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Environmental Group Files Complaint Against M.T.A.

By DIANE CARDWELL

In an unusual deployment of the Civil Rights Act, a Harlem-based environmental group filed a complaint yesterday against the Metropolitan Transportation Authority, saying that putting most of Manhattan's diesel bus facilities in minority neighborhoods constitutes racial discrimination.

The complaint was filed by the group, West Harlem Environmental Action, under Title VI of the Civil Rights Act with the federal Department of Transportation. If an agency that receives federal aid is found to be practicing discrimination, the government can withhold that aid.

The M.T.A. is to receive almost \$5 billion in federal assistance from 2000 to 2004, according to the environmental group.

Clinton administration officials have been receptive to the use of civil rights statutes in environmental causes, but filing such a complaint is considered a high-stakes tactic that is used only when other means have failed, a board member of the group said. Civil rights complaints filed with the Department of Transportation have usually involved more conventional issues, like alleged employment discrimination by transit agencies, or the failure of airlines and cruise ships to provide access for disabled people.

"I'm unaware of any Title VI complaint that goes to citing bus facilities," said Luke Cole, the director the San Francisco-based Center on Race, Poverty and the Environment and co-author of the complaint. "This is a great civil rights case, because the M.T.A. has two alternatives. First, they could build the lots elsewhere and, second, they could do what the M.T.A. already does in the white suburbs, which is to use C.N.G. buses," he said, referring to so-called clean buses that run on compressed natural gas instead of oil-based fuel.

Officials at the transportation authority did not return several messages yesterday.

Peggy Shepard, executive director of the West Harlem group, said that the complaint came in response to a 12-year struggle with the authority to reduce pollution from its diesel bus depots and parking lots in northern Manhattan, where many residents are African-American and Latino.

Diesel emissions can contribute to asthma and other health problems, the group said, illnesses that are prevalent, especially among children, in the largely minority communities of Harlem, Inwood and Washington Heights.

Six of Manhattan's eight depots are north of 96th Street. The pollution problem was exacerbated, Ms. Shepard said, with the closing of the Walnut depot in the Bronx in 1998, which "sent 200 buses to our community, idling on our curbs, idling outside our schools, idling outside our public swimming pools."

Now, with plans to close one depot in Lower Manhattan to make way for the development of a Hudson River park, to open three new parking lots in Upper Manhattan and to accommodate more buses at two Harlem depots, Ms. Shepard said, an already unfair burden will become even more acute. "I don't understand how they can look at arguments to close a depot because it interferes with a park," Ms. Shepard said, "but they can't look at arguments to close a depot that interferes with health and quality of life."

The group says it wants the transportation authority to stop expanding bus facilities in Upper Manhattan, to increase monitoring of air quality and to begin replacing diesel buses with natural gas buses, already in use on Long Island.

"The M.T.A. seems to be interested in trying hybrid electric buses," Ms. Shepard said, referring to vehicles that use small diesel engines in combination with electric motors that some say can run as cleanly as natural gas. "They do not seem convinced that gas would work here. But if it's good enough there, why isn't it any good here?"

Title VI of the Civil Rights Act holds that an agency receiving federal financing cannot engage in racial discrimination.

And though many cases have been brought under Title VI since it came into existence in the 1960's, rarely has the regulation been applied to transit issues. Title VI complaints filed with the Department of Transportation, Mr. Cole said, have mostly involved issues like locations of freeways.

By filing an administrative complaint, the West Harlem environmental group has effectively tossed the ball into the court of the Department of Transportation and potentially eliminated the need for a costly lawsuit. The department's next move, if it accepts the complaint as legitimate, is to investigate it and possibly negotiate an agreement between the two sides, Mr. Cole said.

Bill Perkins, a city councilman from central Harlem who suffers from asthma, said that the West Harlem group hoped to set a precedent for other communities that felt similarly victimized by environmental racism, especially at the hands of public agencies.

"If this was any other community," Mr. Perkins said yesterday, "the M.T.A. would not move forward in the way that it is here."