

The Maurice and Jane Sugar Law Center for Economic & Social Justice

GUILD LAW CENTER



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Sugar Law Center Wins Injunction Prohibiting State of Michigan from Issuing New Permits Pending Reform of Environmental Protection System

On May 29, 1997, State court judge Archie Hayman enjoined the State of Michigan from issuing any permits for major pollution sources until the State reforms its permit review process. Judge Hayman ordered the State to assess the actual health risk posed by proposed facilities by requiring applicants for permits to perform risk assessment studies which account for cumulative exposure and pathways of exposure to pollution, and to provide the people who would be affected with a "meaningful" opportunity to be heard. The State has estimated that it has 480 permits pending in the state, and 11 in Genesee County, the site of a power plant at issue in the lawsuit.

The judge based his decision on a provision in the Michigan constitution that requires the State to protect the environment and health of all of its citizens and several air quality regulations. "The real issue," he stated, "is whether the [Michigan Department of Environmental Quality - MDEQ] should be required to consider the total environmental condition of the area that will be impacted by the facility before granting a permit to increase the pollution in the ambient air and soil . . . The Court believes that the facts of this case and the law of the land require that as part of the permit review process the MDEQ should be required to perform Risk Assessment Analysis at the cost of the proposed facility and not the public."

In addition to improving environmental protection for all Michigan citizens, the judge's order will increase

the power of low income and communities of color to oppose the addition of new pollution sources where they live. He gave the State 180 days to develop new policies and procedures and the plaintiffs 90 days to respond.

This is the first case in the country where a court has ordered a state to evaluate the cumulative burden on a community prior to approving permits for new pollution sources and that has enjoined a state regulatory agency from issuing new permits until the system is reformed.

The State argued that it was required to approve air permits so long as the applicant could show that it would comply with the Clean Air Act and state air

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A Special Thank You

A number of very important people provided invaluable assistance on our case, NAACP v. Engler. I would like to formally and publicly recognize their contribution. Kary L. Moss, Executive Director



Michael Haddad, Esq., is a partner in the firm Goodman, Eden, Millender and Bedrosian. He took time from his very busy schedule to help us with depositions, and to provide his brilliant strategic insights into trial strategy. He specializes in environmental exposure cases, police misconduct, constitutional law, and personal injury. He graduated from the University of Michigan Law School in 1991 and since then has successfully tried or settled numerous complex cases.