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

February 24, 2016

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail#: 7015 1520 0002 0019 2106

In Reply Refer To:
EPA File No.: 13R-16-R4

Mr. Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36130-1463

Re: Acceptance of Administrative Complaint

Dear Mr. LeFleur:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting an administrative complaint (13R-16-R4) filed against the Alabama Department of Environmental Management (ADEM) dated February 3, 2016. The complaint generally alleges that ADEM violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code, 2000d *et seq*. and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d)(1). Generally, OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

As of the date of this letter, OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's

nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against ADEM, which is an applicant for, or recipient of, EPA financial assistance.

After careful consideration, OCR will investigate the following:

> Whether ADEM discriminated against African-American residents in the surrounding community on the basis of race/color through the modification of the solid waste disposal permit number 35-06 and authorization to the City of Dothan to expand the City of Dothan Sanitary Landfill, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation; and
>
> Whether ADEM is complying with the procedural safeguard provision delineated in 40 C.F.R. Part 7 Subpart D, which require recipients of EPA financial assistance to have specific policies and procedures in place to comply with their affirmative non-discrimination obligations.[1]

The decision to investigate the issues above is not a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and your designees, as well as the Complainants, if appropriate, and determine the next steps utilizing its internal procedures. As part of OCR's established investigative process, you will receive a request for information from OCR in the near future. In the intervening time, you are welcome to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of your receipt of this letter. *See* 40 CFR 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R § 7.120(d)(2). Accordingly, OCR is willing to discuss with ADEM informal resolution of the subject complaint at any point during OCR's investigation. In addition, OCR may, to the extent appropriate, offer alternative dispute resolution (ADR), with the involvement of affected stakeholders, as described at http://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi. We will contact both you and the Complainants in the near future to discuss your potential interest in pursuing ADR, as well as your interest in entering into informal resolution discussions. Please provide OCR with the name of, and contact information for, your designated representative at your earliest convenience. We invite you to review OCR's Interim Case Resolution Manual at: http://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf for a fuller explanation of the complaint resolution process.

[1] Note that this issue was originally raised by David Ludder in August 2013.

If you have any questions about this letter, please feel free to contact Brittany Martinez at (202) 564-0727, by e-mail at martinez.brittany@epa.gov, or U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,

Velveta Golightly-Howell
Director
Office of Civil Rights

cc: Elise Packard
Associate General Counsel,
Civil Rights & Finance Law Office

Ken Lapierre
Assistant Regional Administrator
Deputy Civil Rights Official,
U.S. EPA Region 4