



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

APR 26 2013

Mr. Jerry Phillips, Director
Florida Public Employees for Environmental Responsibility
P.O. Box 14463
Tallahassee, Florida 32317-4463

Re: Denial of Petition to Investigate Potential Basis for Withdrawal of Florida's
National Pollutant Discharge Elimination System (NPDES) Permit Program

Dear Mr. Phillips:

The purpose of this letter is to conclude the Agency's response to your petition to investigate potential violations of the Clean Water Act (CWA) (the Petition), filed on February 23, 2011, on behalf of Florida Public Employees for Environmental Responsibility and Clean Water Network of Florida, Inc. (the Petitioners).

The Petition is based on allegations that Florida Department of Environmental Protection (FDEP) Secretary Herschel T. Vinyard has a conflict of interest which renders him ineligible to serve as Secretary under Section 304(i) of the CWA and 40 C.F.R. §123.25(c).

Upon receipt of the Petition, EPA requested, by letter dated April 8, 2011, that FDEP respond to the allegations in your Petition. FDEP's General Counsel provided FDEP's response by letter dated May 2, 2011. You submitted additional information in support of the Petition by letters dated May 20, 2011, and FDEP provided a further response by letter dated August 25, 2011. On September 29, 2011, you wrote an additional letter to Cynthia Giles, EPA Assistant Administrator for the Office of Enforcement and Compliance Assurance, seeking her intervention in this matter. EPA requested additional information from FDEP by letter dated April 27, 2012. FDEP provided additional responsive information by letter dated August 29, 2012. You submitted further information in support of the Petition by letter dated September 13, 2012.

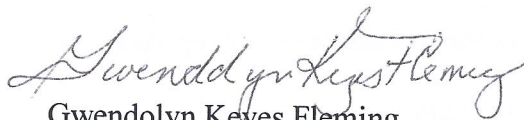
EPA has reviewed the correspondence and information that has been submitted by you and by FDEP in connection with the Petition. This information is insufficient to determine whether Secretary Vinyard had, at the time of his appointment, a disqualifying conflict of interest. Specifically, this information was not enough for EPA to determine that Secretary Vinyard received 10 percent of his gross personal income directly or indirectly from NPDES permit holders or applicants for such permits. Secretary Vinyard's former employer was an entity within a complex corporate structure, and the available information does not indicate the extent to which Secretary Vinyard's income was indirectly received from permit-holding affiliates of his employer.

In addition, EPA is denying the Petition at this time due to mootness. The relevant conflict of interest requirements of Section 304(i) of the CWA and 40 CFR §123.25(c) involve a two-year look-back period for evaluating the presence of a conflict of interest. Secretary Vinyard resigned from his former employment on January 14, 2011, and his appointment to the position of Secretary was approved by the

Florida Cabinet on January 19, 2011. Thus, the two-year look-back period ended as of January 14, 2013. Accordingly, EPA hereby denies the Petition.

Should you have any further questions regarding this matter, you may contact Paul Schwartz, Associate Regional Counsel, at (404) 562-9576.

Sincerely,

A handwritten signature in cursive script, reading "Gwendolyn Keyes Fleming".

Gwendolyn Keyes Fleming
Regional Administrator

cc: Ms. Linda Young
Director
Clean Water Network of Florida, Inc.

Mr. Thomas M. Beason
General Counsel
Florida Department of Environmental Protection