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

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OFFICE OF
CIVIL RIGHTS

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In Reply Refer to:
EPA File No. 13R-07-R4

Minister Robert Lee Campbell
(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
Chapel Hill, NC 27516

Re: Partial Acceptance of Administrative Complaint

Dear Minister Campbell:

This letter is in response to your administrative complaint received by the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) on October 4, 2007. Your complaint was filed with the U.S. Department of Justice (DOJ) on July 3, 2007, and was referred to OCR and other relevant federal agencies. The complaint alleged that the Orange County Department of Solid Waste Management (OCDSWM), Orange County Board of Commissioners (OCBC), Orange County Health Department (OCHD), North Carolina Department of Environment and Natural Resources (NCDENR), Orange Water and Sewer Authority (OWASA), and the towns of Hillsborough, Carrboro, and Chapel Hill violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. OCR is partially rejecting and partially accepting your complaint for investigation.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of discrimination complaints to determine 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 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act.

Your complaint alleged that the above mentioned governmental entities in North Carolina engaged in activities that resulted in discriminatory impacts on African American residents and church congregations located in the Rogers Road/Eubanks Road area. The complaint mentioned a number of concerns including: the lack of enforcement of environmental regulations, denial of public participation opportunities, the lack of public services and amenities, increased vehicular traffic, the selection of the site for the waste transfer station, and groundwater contamination.

On May 1, 2008, OCR requested clarification of your July 3, 2007, complaint. Specifically, you were asked to provide the date associated with each alleged discriminatory act described in your complaint. OCR has completed its review of your June 5, 2008, response to our request for clarification, as well as your submittals dated January 9, 2009, and January 26, 2009. For the reasons listed below, OCR is accepting the complaint in part, and rejecting it in part.

Allegation #1:

> OWASA's zoning activities related to the siting and operation of the Orange County landfill created disparate, adverse impacts on the elderly, disabled, African American residents and church congregations located in the Rogers Road/Eubanks Road area.

As stated earlier, on May 1, 2008, OCR asked you to provide the date associated with each of the alleged discriminatory acts described in your complaint. Since the dates associated with this allegation were not provided, OCR cannot determine whether the claim is timely and, therefore, will not accept this allegation for investigation.

Allegation #2:

> OWASA discriminated against elderly, disabled, and/or African American residents in the Rogers Road/Eubanks Road area who made requests for public services and were denied.

This allegation is accepted for investigation because it meets EPA's jurisdictional requirements. The complaint is in writing, and states an alleged discriminatory act that could violate EPA's nondiscrimination regulations (*e.g.*, denial of requests by elderly, disabled, and/or African American residents for public drinking water and sewer service). Additionally, OWASA is an EPA financial assistance recipient, and the complaint was timely filed. The complaint was filed on July 3, 2007. The alleged discriminatory act occurred on March 8, 2007, which is within 180 days of the filing of this complaint. Your amendments provided additional dates of alleged discriminatory activity. These events will also be considered during the investigation.

Allegation #3:

> The Town of Hillsborough's siting and operation of the Orange County, NC landfill, lack of meaningful public participation, and lack of public amenities created various disproportionate and adverse impacts to the elderly, disabled, African American residents and church congregations located in the Rogers Road/Eubanks Road area.

On May 1, 2008, OCR asked you to provide the date associated with each alleged discriminatory act described in your complaint. Your response did not provide any dates for any of the alleged activities by the Town of Hillsborough. Since the dates associated with this allegation were not provided, OCR will not accept this allegation for investigation.

Allegation #4:

> NCDENR's failure to properly enforce its environmental regulations and provide adequate public safety created disparate, adverse impacts on the elderly, disabled, African American residents and church congregations located in the Rogers Road/Eubanks Road area.

As stated earlier, EPA's nondiscrimination regulations require that a complaint be filed within 180 days of the alleged discriminatory act. On May 1, 2008, OCR requested clarification of your complaint. Specifically, you were asked to provide the date associated with each alleged discriminatory act described in your complaint. Your response did not provide any dates for any of the alleged activities by NCDENR. Since you did not provide a date of occurrence for the alleged discriminatory activity, OCR will reject this allegation for investigation.

Remaining Allegations:

Your complaint included allegations of various discriminatory acts by OCDSWM, OCBC, OCHD, and the towns of Carrboro and Chapel Hill. Some of the allegations include: the lack of environmental regulations enforcement, the denial of public participation opportunities, fewer public services and amenities, increased vehicular traffic, improper operation of landfills, and groundwater contamination.

As stated previously, a complaint must be filed against an applicant for, or a recipient of, EPA assistance to be accepted for investigation. OCDSWM, OCBC, OCHD, and the towns of Carrboro and Chapel Hill do not receive EPA assistance. Therefore, OCR cannot accept any of the allegations against these entities for investigation.

Your complaint also included allegations of various discriminatory acts by governmental entities regarding the selection process of the proposed waste transfer station site. While reviewing the complaint, OCR learned that the final site selection

decision for the waste transfer station has not been made yet. Therefore, OCR cannot accept or investigate the allegations pertaining to the selection process for the proposed waste transfer station site.

Finally, your complaint contains allegations of income-based discrimination. Neither Title VI nor EPA's nondiscrimination regulations cover discrimination on the basis of income. OCR, therefore, would not investigate such claims.

EPA's nondiscrimination regulations provide that OCR must attempt to resolve complaints informally, whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR may discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders.

If you have any questions regarding this letter, please contact Anthony Napoli of the OCR External Compliance Program via Federal Relay Service 800-877-8339, and provide the relay operator his telephone number 202-233-0652. He may also be reached via electronic mail at Napoli.Anthony@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460-1000.

Sincerely,

Karen D. Higginbotham
Director

cc: Steven Pressman, Associate General Counsel
Civil Rights and Finance Law Office (2399A)

Rhonda Bailey, EPA Region 4