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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 27, 2019

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

Ms. Elizabeth Haddix
Managing Attorney
Regional Office
Lawyers Committee for Civil Rights Under Law
Post Office Box 956
Carrboro, NC 27510

Re: Administrative Closure, EPA Complaint No. 13R-07-R4

Dear Ms. Haddix:

This letter is to inform you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is closing, as of the date of this letter, Complaint No. 13R-07-R4 as relates to the Orange Water and Sewer Authority (hereinafter "OWASA"). Also, as explained further below, ECRCO is initiating a separate compliance review to examine OWASA's nondiscrimination program. That is, whether OWASA has in place the required procedural safeguards as well as the policies and procedures to ensure that persons with limited English proficiency and persons with disabilities have meaningful access to OWASA programs, services and activities, as required by EPA's nondiscrimination regulation at 40 Code of Federal Regulations (C.F.R.) Parts 5 and 7.

ECRCO is responsible for enforcing Title VI of the Civil Rights Act of 1964, (Title VI), the other federal civil rights statutes, and the EPA's implementing regulation found at 40 C.F.R. Parts 5 and 7, which prohibit discrimination on the basis of race, color, national origin (including limited English proficiency), disability, sex, and age in any program or activity receiving federal financial assistance. OWASA receives federal financial assistance from EPA and, therefore, must ensure nondiscrimination in programs and activities pursuant to the provisions of Title VI, other federal civil rights laws, and EPA's implementing regulation.

As you know, Complaint No. 13R-07-R4 was filed by the Rogers Eubanks Neighborhood Association.[1] On November 23, 2009 EPA's Office of Civil Rights[2] accepted for investigation the following issue:

> Whether OWASA discriminated against elderly, disabled,[3] and/or African American residents in the Rogers Road/Eubanks Road area who made requests for public services and were denied.

ECRCO is administratively closing the subject complaint because the allegation originally raised in the complaint and accepted for investigation is now moot and there are no systemic issues for investigation. The complainants alleged that the lack of public water and sewer services to the predominantly African American community of Rogers Road was discriminatory. ECRCO has confirmed that by use of multiple interlocal agreements, to which OWASA is a party, an extension project to provide water and sewer services to the Rogers Road community has been completed and put into service as of June 27, 2019.[4] ECRCO has further confirmed that per the interlocal agreements, OWASA is bound to provide service to Rogers Road community residents who connect their homes to the extension.[5] Accordingly, as the allegation originally raised in this complaint is now moot, complaint No. 13R-07-R4 is closed as of the date of this letter.

As is ECRCO's current practice during an investigation, ECRCO also reviewed publicly available information to determine whether OWASA has a nondiscrimination program that contains the required policies, plans and procedures to allow it to comply with applicable civil rights statutes and EPA's implementing regulation. This preliminary review identified a number of deficiencies in light of the federal nondiscrimination requirements. For example, we are not able to identify that OWASA has in place, "prominently" posted and accessible to the public: a complete notice of nondiscrimination, a nondiscrimination coordinator, nondiscrimination grievance procedure, disability policy/processes, or a language access policy/plan or process. (See 40 C.F.R. Parts 5 and 7 (including at Sections 5.135, 5.140, 7.80, 7.90, and

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[1] The complaint was initially filed with the U.S. Department of Justice and subsequently referred to multiple federal agencies, including EPA.

[2] At the time of the complaint filing, responsibility for enforcement of the civil rights obligations of EPA funding recipients was assigned to the Office of Civil Rights (OCR). In December 2016, this responsibility was assigned to External Civil Rights Compliance Office, in the Office of General Counsel,

[3] On January 22, 2010, EPA referred the portion of this complaint related to allegations of age discrimination to the Federal Mediation and Conciliation Service for mediation pursuant to 40 C.F.R. § 7.180. The allegation of discrimination based on disability was not investigated because, when responding to a request for information, Complainants failed to provide any information about, or examples of, alleged discrimination based on disability.

[4] Orange County confirmed this date in an email to ECRCO, sent July 25, 2019. *See* email from Allison Spinelli, OWASA, to John Roberts, July 25, 2019, "[EXTERNAL MAIL!] RE: RR sewer" – "…we put the sewer in service on 6/27/19 when we received notice back from the state that they had accepted our certification of the plans and construction documents as built."

[5] *See* Letter from Robert Epting to the Board of Directors of OWASA, dated May 19, 2017, forwarding the revised Interlocal Agreement. "The intent of this Third Phase of the Interlocal Agreement is to describe the terms and conditions upon which OWASA will accept, transfer, and treat wastewater being generated from the Project Area, to accept the owners and tenants of those properties served as OWASA customers, to charge and collect from those customers OWASA's regular rates as applicable to all other customers." *See also* Interlocal Agreement.

7.95.)) The identified deficiencies remain unresolved as of this date. Accordingly, ECRCO is initiating a compliance review to examine OWASA's compliance with the EPA regulation at 40 C.F.R. Parts 5 and 7, relative to OWASA's nondiscrimination program. (*See* 40 C.F.R. Section 7.115. *See also* ECRCO's Case Resolution Manual, Chapter 5, at: https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf).

If you have any questions, please feel free to contact me at 202-564-9649, by e-mail at dorka.lilian@epa.gov, or Dale Rhines, ECRCO's Deputy Director at 202-564-4174, by email at rhines.dale@epa.gov or U.S. mail at U.S. EPA, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,

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

cc: Angelia Talbert-Duarte
Deputy Associate General Counsel
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