U.S. Departmer f Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

Via Certified Mail

Mr. Stephen Pressman, Esquire
U.S. Environmental Protection Agency
Office of Civil Rights
1200 Pennsylvania Avenue
Mail Code: 1201A
Washington, DC 20460

Dear Mr. Pressman:

It is my understanding that the EPA's Office of Civil Rights has a pending case identical to one titled here at the Office of Civil Rights, Office of Justice Programs, Department of Justice. This is a claim regarding the expansion of the Larmore Detention Facility in Georgia from Mrs. AnJeanne' James. The current status of the expansion is that the land has been cleared, but the construction of the building has not started.

Mrs. James alleges that the expansion of the Larmore Center is a violation of Title VI of the Civil Rights Act of 1964, because the expansion will allegedly have an adverse impact on wetlands owned by the minority Valley Lakes Community. As of January 21, 2005, the U.S. Army Corps of Engineers Savannah District stated that they had not received a permit application for impacts to jurisdictional waters including wetlands related to this proposed expansion.

Because the case's strongest points are environmental, we have deferred action on this case to your office. We are forwarding our file in its entirety via certified mail with the exception of a videotape that we will send in the near future. We have discussed this decision with Ms. Yasmin Yorker, an attorney in your office.

Enclosed please find an inventory sheet with the various components of the file listed.

Please advise us when your office makes a final disposition of Mrs. James' claim. We will then revisit the claim pending with our office at that time. If you have any questions, please contact senior Counsel George Mazza at (202) 305-3146.

Sincerely,

Michael L. Alston
Director

Enclosure
CC: Mrs. James

INVENTORY:

Mrs. AnJeanne' James file (concerning Larmore Detention Center expansion in Georgia):

1-manilla folder labeled "EPA & ACOE Replies"

2-large manilla folder labeled "Complaint"

3-manilla folder labeled "Demographic Information"

4-manilla folder of pictures of the site and the water collected

5-large manilla folder: rubber-bound stack of papers entitled "Supplementary Documentation"

6-manilla folder of newspaper clippings

7-manilla folder labeled "Videotape Supplement"

[We will be sending you:
8-videotape in cover labeled "Upper Chattahoochee Riverkeepers 11/12/04"]

OFFICE OF CIVIL RIGHTS
RECEIVED
2005 JAN -7 PM 2:34

COMPLAINANT CONSENT/IDENTITY RELEASE FORM

Your Name: Mrs. Anjeanne, Jr. James

Address: [redacted]

Complai[redacted]

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Uses of Personal Information by the Department of Justice (DOJ). As a complainant, I understand that in the course of an investigation it may become necessary for DOJ to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of DOJ to honor requests under the Freedom of Information Act. I understand that it may be necessary for DOJ to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by DOJ's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by DOJ.

CONSENT/RELEASE

☒ CONSENT - I have read and understand the above information and authorize DOJ to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Department of Justice (DOJ) to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

☐ CONSENT DENIED - I have read and understand the above information and do not want DOJ to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

[signature] 1-6-05

SIGNATURE DATE

COMPLAINT FORM
COORDINATION AND REVIEW SECTION
CIVIL RIGHTS DIVISION
DEPARTMENT OF JUSTICE
Attention: George J. Mazza, Senior Counsel
Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N. W.
Washington D. C. 20531
202-307-0690

The purpose of this form is to assist you in filing a complaint with the Coordination and Review Section. You are not required to use this form; a letter with the same information is sufficient. However, the information requested in the items marked with a star (*) must be provided, whether or not the form is used.

1.* State your name and address.

Name: Mrs. An Jeanne' J. James

Address [redacted]

[redacted]

2.*Person(s)/organization discriminated against, if different from above:

Name: P.A.L.E. (Partners Against Larmore Expansion) and the following community members: Valley Lakes Community, Littleton Woods Community, Wellington Community, High Point Commons, Lake Overlook Community, RavenWood Community, Lake View Community, Deep Creek Community, Wexford Community, Forest Downs Community, HighPoint Villas.

Please explain your relationship to these individuals:
I am a Co-Chair to the P.A.L.E. organization. The individuals that P.A.L.E. represents are homeowners in Union City and un-incorporated Fulton County, Georgia, who reside adjacent to or in close proximity to the J.C. Larmore Probation Detention facility operated by the Georgia Department of Corrections. The organization, Partners Against Larmore Expansion, Inc. (P.A.L.E.) is a non-profit neighborhood organization whose members include property owners in the various residential communities surrounding the detention facility in/around Union City and un-incorporated Fulton County, Georgia.

3.*Agency and department or program that discriminated:

1. Name: **Office of the Governor**
Governor Sonny Perdue of the State of Georgia
Georgia State Capitol,
Atlanta, GA., 30334
Office Phone: 404-656-1776

2. Name: **Georgia Department of Corrections**
#2 Martin Luther King Jr. Drive, S. E. Suite 866
East Tower, Atlanta, Georgia 30334-4900
Phone: 404-656-6002
Fax: 404-651-6818

Any individual(s) if known:
Commissioner of Georgia Department of Corrections
James E. Donald
Jackie Barrett, Sheriff of Fulton County, Phone:
(404)730-5100
Brian Owens, Assistant to Commissioner Donald
Phone: (404) 656-9772 or (404) 656-4730
Alan Adams, Director of Corrections
Larry Latimore, Director of Engineering for Georgia Department of Corrections
Sheree Lipscomb, Director of Public Affairs for Department of Corrections Phone: (404) 651-6841
Cynthia Nelson, Superintendent of J.C. Larmore Probation Detention Center J.C. Larmore Probation Detention Center: 5651 Stonewall Tell Rd. P.O. Box 491419 College Park Georgia 30349 770-714-1221

3. Name: **Fulton County Board of Commissioners**
141 Pryor Street, SW, Suite 10044,
Atlanta GA, 30303
Phone: 404-730-8200
Fax: 404-730-8254

Any individual(s) if known: Fulton County Board of Commissioners
Karen C. Handel District 1 (At Large) Chairman
404-730-8206
Robb Pitts District 2 (At Large)
404-730-8210
Lynne Riley District 3
404-730-8213
Tom Lowe District 4
404-730-8218

Emma I. Darnell District 5
404-730-8222
Nancy A. Boxill District 6 Vice Chair
404-730-8226
William "Bill" Edwards District 7
404-730-8230

4. Name of Agency: Army Core of Engineers
Nick Baggett, 770-831-7360

5. Name of Agency or Department: Deputy County Manager for Justice Systems
Any individual(s) if known:
Susan Alliegro
Office of the County Manager 141 Pryor Street S. W.
Suite 10061 Atlanta Ga. 30303.
404-224-3755

Thomas C. Andrews, County Manager
141 Pryor Street S. W., Suite 10061
Atlanta Ga. 30303.

6. Name of Agency: Fulton County, Erosion Control Department
Any individual(s) if known:
Alex Comer
Chief of Erosion Control Department
141 Pryor Street S. W., Atlanta Ga., 30303

4A.* Non-employment: Does your complaint concern discrimination In the delivery of services or in other discriminatory actions of the department or agency in its treatment of you or others?

Yes

If so, please indicate below the base(s) on which you believe these discriminatory actions were taken (e.g., "Race: African American" or "Sex: Female").

Race/Color: African-American

4B.* Employment: Does your complaint concern discrimination in employment by the department or agency?

NO

5. What is the most convenient time and place for us to contact you about this complaint?

Monday-Friday 8:00-2:00

6. If we will not be able to reach you directly, you may wish to give us the name and phone number of a person who can tell us how to reach you and/or provide information about your complaint:

1. Name: Mr. Eric Morton P.A.L.E. Co-Chair
Telephone [redacted]

2. Name: Mrs. Patricia Phillips P.A.L.E. Co-Chair [redacted]

7. If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:

Name: Susan Garrett
Address: 755 Commerce Drive Suite 800 Decatur Ga. 30030
Telephone No: 404-601-4140 Fax: 404-601-4133
(For another case that is still pending, G.D.O.C.)

8.*To your best recollection, on what date(s) did the alleged discrimination take place?

Earliest date of discrimination: February 18th, 2002
Most recent date of discrimination: Ongoing

9. Complaints of discrimination must generally be filed within 180 days of the alleged discrimination. If the most recent date of discrimination, listed above, is more than 180 days ago, you may request a waiver of the filing requirement. If you wish to request a waiver, please explain why you waited until now to file your complaint.

Yes, we would like to file for a waiver as well.

During the time of the heinous action taken against these communities, we did not know about the expansion of the JC Larmore Probation Detention Center (PDC). We

were not asked, alerted, told, consulted, written and never given notice of the intent to expand this facility into our community.

Four years ago, under mounting political pressure to address a crisis caused by mismanagement of the county jail, Fulton County quietly negotiated a deal with Georgia Department of Corrections (GDOC) to locate the facility in a middle class, predominantly African-American, middle-income residential neighborhood that is already burdened by the existing PDC, which has a continuing history of being poorly managed and causes disruption in the community. Prisoner escapes from the existing facility have been common and the facility management's communication with residents in the surrounding area have been non-existent. Although the County and GDOC actively avoided public discussion and community input into the site selection process, their written agreement recognized that a Community Relations Board ("CRB") should be established so that the residents of the adjoining community should be consulted about efforts to mitigate impacts on the community. Despite this commitment, no CRB was ever established or convened, and homeowners in adjoining communities learned of the plans for the new facility only after 25 acres of trees were deforested and cut down by Georgia Department of Corrections, (GDOC) in the spring of 2004.During this time many of the adjoining residents believed and where told that the property was being used for new homes or sewage plumbing restructuring.

4 escapes in 2004

CRB: Sept '04 ↳ ct Nov → 1st mtg

- lawyer DOC
- superint. of facility
- resident

10.* Please explain as clearly as possible what happened, why you believe it happened, and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. (Please use additional sheets if necessary and attach a copy of written materials pertaining to your case.)

P.A.L.E., Inc. is a non-profit membership corporation organized and existing under the laws of the State of Georgia. Its members include property owners in the residential community immediately surrounding the J.C. Larmore detention facility, including residents of the Valley Lakes, Littleton Woods, Lake Overlook, Deep Creek, Forest Downs, Wellington, and Wexford subdivisions, and the Highpoint Villas and Lake Overlook town home communities. These are attractive residential communities in the $150,000 to $200,000 price range. The residents are predominantly African-American middle class and professional individuals, couples, families and retired adults. As within any community, many residents of the surrounding area to the JC Larmore Probation Detention Center had done due diligence when they desired to relocate to the South Fulton area. **(See demographics, A: CityScapes)**

[redacted] is a homeowner whose property is located at [redacted] Union City, Georgia, in the Littleton Woods subdivision. Her property is adjacent to the site of the proposed new detention facility. [redacted] are homeowners whose property is located at [redacted] Union City, Georgia, in the Valley Lakes subdivision. The [redacted] of their property adjoins the site of the proposed new detention facility. [redacted] is a homeowner whose property is located at [redacted], in the Valley Lakes subdivision. Her property is located

within [redacted] feet of the site of the proposed facility. [redacted] is a homeowner whose property is located a[redacted]. His property is located approximately [redacted] feet from the proposed new detention facility.

Georgia Department of Corrections is a governmental agency of the State of Georgia. It is charged with the duty of administering the state's correctional institutions, as well as with administering a statewide probation system for felony offenders, in cooperation with the county governments.

Fulton County, Georgia is a county and a political subdivision of the state of Georgia, created, organized and existing for civil and political purposes, including for the purpose of administering locally the general power and policies of the state.

In the summer of 2000, discussions began between Fulton County, the Governor's office, and the GDC about the construction of a 500 bed Probation Detention Center ("PDC") in Fulton County. The proposed $10.9 million facility, to be used for the confinement of felony offenders who violate the terms of their probation, would be constructed with a combination of federal funds and state matching funds. It would be operated by GDOC as part of the statewide probation system for felony offenders who violated their parole. Fulton County officials viewed the construction of the facility in Fulton County as a means to alleviate severe overcrowding at the Fulton County jail. **(See B: [redacted] outline and recess Meeting Minutes, June 2004)**

A series of meetings began between GDC and Fulton County Executive staff. By mid-2001, two potential sites in Fulton County were under discussion, one on Cochran Road off Cascade-Palmetto Road, and one on Fulton Industrial boulevard. In November, 2001 two additional potential sites were identified: one in Alpharetta at the intersection of Hickory Flat Road and Old Bullpen Road, and one in south Fulton adjacent to the existing Larmore PDC. **(See C: plats for location and area sizes)**

Unlike the site that is impeding on our minority community, the others were clearly not within a minority community, thusly leading the GDOC and Fulton County BOC to assume it would be fine to place it in the backyards of the adjoining properties. According to the Final Assessment of the Environmental Assessment 2002, "The proposed facility and additional PDC in the area would not likely adversely affect the minority residents [redacted], 2002)". **(See, D attached EA)** A statement at the May 4th 2004 community meeting made by [redacted], she says "These people that are here are from the community. These are people that are our friends, our family, and our neighbors. They come to this area and this is where they are…" **(See D. Minutes May 4th community meeting)** The community feels that GDOC and Fulton County BOC, had no regard or intent to place the facility anywhere else because of the minority status and the ideology that minorities are a group of complacent individuals.

The property adjoining the existing Larmore PDC was already under county ownership. According to GDOC, the parties selected this site because they agreed that the pre-existence of the PDC and ample utility infrastructure made it a better choice. Residents of the community surrounding the existing PDC, were completely unaware of the proposal to build an additional PDC facility on the county land adjacent to the existing facility. **(See C: for documentation)**

This was not the first time that the site was targeted for construction of an additional detention facility. In 1995, the State Department of Children and Youth Services proposed to build a 100 bed juvenile detention center at the same location. The

community was informed of the proposal. Due to strong community opposition, another location was found for the juvenile facility. This occurred with the support of state Sen. Donzella James, who told the Atlanta Journal-Constitution that "South Fulton seems to be the dumping spot for Georgia period."

On February 18, 2002, Fulton County and GDOC representatives held a meeting concerning the proposed expansion of the JC Larmore Probation Detention facility. A small group of ten to twelve prominent Fulton County citizens, none of whom reside anywhere near the site, were invited to the meeting as members of a "Citizens Advisory Board." These individuals did not represent the affected community.
(See C: for documentation)
At the meeting, one of the items discussed was the creation of a "Community Relations Board" to monitor progress of the facility. No residents of the neighborhoods adjacent to the Larmore facility were informed of or invited to the meeting. Even after the initial meetings were held, the GDOC held another meeting for citizens in spring of 2004 to tour the facility and they did not invite the surrounding community representation to participate at that time. No records or minutes were kept of this meeting or any other meetings with this advisory board.

On February 20, 2002, the Fulton County Board of Commissioners approved a "Resolution To Express Intent To Enter Into An Intergovernmental Contract With the State of Georgia, Department of Corrections For the Construction of a Detention Center To House Approximately 500 Probation Violators On Property To Be Conveyed By the County To The State." A true and correct copy of the resolution is attached hereto as Exhibit "A." The consideration of this resolution was added to the agenda during the course of the Commissioners' meeting without any advance notice to the public. It was approved after little or no discussion by unanimous vote of the Board members present.
(See E: Feb, 15th, 19th, 20th, Agreement for Fulton County PDC)

The Resolution approved on February 20, 2002 provided that Fulton County would convey approximately 25 acres to GDOC for the construction of the new PDC pursuant to an intergovernmental agreement, the specific terms of which would be negotiated by the County Manager with the state officials "after appropriate surveys, environmental and other necessary investigations have been completed for this mutual public undertaking." The resolution also recited that "...the State of Georgia, through the Commissioner of Corrections, has agreed to the establishment by Fulton County of a 'Community Relations Board' to be comprised of community members from the area...." This forming of the CRB did not happen until 2004, thusly taking away the rights of the individuals that were affected by the PDC. **(See F: Resolution, 2004, Oct. 6th)**

In March of 2002, the Georgia General Assembly approved funding for the project, to include 90%federal funds from the Violent Offender In/Truth In Sentencing (V.O.I.T.I.S.) program and 10% state matching funds. In March 2002, GDOC began design development for the project. They did not consult the surrounding community at the time as per the intergovernmental contract between them and the State of Georgia.
(See G: attached complaint filed on behalf of P.A.L.E and 2003 Georgia General Assembly approved funding)

On April 30, 2002, Public Notice of Intent To Conduct An Environmental Assessment was published in the Fulton County Daily Report. The notice stated that the GDC "proposes to construct and operate a 192 bed Probation Detention Center" on the 25

acre tract adjoining the Larmore PDC. The Fulton County Daily Report is a legal newspaper, not a newspaper of general circulation, and it is rarely subscribed to or read by members of the general public outside of the legal community. None of the community members read the Fulton County Daily Report regularly, and none of them saw the notice published therein, or any other notice of the intent to conduct an environmental assessment. Nor did they see any notices posted on the property, even though they live adjacent, or in very close proximity, to the site. None of the plaintiffs or their neighbors had any opportunity to submit public comment concerning the proposed project. **(See H: attached The Fulton County Daily Report)**

On September 30 and October 1, 2002, a Notice of Availability of the Environmental Assessment for the project was published in the Atlanta Journal-Constitution. This notice indicated that the proposed action was one to construct a 500 bed PDC on the site. The notice included a "Finding of No Significant Impact" under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4332, et seq.
On December 4, 2002 the Fulton County Board of Commissioners approved an Agreement For Fulton County Probation Detention Center. The Agreement reiterated that "the State, acting through the Commissioner of Corrections, has agreed to the establishment by Fulton County of a 'Community Relations Board' to be comprised of community members from the area..." The Agreement further provided that "state agrees to adopt construction plans therefore that take into consideration comments from the surrounding communities that address the creation of adequate buffers for said site that are compatible with security and site line requirements of the facility. The County shall establish a Community Relations Board for purposes of soliciting and receiving input from the surrounding communities for the creation of adequate buffers for the facility." The December 4, 2002 version of the Agreement was apparently never executed by GDOC. **(See H: attached The Fulton County Daily Report and reference 2002 Resolution)**

On August 6, 2003, DC and Fulton County executed a substantially similar agreement entitled an Intergovernmental Agreement For Fulton County Probation Detention Center. The August 6 agreement contained all of the same provisions regarding formation of and consultation with a Community Relations Board. To date, due to the September 21st, 2004 court hearing, Fulton County decided to "volunteer" to create the Community Relations Board. Several members from the varying community reside on the board and the first two meetings have been held to date. **(See H: attached The Fulton County Daily Report and reference 2002 Resolution)**

A land disturbance permit was issued in October of 2003 and, according to GDOC, an inmate construction crew was mobilized in November 2003 to begin site construction. The permitting of the site is also being challenged, due to the lack of enforcement by the Army Core of Engineers and Environmental Protection Department. (See attached) However, neighbors observed no unusual activity on the property until late February or early March of 2004, when a tree buffer was cut down within 150 feet of the property line of some Valley Lakes and Littleton Woods homes. Some residents who inquired about the activity were told that the land was being cleared for construction of new homes. As Fulton County citizens, the communities acknowledge the need to relieve overcrowding at the Fulton County jail and support governmental efforts to address this need. This does not mean, however, the communities should be forced to submit to the

infringement of their property rights and the compromise of their security and peace of mind. **(See I: Land Disturbance Permit)**

When the Fulton County Board of Commissioners approved the resolution and when the County and GDC entered into the intergovernmental agreement regarding construction of the new PDC adjacent to the existing Larmore facility, they expressly recognized that residents of the adjoining communities should be consulted about the potential impacts of the new facility. Despite this acknowledgment, the County and GDOC not only failed to convene a Community Relations Board, but actively avoided public disclosure of their plans to the citizens whose lives and property will be profoundly affected by the new facility, given the risk of irreparable harm to the community and the lack of serious nature of this heinous act the evidence is favorable for the halting of construction.

11. The laws we enforce prohibit recipients of Department of Justice funds from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. If you believe that you have been retaliated against (separate from the discrimination alleged in #10), please explain the circumstances below. Be sure to explain what actions you took which you believe were the basis for the alleged retaliation.

None

12. Please list below any persons (witnesses, fellow employees, supervisors, or others), if known, whom we may contact for additional information to support or clarify your complaint.
Name Address Area Code/Telephone Numbers

1. The Honorable Congressman David Scott
173 North Main Street, Jonesboro, Georgia 30236
Phone: 770 210-5073

2. David J. Johnson District Coordinator 13th Congressional District, Georgia
173 North Main Street, Jonesboro, Georgia 30236
Phone: 770 210-5073 x 14
Fax: 770 210-5673

3. The Honorable Senator Kasim Reed
Suite 2000 One Atlantic Center 1201 West Peachtree St. N.E
Atlanta., Ga. 30309
Phone: (404) 817-8483
Fax: (404) 881-0470
Home: (404) 346-7548
Cell: (404) 463-1379

4. The Honorable Mayor Ralph Moore of Union City
5047 Union St. Union City Ga., 30291
Phone: (770) 964-2288 ext: 111
Cell: (404) 840-8591

5. Alice Champagne, CPESC Director of Technical Programs
Upper Chattahoochee Riverkeeper
3 Puritan Mill 916 Joseph Lowery Blvd.
Atlanta, Georgia 30318 404-352-9828 ext. 16
fax 404-352-8676
achampagne@ucriverkeeper.org,
www.chattahoochee.org

6. Blake J. Dettwiler Environmental Engineer, E&CD
141 Pryor Street, S.W. Atlanta GA, 30303
(404) 730-8733

7. Rungie Mc Kinnon Erosion Control Inspector
141 Pryor St. S.W Suite 5001 Atlanta. Ga.30303
Phone: (770) 777-6542,
Fax: (404) 730-8732

6. [redacted]

7. [redacted]

8. Alan Wang Channel 2 Action News
Phone: (404) 219-8489

9. [redacted]

10. Helen Turner Union City Council Member
6009 Ting Court, Union City,
Ga. 30291
P: (770) 969-1996

11. Abby Jordan Exec. Director of Southern Conservation
201 McIntosh Trail Peachtree, City, Ga.30269
Phone: (770) 964-5212
12. Homeowners/ P.A.L.E. members: These are just a few of the P.A.L.E. members.

[redacted]

[redacted]

[redacted]

Mr. Eric Morton Valley Lakes Resident
PALE Co-Chair
[redacted]

Mrs. Patricia Phillips
P.A.L.E. Co-Chair
[redacted]

Mrs. An Jeanne' J. James
Co-Chair
[redacted]

13. Senator Donzella James Community/Advocate
Phone: 404-349-3379

13. Do you have any other information that you think is relevant to our investigation of your allegations?

See attached plats and discs for supplemental documentation.

14. What remedy are you seeking for the alleged discrimination?

1. Permanent Injunctive Relief from the ongoing construction from the Georgia Department of Corrections and permanent injunctive relief DURING the investigation of the allegations against GDOC.
2. Replacement of 25 acres of forest that was devastated.
3. Wetlands/Lakes Federally protected against any mitigating circumstances and future development and a wild life sanctuary preserve enforced at the expense of GDOC.
4. Compensation for the decrease in home value due to economic obsolescence/ inverse condemnation of at least 50% above market value of their homes and punitive damages of just compensation as governed by the US Constitution under the Fourteenth Amendment by law.
5. Official Investigation of Army Core of Engineers, Georgia Environmental Protection Department and their enforcement agents. Also, and investigation of Georgia Department of Corrections, as well as, any individuals involved in this issue.
6. Fines levied against Georgia Department of Corrections for improper Sediment and Erosion Control for violations of the General Permit constitute violations of the Clean Water Act and the entire facility moved to another location that is not detrimental to any other community.
7. Fines levied for Title VI of the Civil Rights Act of 1964 (under Executive Order 12250) violations, enforcement of Title VI of the Civil Rights Act of 1964 and Fourteenth Amendment - **Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection that is guaranteed by the US Constitution for "Just Compensation".**
8. Wetlands and Lakes cleaned up of all debris that they have contributed to the area.
9. Rescinding of the State of Georgia's 1996 Violent Offender Incarceration Truth in Sentencing (V.O.I.T.I.S.) Grant extension, Number 96-CV-VX-0013, in regards to the expansion project of the J.C. Larmore Probation Detention Center, College Park, GA. and the Georgia Department of Corrections (GDOC) .
10. We feel that we have several issues pertaining to trespass, negligence and nuisances because we are carrying a "disproportionate" amount of burden for the State of Georgia, thusly creating a "disparate impact" on our community.

Environmental Justice embraces the principle that all people and communities are entitled to equal protection of environmental and public health laws and regulations. The environmental justice movement emerged in response to industry and government practices, policies, and conditions that many people judged to be unjust, unfair, and illegal. Some of these practices, policies, and conditions include (1) unequal enforcement of environmental, civil rights, and public laws, (2) differential exposure of some populations to harmful chemicals, pesticides, and other toxins in the home, school, neighborhood, and work place, (3) faulty assumptions in calculating and assessing risks, (4) discriminatory zoning and land-use practices, and (5) exclusionary policies and practices that limit some individuals and groups from participating in decision-making.

Under Executive Order 12250, the Coordination and Review Section coordinates and ensures consistent and effective enforcement of Title VI of the Civil Rights Act of 1964. *Title VI* is equivalent to the analysis of disparate treatment under the *Equal Protection Clause of the Fourteenth Amendment which states:*

U.S. Constitution: Fourteenth Amendment - ***Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection***:

Date and Place claim was filed: Filed, 05/19/04, On the EPA website and Congressman David Scott's office amended 08-27-04, resent 11-22-04 for Administrative Complaint to be filed.

15. Have you (or the person discriminated against) filed the same or any other complaints with other offices of the Department of Justice (including the Office of Justice Programs, Federal Bureau of Investigation, etc.)?

No

16. Have you filed or do you intend to file a charge or complaint concerning the matters raised in this complaint with any of the following?

Yes

X <u>State Court</u>

17. If you have already filed a charge or complaint with an agency indicated in #16, above, please provide the following information (attach additional pages if necessary):

Agency:

National Environmental Protection Agency,

Date filed: 05-23-04

Case or Docket Number: 139043659
website of the Environmental Protection Agency
unknown

Court:
Superior Court (October 19th, 2004) No response to date.

In the Superior Court of Fulton County : State of Georgia
PALE INC & Plaintiffs vs. Fulton County Georgia and Georgia Department of Corrections
Civil Action : NO. 2004CV90518
See attached response to Motions to Dismiss

Comments:
See attached documentation from Upper Chattahoochee River Keepers:
In regards to the "disparate impact" which we as a group would like to challenge the states permitting decision for the execution of the Fulton County Probation Detention Center expansion the findings of the Upper Chattahoochee River Keepers support our information. (See Video and pictures of impact) The basis of this challenge is the **"disproportionate environmental impact that this facilities impact will have on our minority community" According to the River Keepers: (No response to the River Keepers to date)**

November 10, 2004

Commissioner James Donald
Department of Corrections
#2 Martin Luther King Jr. Drive
8th Floor, East Tower
Atlanta, Georgia 30334

VIA FACSIMILE and EMAIL

RE: J.C. Larmore Probation Detention Center Expansion – South Fulton County

Dear Mr. Donald,

We are writing to you regarding the expansion of the J.C. Larmore Probation Detention Center and its on-going violations of the federal Clean Water Act (CWA). These violations are related to discharges of sediment, storm water run off, and fill material into waters of the United States from the land disturbing activities. We understand that the Georgia Department of Corrections (GDC) is developing on a 25-acre parcel adjacent to the existing Center, on Camp Road, west of the intersection of Camp Road and Stonewall-Tell Road, in College Park (near Union City), Fulton County.

Upper Chattahoochee Riverkeeper ("UCR") is a non-profit, membership-based environmental organization dedicated to the protection and restoration of the Chattahoochee River, its tributaries and watershed. Our mission to protect the Chattahoochee River is accomplished by actively using advocacy, education, research and monitoring to accomplish our goals.

You may be aware, storm water discharges associated with such construction activities are regulated by a general permit in Georgia. The permit, "Georgia Environmental Protection Division Authorization to Discharge under the NPDES, Storm Water Discharges Associated With Construction Activity for Common Developments, General Permit No. GAR 100003," became effective as of August 13, 2003 (hereinafter referred to as the "General Permit"). Violations of the General Permit constitute violations of the Clean Water Act.

UCR was notified of potential violations of the General Permit by citizens and our members located downstream of the project. Our organization's primary concern is related to the water quality impacts of the Center expansion and potential damage to the receiving waters, adjacent wetlands, the Valley Lakes, Deep Creek and ultimately the Chattahoochee River. We have directly observed sediment-laden downstream of the project.

UCR staff participated in two site visits, on October 25, 2004 and November 9, 2004, to inspect erosion and sediment controls and storm water management practices. On both visits the inspector from Fulton County, a representative of the Soil and Water Conservation Commission and GDC personnel were present. It is our understanding that violation notices have previously been issued and as of November 3, 2004 a stop work order is in effect due to failure to properly contain sediment on the site.

Based on our site evaluation we believe that the GDC has not complied with the terms of the General Permit. As the "Primary Permittee," the GDC has continuing liability for violations of the General Permit, unless and until a Notice of Termination is

submitted to EPD.

Our concerns pertain to the drainage of the site, the adjacent wetlands, the steep topography of the site, storm water discharge and the resulting water quality of all the receiving waters. The storm water runoff from the Larmore expansion sends harmful dirt, sediment, silt, debris, and other pollutants to the waters of the United States.

In addition, the GDC has not prepared an adequate erosion control plan and has not complied with the terms of its existing Plan. The General Permit requires an Erosion, Sedimentation and Pollution Control Plan ("Plan") which shall include, at a minimum, best management practices (BMPs), including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with the Manual for Erosion and Sediment Control in Georgia. The Plan must include provisions to retain sediment on site and preclude sedimentation of adjacent waters.

The GDC's failure to maintain BMPs has also caused, and continues to cause, discharges of sediment-laden storm water to flow into waters of the U.S., and has caused and continues to cause violations of Georgia's water quality standards. The General Permit specifies that BMPs must be properly implemented for all construction activities to prevent or reduce pollution The General Permit specifies that discharges shall not cause violations of water quality standards. However, the Larmore expansion has failed to properly design, install, and maintain BMPs for erosion and sedimentation control.

We also believe that the "wet weather drainage swale", bisecting the property which has now been piped, was mis-identified. According to an environmental assessment report, the "swale traverses the central portion of the property; surface water run-off on the site would flow towards this swale and to the north towards a wetland area on the subject property". According to the soil survey, this drainage was/is in part an intermittent stream. UCR has reviewed topographic maps and soil surveys and has found numerous intermittent streams located on the soils map. Specifically, the "swale" located in the middle of the property is identified on the soil survey mid-way down the property as an intermittent stream. The General Permit prohibits land disturbing activities within the 25-foot buffer along the banks of all state waters, unless otherwise provided by law. Given GDC's failure to properly identify these state waters, we are concerned that the GDC has cleared in the 25-foot, legally protected buffers without qualifying for any exceptions from the buffer protection requirement, or requesting a variance form the State EPD.

In summary, UCR has the following concerns:

GDC's Erosion, Sedimentation and Pollution Control Plan ("Plan") for the site is insufficient to protect water quality and fails to meet clear legal requirements as follows:

- The Plan fails to identify and delineate waters of the U.S. and waters of the state allowing the clearing of stream buffers and the discharge of sediment into waters of the U.S.;
- The failure to identify and delineate all U.S. waters has led to the filling and destruction of waters of the U.S.;
- The Plan identifies adjacent wetlands, but fails to protect jurisdictional waters of the U. S. from deposition of discharge and fill material;
- The Plan fails to include "best management practices", including sound conservation and engineering practices, consistent with the Manual for Erosion and Sediment Control in Georgia, that would prevent and minimize erosion and resulting sedimentation from reaching waters of the U.S.; and
- The Plan fails to address initial erosion and sediment control.

Additional on-site issues observed during both site visits:

- Discharge of sediment and fill into waters of the U.S.;
- Failure to install the sediment pond prior to land clearing;
- Failure to adequately maintain sediment barriers;
- Failure to delineate intermittent streams on site;
- Failure to retain, protect and supplement vegetation; and
- Failure to stabilize the site as quickly as practicable.

In conclusion, UCR requests that these and all violations of the General Permit cease immediately and that GDC's engineer for the Center re-analyze the Plan for the design, installation and maintenance of the BMPs as mentioned above to stop the discharge of polluted runoff from this site. We plan to visit the site the week of November 15th and hope to see improvements. Thank you for considering our request. We are available to meet with you to discuss this issue at any time.

Sincerely,

Alice Champagne

Alice Champagne, CPESC
Technical Programs Director

Cc: Ms. Suzanne Alliegro, Deputy County Manager for Justice Systems
Mr. Alex Comer, Chief Erosion and Sediment Control
Mr. William Edwards, Commissioner, District 7
Alan Toney, Chair, Fulton County Soil and Water Conservation District
Jason Ulseth, Georgia Soil and Water Conservation Commission

Secondly, we challenge the States decision under Title VI of the Civil Rights Act of 1964. The filing basis for this challenge is based on the same mitigating circumstances with regard to the administrative issues of the state and county not forming a Community Relations Board (CRB) of the individuals directly affected. We as a community believe

that the State of Georgia maybe in violation of its' own state standards and regulations according to the following:

> **The Georgia Environmental Protection Act (GEPA), a state law designed to help state agencies conduct their projects with an awareness that they are stewards of air, land, water, plants, animals and environmental, historical and cultural resources, defines the wetlands that is under "the Federal Regulation, 33 CFR 32.93. The DNR Rules for Environmental Planning, Chapter 391-3- 16-03, incorporate the federal definition as well as both acceptable and unacceptable uses of wetlands. Under current federal law and state policy, alterations or degradations of wetlands should be avoided unless it can be demonstrated that there will be no long-term impacts or net loss of wetlands. A Federal Permit is required for most wetland activities" (GEPA Guidelines).**

As well as: Title VI of the Civil Rights Act of 1964, Under Executive Order 12250 and U.S. Constitution: Fourteenth Amendment - ***Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection*:**

1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. As sited in Findlaw.com:

(http://caselaw.lp.findlaw.com/data/constitution/amendment14/index.html) December, 2004

Environmental Justice means fair treatment of people of all races, cultures, and incomes with respect to the development, implementation and enforcement of all environmental laws and policies and their meaningful involvement in the decision making processes of the government. Application of these existing statutory provisions is an important part of this Agency's effort to prevent those communities from being subject to "disproportionately high and adverse impacts and environmental effects".

Fair treatment means, that no group of people, including a racial, ethnic, or social economic group should bear a disproportionate share of the negative environmental consequences resulting from industrial municipal, and commercial operations or the execution of federal, state, local and tribal programs and policies: "Environmental justice is achieved when everyone, regardless of race, culture, or income, 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://caselaw.lp.findlaw.com/data/constitution/amendment14/index.html) December, 2004.**

Evidence of discriminatory intent may be direct or circumstantial and may be found in various sources, including statements by decision makers, the historical background of the events in issue, the sequence of events leading to the decision in issue, a departure from standard procedure (e.g., failure to consider factors normally considered), legislative or administrative history (e.g., minutes of meetings), a past history of discriminatory or segregated conduct, and evidence of a substantial disparate impact on a protected group. This has occurred on several occasions. There has been a continuation of misleading information given to the public and those individuals that are responsible for this situation. For example:

While Commissioner Edwards sat at the Board of Commissioners meeting and voted to give the community a resolution of support for the stoppage of this facility, he then turns and dishonestly tells the Board members that "Fulton County would not have to come up with any dollars to get the property back from the State of Georgia. Commissioner Edwards was charged with the responsibility of helping to secure funding to purchase the land back from the State by Congressman Scott on June 1st, 2004. Commissioner James Donald of Corrections stated that "The department had spent $1.7 million dollars already and would consider conveying the land back to Fulton County if they could recoup their expenditures to date.

The community had gotten a letter from D.R. Horton, the Valley Lakes developer to help with the funding effort for the amount of $750,000.00. Horton had made the offer to G.D.O.C. and had not received a response (to date) regarding the purchase of the property. Commissioner Edwards, allowed the Fulton County Board to believe that they did not have to help with funding. When asked by the Fulton County Board members "Do we have to pay for this land to get it back?" Commissioner Edwards replied, "No". **(See J: letter from Commissioner Donald and Congressman Scott, June 1 and June 2, 2004).**

Also it is often said that this proposal is a "500" bed facility, when in fact, the total will be 700-900 inmates in this facility if it is built. Therefore, the members of P.A.L.E. and the surrounding communities do not want to continue to carry the weight of this type of facility disproportionately.

18. While it is not necessary for you to know about aid that the agency or institution you are filing against receives from the Federal government, if you know of any Department of Justice funds or assistance received by the program or department in which the alleged discrimination occurred, please provide that information below. (See section G for Grant dollars)

The State of Georgia's 1996 Violent Offender Incarceration Truth in Sentencing (V.O.I.T.I.S.) Grant **extension,** Number 96-CV-VX-0013, in regards to the expansion project of the J.C. Larmore Probation Detention Center, College Park, GA. and the Georgia Department of Corrections (GDOC). These funds were given through the Criminal Justice Coordinating Council to the State of Georgia. They allowed for a

matching program of split funding—90% Federal funding for construction provided under the Violent Offenders Incarcerated/Truth in Sentencing (VOI/TIS) program in the form of a formula grant. The State provided 10% funding matching funds. (Note that this is a "Violent Offender" grant)

Diversion of funding for this project is permissible, however, not practical according to Mr. Joe Hood (404-559-4949 x 116), of the Criminal Justice Coordinating Council and the point of contact between the State and Federal Department of Corrections. Funds must be spent by September 30, 2006. As of 7-30-04, Congressman Scott did receive the extension for the grant for one year.

19.* We cannot accept a complaint if it has not been signed.
Please sign and date this complaint form below.

Thursday, January 06, 2005
Mrs. An Jeanne' J. James
[redacted]

2005-01-06___ (Signature)_____

Please feel free to add additional sheets to explain the present situation to us. See supplemental information

We will need your consent to disclose your name, if necessary, in the course of any investigation. Therefore, we will need a signed Consent Form from you. (If you are filing this complaint for a person whom you allege has been discriminated against, we will in most instances need a signed Consent Form from that person.) See the "Notice about Investigatory Uses of Personal Information" for information about the Consent Form. Please mail the completed, signed Discrimination Complaint Form and the signed Consent Form (please make one copy of each for your records) to:

Office for Civil Rights
Office of Justice Programs
810 7th Street, N.W.
8th Floor
Washington, D.C. 20531

Toll-free Voice and TDD: (888) 848-5306
Voice: (202) 307-2222
TDD: (202) 307-2678

20. How did you learn that you could file this complaint?

US Department of Justice website and the Title VI Legal Manual.

21. If your complaint has already been assigned a DOJ complaint number, please list it here: _____

If a currently valid OMB control number is not displayed on the first page, you are not required to fill out this complaint form unless the Department of Justice has begun an administrative investigation into this complaint.