UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 2, 2019

Return Receipt Requested
Certified Mail #: 7015 3010 0001 1267 1267

In Reply Refer to:
EPA Complaint No. 02R-19-R4

Mark Williams
Commissioner
Georgia Department of Natural Resources
2 Marin Luther King, Jr. Drive
Suite 1252
Atlanta, GA 30334

Re: Rejection and Closure of Administrative Complaint

Dear Commissioner Williams:

On November 1, 2018, The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received an administrative complaint filed against the City of Atlanta and the Georgia Department of Natural Resources (GA DNR). The complaint alleges that the City of Atlanta GA DNR failed to enforce laws prohibiting solid waste dumping in the predominantly low income[1] and minority neighborhood, on the roads and rights-of-way near the Gun Club Landfill in northwest Atlanta, Georgia, in violation of Title VI of the Civil Rights Act of 1964 and the EPA's nondiscrimination regulation, 40 C.F.R. Part 7. After careful consideration, for the reasons identified below, ECRCO is rejecting and closing this complaint as of the date of this letter.

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

1 "Low income"(sometimes referred to by the Complainant as "financial ability") is not a protected class that ECRCO has jurisdiction to investigate. See 40 CFR Part 7, Subparts B, C and F; https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf. Therefore, this allegation based on "low income or financial ability" is not accepted for investigation by ECRCO and is rejected as of the date of this letter.

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

In general, ECRCO will accept, reject, or refer a complaint after considering the four fundamental factors discussed above. However, if ECRCO obtains information leading ECRCO to conclude that an investigation is unjustified for prudential reasons, such as the complaint allegations are not sufficiently grounded in fact, ECRCO may reject a complaint allegation.[2]

The subject complaint alleges that the properties near the now closed Gun Club landfill were "intentionally being contaminated" by the City of Atlanta and the GA DNR based on race, color and low income/financial ability. Specifically, the complaint alleges that the City of Atlanta is illegally dumping trash, and/or that the City of Atlanta and the GA DNR are failing to enforce illegal trash dumping laws, in the area near the Gun Club landfill. First, with respect to whether the City of Atlanta is illegally dumping trash, the complaint has not provided any evidence to support this allegation, nor does GA DNR have any evidence of illegal dumping by the City. Second, the complaint allegations that the City and GA DNR have failed to enforce anti-dumping laws, a preliminary review of the documents that were provided demonstrated the City of Atlanta and GA DNR have responded to the issues that were raised in the complaint regarding illegal unpermitted dumping of tires and other waste material in this part of the city and adopted measures to remediate the sites affected by unpermitted waste disposal. GA DNR opened several complaints that were filed and contacted the City of Atlanta to remove trash from roads and rights-of-way. Interviews with staff at GA DNR confirmed that the City of Atlanta was contacted, and that trash was removed from the sites owned by the City.

GA DNR does acknowledge that often there is more dumping after the City clean-up has taken place, but they have no evidence that the City of Atlanta is dumping trash illegally. Email records shared with ECRCO also showed that GA DNR provided with contact information to allow to file a new complaint if unpermitted waste continued to be present in the Gun Club area. Accordingly, ECRCO's review of the available information appears to contradict the allegation that the City and GA DNR are either contributing to and/or failing to address the unpermitted dumping of waste materials in this part of the city.

In addition, the complaint alleges acts that, even if true, do not violate the EPA's nondiscrimination regulations. For example, the complaint alleges that GA DNR takes "punitive" measures against "individuals, private companies and/or private citizens," but not against local government agencies. The complaint also alleges that the state of Georgia may not have complied with the Georgia Open Records Act. Additionally, the complaint alleges discrimination based on low income/financial ability. None of these issues constitute an alleged violation of Title VI, or any of the other federal civil rights laws enforced by ECRCO.

Given these circumstances and after careful consideration, ECRCO has determined that it will not accept this complaint for investigation and is rejecting and closing this complaint as of the date of this letter.

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[2] *See* ECRCO Case Resolution Manual, Section 2.6, pp. 12-13, available at: https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf

If you have questions about this letter, please contact Case Manager Waleska Nieves-Muñoz, at (202) 564-7103, via email at nieves-munoz.waleska@epa.gov, or by mail at U.S. EPA, Office of General Counsel, Mail Code 2310A, Room 2524, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460-1000.

Sincerely,

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

cc: Angelia Talbert-Duarte
Acting Associate General Counsel
Civil Rights & Finance Law Office

Beverly Banister
Acting Deputy Regional Administrator
Deputy Civil Rights Official
EPA Region 4

Leif Palmer
Regional Counsel
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