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

June 28, 2016

OFFICE OF
CIVIL RIGHTS

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In Reply Refer to:
EPA File No.: 27R-16-R6

Becky Keogh
Director
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Re: Acceptance of Administrative Complaint

Dear Ms. Keogh:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting for investigation an administrative complaint filed against Arkansas Department of Environmental Quality (ADEQ), on April 26, 2016. The complaint alleges that ADEQ discriminated against the predominantly African American community of West Crossett, AR, on the bases of race or color with respect to ADEQ's allowance of an administrative continuance of a discharge permit that allows wastewater to flow through the community in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq*., and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. (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 regulations. First, the complaint must be in writing. (C.F.R. § 7.120(b)(1)) Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*e.g.,* an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. (40 C.F.R. § 7.120 (b)(2)) Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. (40 C.F.R. § 7.15)

After careful consideration, OCR has determined that the complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes

allegedly discriminatory acts that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory acts occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against ADEQ, a recipient of EPA financial assistance at the time of the alleged discriminatory acts.

Accordingly, OCR will investigate the following:

1. Whether ADEQ discriminated against the predominantly African American community of West Crossett, AR, on the bases of race and/or color, in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of NPDES Permit No. AR0001210 that allegedly does not meet the standards of the Clean Water Act; and

2. Whether ADEQ discriminated against the predominantly African American community of West Crossett, AR, on the bases of race and/or color, in violation of Title VI of the Civil Rights Act and EPA's implementing regulation, by allowing the administrative continuance of a NPDES permit No. AR0001210 that allegedly exposes the community to harmful emissions and that allegedly eliminates the use of Coffee Creek in violation of the Clean Water Act.

The decision to investigate the issues above is not a decision on the merits. OCR is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with you and the recipient, if appropriate, and determine next steps utilizing its internal procedures. In the intervening time, OCR will provide the recipient with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving their copy of the letter. *See* 40 C.F.R. 7.120(d)(1)(ii-iii).

The EPA's nondiscrimination regulation provides that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R § 7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at http://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi. We may be contacting both you and the complainants in the future to discuss your potential interest in pursuing ADR, as well as ADEQ's interest in entering into informal resolution discussions. We invite you to review OCR's Interim Case Resolution Manual at http://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf for a fuller explanation of the complaint resolution process.

Finally, we would like to remind you that 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 OCR. OCR would investigate such a complaint if the situation warranted.

If you have questions regarding this letter, please contact Zahra Khan, case manager, at 202-564-0460, via electronic mail at khan.zahra@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,

Lilian S. Dorka
Acting Director
Office of Civil Rights

cc: Elise Packard
Associate General Counsel,
Civil Rights & Finance Law Office

Samuel Coleman
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 6

Michael H. Shapiro
Principal Deputy Assistant Administrator
Deputy Civil Rights Official
U.S. EPA Office of Water