UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 14 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
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In Reply Refer to:
EPA File No. 01R-12-R4

David A. Ludder
9150 McDougal Court
Tallahassee, FL 32312-4208

Re: Acceptance of Administrative Complaints

Dear Mr. Ludder:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has accepted for investigation your administrative complaints filed against the Alabama Department of Environmental Management (ADEM). EPA received your complaints on January 6, 2012 and February 21, 2012. Your complaints concern ADEM's approval of permits to Perry County Associates, LLC, regarding the Arrowhead Landfill, Perry County, Alabama (Permit No. 53-03). Your complaints allege that ADEM violated Title VI of the Civil Rights Act of 1964, as amended (Title VI) at 42 U.S.C, §§ 2000d *et seq*. and EPA's regulations implementing Title VI at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against a recipient of EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

Your complaints allege that ADEM's actions approving the September 27, 2011 reissuance and February 2, 2012 modification of the Arrowhead Landfill, will adversely and disparately impact the African-American residents in the community.

Therefore, OCR is accepting the following allegations for investigation:

1) ADEM violated Title VI and EPA's implementing regulations on September 27, 2011 by renewing Permit No. 53-03 to Perry County Associates, LLC to operate the Arrowhead municipal solid waste landfill in Perry County, Alabama. The Arrowhead landfill permit renewal will adversely and disparately impact the African-American residents in the nearby community; and,

2) ADEM violated Title VI and EPA's implementing regulations on February 3, 2012, by authorizing a permit modification to expand the disposal area of the Arrowhead municipal solid waste landfill in Perry County, Alabama, by 169.17 acres (66%). The modification will have the effect of adversely and disparately impacting the African-American residents in the surrounding community.

Your complaints allege adverse impacts resulting from the renewal and modification of the Arrowhead municipal solid waste landfill such as frequent emission of offensive odors from the landfill causing irritation of the upper respiratory tract and eyes, headaches, dizziness, nausea and vomiting, frequent emission and tracking of fugitive dust causing particulate deposition on personal and real property, increased noise from the continuous operation of heavy machinery, nuisance impacts from the increased population of flies and bird droppings, and decreased property values.

Additionally, your complaints state that the alleged adverse impacts continue to disparately affect members of the African-American race being that the impacted census blocks are 87 to 100 percent African-American, and the designated service area for the Arrowhead landfill is thirty-three states where the predominant race is White.

These allegations are accepted for investigation because they meet EPA's four jurisdictional requirements. First, the complaints are in writing. Second, the complaints describe alleged discriminatory acts that may violate EPA's nondiscrimination regulations. Third, the alleged discriminatory acts occurred within 180 days of filing the complaints; and finally, the complaints were filed against ADEM, a recipient of EPA assistance.

Pursuant to EPA's nondiscrimination regulations, ADEM may make a written submission to OCR responding to, rebutting, or denying the allegations raised in the complaint. 40 C.F.R. § 7.120(d)(1)(ii) ADEM may respond within 30 calendar days of receiving this notice. 40 C.F.R. § 7.120(d)(1)(iii) Additionally, EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2).

If you have any questions, please contact Karen Randolph of the OCR External Compliance Program by telephone at (202) 564-0732, via electronic mail at

Randolph.Karen@epa.gov, or by mail at: US EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,

Rafael DeLeon, Esq.
Director

cc: Lance R. Le Fleur, Director
Alabama Department of Environmental Management
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