UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

April 3, 2017

Return Receipt Requested
Certified Mail No.: 7015 0640 0006 0305 7145

In Reply Refer to:
EPA File No: 14R-14-R4

Mr. Omega Wilson
West End Revitalization Association
Post Office Box 661
Mebane, North Carolina 27302

Re: Rejection and Referral of Administrative Complaint

Dear Mr. Wilson:

On September 18, 2014, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO), formerly known as the Office of Civil Rights (OCR), received your administrative complaint, on behalf of the West End Revitalization Association (WERA), alleging that the North Carolina Department of Transportation (NCDOT) has not taken preventive measures regarding the spread of "arsenic and lead contaminants throughout an 85% low-income African American community," and that this violates Title VI of the Civil Rights Act of 1964 (as amended, 42 U.S.C. 2000d et seq., and the EPA's nondiscrimination regulation found at 40 C.F.R. Part 7.) ECRCO cannot accept your complaint for investigation as it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation. Accordingly, this case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO 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 regulation. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

After careful review, ECRCO is rejecting your complaint for investigation because it was filed against NCDOT, which is not a recipient of EPA assistance. Also, the alleged acts by NCDOT

that you have identified in your complaint – misrepresentations in the 2009 Record of Decision – are ultimately untimely because they did not occur within 180 days of filing your complaint. Although your complaint makes reference to an EPA recipient, the North Carolina Department of Environment and Natural Resources (NCDENR), now North Carolina Department of Environmental Quality (NCDEQ), it makes no specific or timely allegation of discrimination by NCDENR (now NCDEQ.)

On April 6, 2016, Samuel Peterson, ECRCO Case Manager, contacted you to clarify the complaint and obtain updated information about the issues raised in your complaint. However, ECRCO did not obtain any additional information that would impact the decision to close this complaint for lack of jurisdiction. As a result, ECRCO does not have jurisdiction to investigate this matter and is closing this case as of the date of this letter.

It is ECRCO's understanding that the U.S. Department of Transportation, Federal Highway Administration (FHWA) may have jurisdiction over the matters alleged in the complaint. Accordingly, the complaint is being referred to FHWA for appropriate action. A copy of the letter of referral to FHWA is enclosed. The contact person at the FHWA is Ms. Nichole McWhorter, Federal Highway Administration, U.S. Department of Transportation, Office of Civil Rights, 1200 New Jersey Avenue, S.E., 8th Floor E81-105, Washington, D.C. 200590.

Finally, per your request to Mr. Peterson, we have included a copy of the Pre-CERCLA Screening Assessment Report, dated May 22, 2015, and May 26, 2015 cover letter, that was done by NC DENR (now NC DEQ) for the former Craftique plant in Mebane, North Carolina. If you have any questions regarding this letter, please contact Samuel Peterson at (202) 564-5393, peterson.samuel@epa.gov, or by mail at the U.S. EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,

Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosures

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Vickie Tellis
Acting Assistant Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 4