UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

February 11, 2019

Return Receipt Requested
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In Reply Refer to:
EPA File No. 35RNO-16-R10

Maia Bellon, Director
Department of Ecology
State of Washington
PO Box 47600
Olympia, Washington 98504

Re: Notification of Rejection/Closure of Administrative Complaint

Dear Director Bellon:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received an administrative complaint filed against the State of Washington Department of Ecology (Ecology), received by EPA on June 11, 2016. The complaint alleges that Ecology rejected a request filed under RCW 70.94.405 (Air Pollution Control Authority) for a formal review of the Yakima Regional Clean Air Agency (YRCAA) to determine "whether or not the air pollution prevention control program of such authority is being carried out in good faith and is as effective as possible." [1] After careful consideration, ECRCO cannot accept the complaint against Ecology for investigation.

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 alleges that Ecology violated EPA's nondiscrimination regulation when it rejected a request for a formal review of the Yakima Regional Clean Air Agency (YRCAA) to determine

[1] ECRCO separately evaluated a claim filed by the Complainants against YRCAA under EPA file number 34RNO-16-R10. This decision letter was issued on February 11, 2019 to Complainants and YRCAA.

"whether or not the air pollution prevention control program of such authority is being carried out in good faith and is as effective as possible." After reviewing the complaint, the formal request filed with Ecology, Ecology's letter responding to the formal request, and other supplementary materials, ECRCO has determined that it does not have jurisdiction to investigate the complaint. Ecology's decision not to accept the formal complaint for investigation filed by the Complainant did not concern an act that, even if true, raises an issue of discrimination over which ECRCO has jurisdiction, that is, on the bases of race, color, national origin, sex, age, or disability.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO.

ECRCO is committed to ensuring that recipients of EPA financial assistance implement a nondiscrimination program and adhere to specific procedural safeguards to ensure meaningful access to all programs and activities by all persons, in compliance with their nondiscrimination obligations set forth in 40 C.F.R. Parts 5 and 7. As part of this commitment and by this letter, ECRCO is available to provide technical assistance to your Department with respect to your implementation of these regulatory requirements.

If you have questions about this letter please feel free to contact Jonathan Stein, Case Manager, at 202-564-2088, by email 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: Michelle Pirzadeh
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 10

Angelia Talbert-Duarte
Acting Associate General Counsel
Civil Rights and Finance Law Office
Office of General Counsel