



MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY

# Genesee Power

## A Flint Michigan Title VI Case

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# Where it started

## Genesee Power Station

- Genesee Township, MI
- Just north of the city of Flint
- Underrepresented communities in the area



# Genesee Power Station

- In 1992 an air permit application for a new biomass power station was submitted
- The request was to burn wood-waste, natural gas, animal bedding, and tire derived fuel
- Final permit only allowed wood-waste and specifically excluded other requested fuels.



# Pre-permit Issuance

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In 1992 the Michigan Air Pollution Control Commission had decision making authority over the Genesee Power Station air permit.

The commission was made of 8 members who were appointed by the Governor.

The commission was disbanded in 1993 and decision making went to the Air Quality Division.

# Pre-permit issuance

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Draft permit was required to go out for public comment.

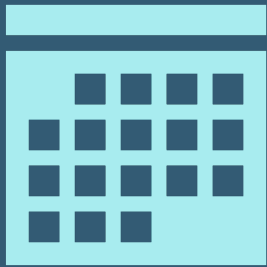
Public meetings were typically held in Lansing, 60 miles from the Flint area.

Several public meetings were held.

Comment period was extended to 42 days. Original permit was issued on 12/2/1992.

# The Complaint

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Filed on December 15, 1992



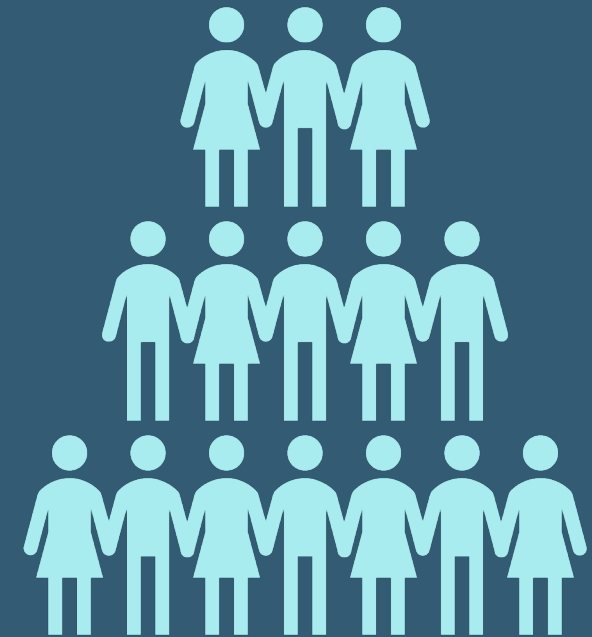
Alleged violations of Title VI and of EPA's nondiscrimination regulations

# Complaint Allegations

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1. Did the Agency discriminate based on race during the public participation process?
2. Would the health of African Americans be disparately impacted by the emissions of Genesee Power?
3. Did the Agency appropriately comply with federal nondiscrimination policies and ensure meaningful access to all persons?



# Public Participation Process

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- No official Agency public participation process.
- The Commission conducted hearings without a formalized process.
- Several applications would be reviewed in the same meeting.
- Adhering to agendas was challenging.
- Most meetings were held in Lansing.



# Public Participation Process

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For Genesee Power specifically:

- A permit for a facility in a majority white neighborhood was denied, but Genesee Power in a majority black neighborhood was approved.
- A white commentor was allowed to interrupt the proceedings and get their comment on the record, while in the same meeting a black commentor was not allowed to comment.

# Public Participation Process: Progress

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## Changes since 1993 for New Source Review:

- Commission was disbanded, decision making was delegated to the Division.
- Public hearings were held in the community where the proposed facility was located.
- Translation of some information.
- More accessibility to information.
- Talking to community groups and advocates.

# Public Participation Process: Findings

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- EPA found the Agency's public participation process to be insufficient.
- Required the Agency to:
  - Develop a process to address the insufficiencies of public involvement.
  - Align decision making criteria.
  - Share the location of information needed to participate in the process.

# Public Participation Process: Actions

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- Engaged in enhanced public participation process, including the use of EJ screening tools, plain language, translations, multiple meetings, etc.
- \* The Agency updated a “*Policy on Public Involvement in Department Programs and Activities*”.
- The AQD enacted an internal “*Policy and Procedure on Public Participation*”.

# Disparate health impacts

- Not as much concrete evidence was presented at the time of the complaint.
- To establish an adverse disparate impact, EPA must:
  - identify the specific policy or practice at issue;
  - establish adversity/harm; disparity and causation



# Disparate health impacts

- A variety of pollutants, including
  - Criteria pollutants, specifically lead
  - Some air toxics
- Studies looked at risk from
  - Genesee Power and similar statewide sources;
  - Genesee Power added to the existing cumulative air pollution in the county;
  - The company by itself.



# Disparate health impacts: Findings and Actions

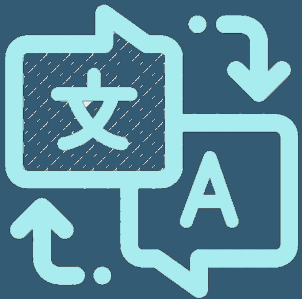
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- The risk of health effects are not above adversity benchmarks that require further action.
- No additional formal action was taken by the Agency.



# Meaningful Access

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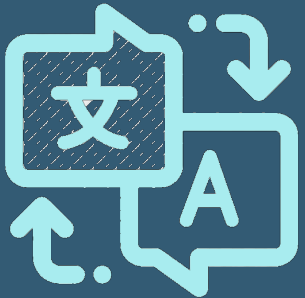


- Specific to the Agency's nondiscrimination policy
  - Did it follow the regulations?
  - Did it provide meaningful access to persons with disabilities or limited English proficiency?
  - Can complaints be submitted easily, and the status tracked?
  - Were federal nondiscrimination regulations being followed?



# Meaningful Access: Findings

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- EPA found the Agency to be delinquent in following nondiscrimination regulations.
- Determined regulations had not been followed for over 30 years.
- Determined grievance proceedings, retaliation and safeguarding also had not been sufficiently addressed.
- Some parts of this section were added to the Flint Water Crisis complaint for continued evaluation.

# Meaningful Access: Actions

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## \* Updated the nondiscrimination policy:

- Translated and posted in multiple languages online and in print.
- Revised webpage to include the language.
- Ensured it contained necessary elements.



## \* Created updated grievance/complaint procedures:

- Updated information online to make it easier to access.
- Made contact easy to find and communicate with.

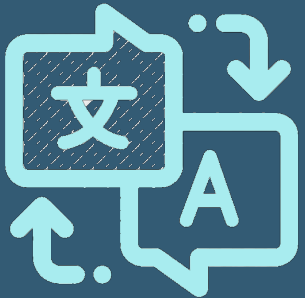
# Meaningful Access: Actions

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## \* Developed Limited English Proficiency Plan:

- Involved stakeholder input.
- Used in decision making for actions the public is involved in.



## \* Trained all staff on these actions and outcomes:

- Inform on the issues brought up in the complaint.
- To create consistency in decision making.

# Conclusions

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## Lessons Learned

- Required many changes to how we do things.
- Training has helped staff be more consistent.
- Constantly looking to improve processes through plain language and accessibility considerations.
- Changes have helped build trust between staff and communities, even with additional complaints being alleged.
- Helped open minds to more innovative ways to engage.
- Help enhance integrating EJ considerations, where possible, in our work.



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Thank You

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