



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: 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 respond to the petition to investigate whether the Florida Department of Environmental Protection (FDEP) Deputy Secretary Jeff Littlejohn has a disqualifying conflict of interest that may require withdrawal of the State of Florida's authorization to administer the NPDES Permit Program in Florida (the Petition). The Petition was filed by you on August 22, 2012, on behalf of Florida Public Employees for Environmental Responsibility and Clean Water Network of Florida, Inc. (the Petitioners) and alleged Deputy Secretary Jeff Littlejohn has a conflict of interest which renders him ineligible to serve as Deputy Secretary under section 304(i) of the CWA and 40 C.F.R. §123.25(c).

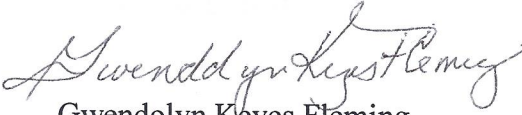
Upon receipt of the Petition, EPA requested, by letter dated September 28, 2012, that FDEP respond to the allegations in your Petition. FDEP's General Counsel provided FDEP's response by letter dated November 6, 2012 (copy enclosed). After reviewing the content of the Petition and the response received from FDEP, we have determined that the initiation of withdrawal proceedings is not warranted. Your Petition appears to be based on speculation about Deputy Littlejohn's pre-appointment sources of income. After reviewing the results of our investigation and the evidence provided to EPA, the evidence is, as a whole, insufficient to warrant the initiation of program withdrawal proceedings under 40 CFR §123.64.

More specifically, the Petition asserts that it is "highly likely" that Mr. Littlejohn's pre-appointment income from his employment with Isiminger & Stubbs Engineering, Inc., resulted in Mr. Littlejohn receiving, directly or indirectly, more than 10 percent of his income from NPDES permit holders or applicants, which is the threshold for determining whether a disqualifying conflict of interest is present under the Clean Water Act and applicable regulations. However, FDEP's response indicates that, while some of Isiminger & Stubbs' clients did hold or apply for NPDES permits, they did not account for 10 percent or more of Deputy Secretary Jeff Littlejohn's income.

Given the speculative nature of the allegations in the Petition, and the response by FDEP, the EPA does not find that sufficient information exists to warrant initiating withdrawal proceedings. 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,


Gwendolyn Keyes Fleming
Regional Administrator

Enclosure

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

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