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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

November 9, 2017

**Return Receipt Requested**
Certified Mail#: (b) (6) - Privacy

**In Reply Refer to:**
EPA File No: 47U-16-R4

Shelia Mitchell
Director
Triangle Region Office - Prisons
North Carolina Department of Public Safety
1201 Front Street
Raleigh, North Carolina 27609

**Re: Rejection and Referral of Administrative Correspondence**

Dear Ms. Mitchell:

On September 12, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) received a complaint from a prisoner incarcerated at the Polk Correctional Institution (Polk CI), operated by the North Carolina Department of Public Safety (NCDPS). The complaint against Polk CI alleges that the Complainant and other prisoners at Polk CI are living in unsanitary conditions including floors caked in bodily fluids. After careful review, ECRCO cannot accept this complaint for investigation because it does not meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. However, this complaint is being referred to the U.S. Department of Justice (DOJ).

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the 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 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient

of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

The complaint did not meet the jurisdictional requirements of the EPA's nondiscrimination regulation. Particularly, Polk CI and NCDPS are not recipients of EPA financial assistance. As a result, ECRCO must reject the complaint and close this case as of the date of this letter.

As the U.S. Department of Justice (DOJ), Civil Rights Division, Special Litigation Section, may have jurisdiction over Polk CI and/or NCDPS, the complaint is being referred to DOJ for appropriate action. Please contact DOJ for information regarding the referral of this complaint at: U.S. Department of Justice, Special Litigation Section, Civil Rights Division, 950 Pennsylvania, Avenue, N.W., Washington D.C. 20530.

If you have any questions about this correspondence, please contact Jonathan Stein, Case Manager, at (202) 564-2088 by e-mail at stein.jonathan@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,

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

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

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