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

JUN 27 2013

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail#: 7004-1160-0002-3622-6376

In Reply Refer To:
EPA File No: 12R-13-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 complaint filed against the Alabama Department of Environmental Management (ADEM). EPA received your complaint on June 3, 2013. Your complaint concerns ADEM's approval of permits to Perry County Associates, LLC, regarding the Arrowhead Landfill, Perry County, Alabama (Permit No. 53-03). Your complaint alleges 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 complaint alleges that ADEM's actions of reissuing and modifying, on September 27, 2011 and February 3, 2012 respectively, Solid Waste Disposal Facility Permit No. 53-03 authorizing Perry County Associates, LLC to construct and operate the Arrowhead Landfill, will adversely and disparately impact the African-American residents in the adjacent 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 reissuing Permit No. 53-03 to Perry County Associates, LLC to construct and 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.

These allegations are accepted for investigation because they meet EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint describes alleged discriminatory acts that may violate EPA's nondiscrimination regulations. Third, the complaint was timely filed. On September 26, 2012, OCR dismissed without prejudice complaint 01R-12-R4 because relevant issues were pending before a bankruptcy court. In the dismissal letter, OCR indicated that the complaint could be re-filed within 60 days of the termination of the litigation. The litigation was dismissed with prejudice by motion of the parties on April 16, 2013. EPA received this complaint on June 3, 2013 – within the 60 day deadline. Thus, the complaint is timely. Finally, the complaint was 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,

for Vicki Simons

Vicki Simons
Acting Director

cc: Lance R. Le Fleur, Director
Alabama Department of Environmental Management
1400 Coliseum Blvd.
Montgomery, AL 36130

Stephen G. Pressman, Associate General Counsel
Civil Rights Finance & Law Office (MC 2399A)

Teresa Murray, EEO Officer
EPA Region IV

Naima Halim-Chestnut, Title VI Contact
EPA Region IV