Message

From: Dorka, Lilian [Dorka.Lilian@epa.gov]
Sent: 7/26/2017 3:17:07 AM
To: Ben Wedeking [ben.wedeking@ylsclinics.org]
CC: FOIA HQ [FOIA_HQ@epa.gov]; John Philo [jphilo@sugarlaw.org]; Suzanne Novak [snovak@earthjustice.org]; Jonathan J. Smith [jjsmith@earthjustice.org]; Engelman-Lado, Marianne [marianne.engelman-lado@yale.edu]; Temple, Kurt [Temple.Kurt@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Dale.Rhines@ed.gov; Johnson, Johahna [Johnson.Johahna@epa.gov]
Subject: Re: EPA Complaints No. 17RD-16-R5 and 01R-94-R5

Thanks Ben. We will begin processing your request asap and will try to expedite our response. However, in the interest of expediting your request, we will want to discuss with you whether we can narrow your request as attached to your email. That is, whether you want us to take the time to provide to you documents which MDEQ has already provided as attachments to Director Grether's response to Marianne. All of the documents they provided to you were attachments to their March 6, 2017 letter to ECRCO, which you are requesting through this FOIA.

Perhaps we can plan to connect this Friday if you are available to discuss further. Thanks!
Lilian

Sent from my iPhone

On Jul 25, 2017, at 10:58 PM, Ben Wedeking <ben.wedeking@ylsclinics.org> wrote:

> Dear Director Dorka,
>
> I write to confirm that we will proceed with a formal request under FOIA. Please find the document attached, which contains a fee waiver request as well as additional clarifying information. We would appreciate any efforts to expedite the process.
>
> Many thanks for your work.
>
> Best regards,
>
> Ben Wedeking
>
> Summer Student
>
> Environmental Justice Clinic
>
> Yale University

From: Dorka, Lilian <Dorka.Lilian@epa.gov>
Sent: Thursday, July 20, 2017 3:38 PM
To: Engelman-Lado, Marianne
Cc: John Philo; Suzanne Novak; Jonathan J. Smith; Ben Wedeking; O'Lone, Mary; Temple, Kurt; Walts, Alan; Redden, Kenneth; Johnson, Johahna; Keeler, Katsumi; Biffl, Betsy
Subject: RE: EPA Complaints No. 17RD-16-R5 and 01R-94-R5

Dear Marianne,

I am following up on your email below requesting a copy of MDEQ's March 6, 2017, letter to ECRCO "Response to Notice of Preliminary Findings." Please note that ECRCO would need to respond to that request under the Freedom of Information Act (FOIA.) Please confirm whether you would like for us to process your request under FOIA.

Regarding your request for "information you can provide on any policies and procedures applicable to EPA review of preliminary findings," I can confirm that neither EPA's nondiscrimination regulation nor ECRCO's CRM address "review of preliminary findings." In addition, as your question relates specifically to the Genesee case, No. 01R-94-R5, I would like to make clear that this case was closed as of January 19, 2017, and remains closed. For additional clarification, please refer to Footnote 2 of our Resolution/Closure Letter in that case dated January 19, 2017. I have added the language of Footnote 2 below for your convenience. Thank you and please let me know if you have any questions.

Lilian

"The preliminary finding is made pursuant to 40 C.F.R. §115(c)(1)(i). Given the age of the facts relied upon to make this preliminary finding, EPA is not making recommendations pursuant to 40 C.F.R. §115(c)(1)(ii) which triggers notification of the recipient of its right to engage in voluntary compliance negotiations under 40 C.F.R. §115(c)(1)(iii). However, as explained in this letter, EPA will consider issues related to MDEQ's current public participation process within the context of the pending Flint Complaint (EPA File No. 17RD-16-R5) which raises similar issues regarding public participation in the current day context. Therefore, this case, 01R-94-R5, is closed as of the date of this letter and requires no further action."

From: Engelman-Lado, Marianne [mailto:marianne.engelman-lado@yale.edu]
Sent: Friday, July 7, 2017 5:22 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: John Philo <jphilo@sugarlaw.org>; Suzanne Novak <snovak@earthjustice.org>; Jonathan J. Smith <jjsmith@earthjustice.org>; Ben Wedeking <ben.wedeking@ylsclinics.org>; O'Lone, Mary <OLone.Mary@epa.gov>
Subject: EPA Complaints No. 17RD-16-R5 and 01R-94-R5

Dear Lilian,

I'm writing to follow up on a letter from MDEQ dated June 23, 2017, regarding a request by (b) (6) Privacy and the St. Francis Prayer Center to be included in discussions between MDEQ and EPA to resolve issues raised in civil rights complaints that they filed with EPA. (Please find MDEQ's letter, attached.) MDEQ's letter mentions that MDEQ disagrees with "and has

formally responded to" EPA's preliminary findings in the St. Francis Prayer Center case on March 6, 2017.

First, complainants seek a copy of MDEQ's March 6, 2017 formal response to EPA's preliminary findings.

Second, we would also appreciate any information you can provide on any policies and procedures applicable to EPA review of preliminary findings. We have reviewed both EPA regulations at 40 CFR 115, 130, and ECRCO's Case Resolution Manual, and neither seems to provide any detail. We would also appreciate hearing back from you or others at EPA within the next few days, as we are concerned about the timeliness of any follow up by complainants.

Many thanks,

Marianne

Marianne Engelman Lado
Visiting Clinical Professor of Law
Environmental Justice Clinic
Yale Law School
marianne.engelman-lado@ylsclinics.org

Personal Phone / Ex. 6

<FOIA Request 7.25.2017 MDEQ EPA.pdf>