waters flowing into the State of Florida from our neighbors to the north. These discussions have been undertaken at the highest levels of the state governments of Alabama, Florida and Georgia. Concerns repeatedly arise over the discharge of pollutants into waterways that cross all three states. This pollution can impact not only wildlife and vegetation, but also the region's drinking water supply to the extent that it is allowed to impact the Floridan Aquifer.

The purpose of this correspondence is to alert you to complaints received by the EPA from citizens regarding another source of pollution coming from southern Georgia. This pollution is generated by an agricultural concern known as the Coggins Farm Supply operating out of Lake Park, Georgia near Valdosta. The facility does not have an NPDES permit. According to a number of individuals who live in the area, the operation has been routinely discharging pollutants such as Vapam and Telone into the Alapahoochee River and contiguous wetlands. This water-system discharges into the Alapaha River and what is designated by EPA as the Alapaha River Watershed. The Alapaha River then

discharges into the Suwannee River. The Suwannee River is designated by Florida as an Outstanding Florida Water, pursuant to 62-302.700(9)(c)70 et seq., F.A.C. Thus, under state law it is entitled to the highest degree of protection that the State of Florida can provide.

A Design Development Report (DDR) submitted to the Georgia Environmental Protection Division (EPD) by Coggins' consultant has pointed out that the water table in the area is such that groundwater can be found from **one to eight** feet below the surface. Surficial aquifers run through this area. But more importantly for Georgia and Florida, this area is directly above the Floridan Aquifer, which lies from **125 to 165** feet below the surface in that area. Given that many municipalities, as well as much of north Florida, obtain their drinking water from the Floridan Aquifer, the potential for negative impacts to this vital water system should be a cause for alarm.

Florida PEER was alerted to this situation by residents in the South Georgia area who were concerned about the continued pollution to the Alapahoochee River. Accordingly, we have obtained records from not only EPA-CID, but also the Georgia EPD and frankly, these records demonstrate a continuous failure by both of those agencies to seriously investigate the complaints of the residents. There have been repeated violations of solid waste laws, as well as blatant discharges of wastewaters into not only the surrounding wetlands, but even into roadside ditches in plain view of the public. Neighboring residents no longer use their private wells for drinking water, but rely on bottled water for consumption. In addition, there is a suspiciously high incidence of cancer in the area immediately surrounding the operation.

With all of this, however, federal, state and local officials have failed to require the company to come into compliance. Simply stated, local residents were promised by the EPA that an investigation into the matter, but the records amply show that nothing more than a cursory review was conducted and then the case was closed. The EPA never even took water samples to determine the extent to which pollutants were being discharged into the Alapaha River Watershed, despite at least one resident telling the inspectors that he could take them directly to where the violations were occurring.

I have attached a copy of PEER's White Paper on this issue in order to hopefully place these matters in better context for you (attachment A).

1. Conformance To EPA's Stated Policy Regarding Environmental Protection

As noted in the attached White Paper, the Alapaha River is the backbone of the Alapaha River Watershed, according to the United States Environmental Protection Agency (EPA).¹ The Alapahoochee River is included in the Alapaha River Watershed. According to EPA, watersheds serve an important environmental function:

¹ <http://www.epa.gov/region4/water/watersheds/signage/georgia/alapaha.html>

Watersheds are nature's boundaries. They are land areas that catch rain or snow and drain to specific water bodies (marshes, streams, rivers, lakes, or to groundwater). Over the past twenty years, substantial reductions in the discharge of pollutants into the nation's wetlands, streams, rivers, lakes, or directly to groundwater have been primarily achieved by the control of point sources of pollution. However, the majority of the remaining water quality problems in the United States result from nonpoint source pollution. Nonpoint source (NPS) water pollution, also known as polluted runoff, comes from diffuse or scattered sources in the environment rather than from a defined outlet such as a pipe. As water moves across and through the land it picks up and carries away natural and human-made pollutants depositing them into lakes, rivers, wetlands, coastal waters, and even our underground sources of drinking water. Therefore, a new strategy to address nonpoint source pollution has been developed.

For the past ten years, the Environmental Protection Agency (EPA) Region 4 has joined with others to promote a national **watershed approach** as a means to restore and maintain the physical, chemical, and biological quality of our nation's water. This approach is a strategy for effectively protecting and restoring aquatic ecosystems and protecting human health. The strategy will focus on solving the problem at the local watershed level, in addition to the individual waterbody or discharger level. (Emphasis in Original)

See, Watersheds,
<http://www.epa.gov/region4/water/watersheds/watershedpg/index.html>.

EPA Region 4, which oversees the Alapaha River Watershed, prides itself on doing what it can to protect the area's watersheds. It maintains that "[s]upporting them is a **high priority** for EPA's national water program."² (Emphasis added) In protecting watersheds it is necessary to limit the amount of nonpoint source pollution (NPS) that is allowed to be discharged. NPS pollution is particularly harmful. In fact, according to EPA, "NPS pollution is the leading cause of water pollution in the United States and results from a wide variety of human activities."³

What is particularly troublesome is that the EPA's records reflect a conspicuous failure to conduct any meaningful investigation into the violations that were and are allegedly occurring. As a direct result, the residents have reached the conclusion that cooperation

² <http://www.epa.gov/region4/water/watersheds/watershedpg/index.html>

³ <http://www.epa.gov/region4/water/nps/index.htm>

with federal authorities serves no good purpose, particularly when such cooperation can jeopardize their livelihoods and safety in the community.

2. Conformance To EPA's Stated Policy Regarding Environmental Justice

According to its website, EPA has the following policy regarding environmental justice in this country:

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

<http://www.epa.gov/compliance/environmentaljustice/>. In addition:

The Office of Environmental Justice (OEJ) coordinates the Agency's efforts to integrate environmental justice into all policies, programs, and activities. EPA's environmental justice mandate extends to all of the Agency's work, including setting standards, permitting facilities, awarding grants, issuing licenses and regulations and reviewing proposed actions by the federal agencies. OEJ works with all stakeholders to constructively and collaboratively address environmental and public health issues and concerns. The Office also provides information, technical and financial resources to assist and enable the Agency to meet its environmental justice goals and objectives.

EPA's goal is to provide an environment where all people enjoys (sic) the same degree of protection from environmental and health hazards and equal access to the decision-making process to maintain a healthy environment in which to live, learn, and work.

<http://www.epa.gov/compliance/basics/ej.html>.

The area in which these violations are occurring is an area that is not densely populated. According to the 2001 census the population was approximately 550. The residents are not people who are of great wealth. In addition, many of the workers at the facility are

immigrants who are housed in substandard housing. The residents have further alleged that many of these immigrants are illegal immigrants that are simply used and then discarded by the owners who brought them to their jobs from outside of the United States.

The EPA's response to the numerous complaints has been to give these people little more than "lip service." Frankly, it appears that the agency's inspectors never seriously intended to undertake the requisite investigation that would have been required to prove or disprove the complaints that they were receiving. In this regard, Florida PEER experienced the same treatment when we attempted to contact the lead investigator, Mr. Charles Carfagno and the local FBI regarding photographs of the violations—photographs that had been provided to us by one resident. Our attempts at contacting Mr. Carfagno and the FBI went unanswered.

3. Federal and State Partnership

Georgia is a delegated state for purposes of implementing and administering the federal NPDES and RCRA programs. EPA's website describes the federal and state partnership as follows:

In its enforcement programs and activities, EPA works closely with the states (e.g., in conducting inspections, in joint development of cases, etc.) which have been authorized by EPA to carry out the federal programs. To be "authorized," a state must have enforcement programs and statutes that are essentially as stringent as the federal programs. Authorized states bear the lion's share of responsibility for implementing federal programs.

<http://www.epa.gov/compliance/state/partnerships.html>.

Another issue that PEER would like addressed is whether the State of Georgia's NPDES and RCRA programs are "as stringent as the federal programs." Simply stated, the EPA files in this case reflect that the EPA inspectors were working this case to a point (albeit haphazardly), even though the programs that were implicated were federally delegated programs. Then the EPA simply closed its files and supposedly referred the matter to the State of Georgia for further handling. Interestingly, the files from the Georgia, Environmental Protection Division do not reflect that the referral was even made. Thus, it would not appear that there was any significant degree of communication and/or cooperation between the two agencies.

Very little has been done by the State of Georgia in this matter, except to send out notices of violation. Indeed, it appears that the Georgia EPD would have been content to do nothing on this case were it not for the fact that they learned that our group, as well as citizens in the community, were beginning to look into the manner in which the case had

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been handled. That said, it remains to be seen whether any formal enforcement will be taken by either agency. It certainly does not appear that Georgia's program is "as stringent as the federal programs," unless the performance of the EPA's inspectors in this case is indicative of the EPA's performance across the country.

For these reasons, PEER respectfully requests that you examine these issues and recommend appropriate action. If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Jerry Phillips
Director
Florida PEER

Encl.