To: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Mon 9/22/2014 5:06:59 PM
Subject: Fw: REACH, Inc. (NC Title VI Complaint from Earthjustice)

I don't understand why Helena put that as a question. She knew that as my last email showed.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena
Sent: Monday, September 22, 2014 12:33 PM
To: Rhodes, Julia
Cc: Golightly-Howell, Velveta; O'Lone, Mary
Subject: Re: REACH, Inc. (NC Title VI Complaint from Earthjustice)

So day 15th is the 25th and the 20th day is the 30th? I believe the COS asked for it on day 15th.

Glad to have more time than I thought.

Helena Wooden-Aguilar
Assistant Director
External Civil Rights - US EPA
202-564-0792 (office)
Ex. 6 - Personal Privacy
wooden-aguilar.helena@epa.gov

On Sep 22, 2014, at 12:27 PM, "Rhodes, Julia" <Rhodes.Julia@epa.gov> wrote:

Hi, I spoke to Mary and she advised me that the date for issuance is actually September 30, as opposed to September 26 which was the date by which the team needed to have the draft to the COS.

Julia Rhodes

Assistant General Counsel for the Civil Rights Practice Group

Civil Rights and Finance Law Office

Office of General Counsel

Environmental Protection Agency

1200 Pennsylvania Avenue, NW, 2399A

Washington, DC 20460

Phone: 202.564.1417

From: Golightly-Howell, Velveta
Sent: Monday, September 22, 2014 10:01 AM
To: KeyesFleming, Gwendolyn; Reeder, John
Cc: Packard, Elise; Rhodes, Julia; Wooden-Aguilar, Helena
Subject: REACH, Inc. (NC Title VI Complaint from Earthjustice)

Hi Gwen and John. OCR has prepared the attached draft jurisdictional letter for the referenced complaint dated 9/3/2014, and OGC staff (Julia Rhodes and Mary O'Lone) have reviewed it. It's my understanding that to comply with the 20-day jurisdictional assessment limitations period, the letter must be sent by **Friday, 9/26**. If you have any concerns, please let me know ASAP and by COB on Wednesday.

DOJ has asked to meet about the complaint and has offered EPA technical assistance. We are planning to schedule a meeting with DOJ for as soon as possible and will keep you updated.

I'm calling to give you a heads-up that I've sent you this message. Thanks.

Velveta

Velveta Golightly-Howell

Director, Office of Civil Rights

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Mail Code 1201A

Washington, DC 20460

202-564-6685

<REACH 11R-14-R4 Acceptance Letter - Draft (09.22.2014).doc>

To: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Mon 9/22/2014 4:49:53 PM
Subject: 20 days

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena
Sent: Friday, September 12, 2014 7:04 PM
To: O'Lone, Mary
Subject: Re: FOR REVIEW/SIGNATURE - Lado, Marianne Engleman and D'Ambrosio, Jocelyn; Reeder, Tom Ltrs - Re _ Notify Receipt of Admin Cmplnt _ EPA File No _ 11R-14-R4

No we sent it out on the 10th

Helena Wooden-Aguilar
Assistant Director
External Civil Rights - US EPA
202-564-0792 (office)
Ex. 6 - Personal Privacy
wooden-aguilar.helena@epa.gov

On Sep 12, 2014, at 6:59 PM, "O'Lone, Mary" <OLone.Mary@epa.gov> wrote:

So does this mean that the 20 days starts running from the date of the acknowledgement letter (i.e., today)?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena
Sent: Friday, September 12, 2014 6:57 PM
To: O'Lone, Mary
Subject: Fwd: FOR REVIEW/SIGNATURE - Lado, Marianne Engleman and D'Ambrosio, Jocelyn; Reeder, Tom Ltrs - Re _ Notify Receipt of Admin Cmplnt _ EPA File No _ 11R-14-R4

Draft but will send the signed versions. The file # is in the letter.

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

Begin forwarded message:

From: "Whickum, Cheryl" <Whickum.Cheryl@epa.gov>
Date: September 10, 2014 at 11:01:00 AM EDT
To: "Wooden-Aguilar, Helena" <Wooden-Aguilar.Helena@epa.gov>
Cc: "Farrell, Ericka" <Farrell.Ericka@epa.gov>
Subject: FOR REVIEW/SIGNATURE - Lado, Marianne Engleman and D'Ambrosio, Jocelyn; Reeder, Tom Ltrs - Re _ Notify Receipt of Admin Cmplnt _ EPA File No _ 11R-14-R4

A Warm & Hearty…

Ms. Helena:

Hard copy of the above have been prepared for finalization, reviewed/initialed by Ms. Ericka, placed in your box, & are ready for your concurrence/signature.

Thank you,

Cheryl Whickum

U. S. EPA, Office of Civil Rights

Title VI - External Compliance Program

1200 Pennsylvania Ave, NW, WJC-North, Rm 2524

Mail Code: 1201A

Washington, DC 20460

202-564-4366 (Direct Line)

202-564-7272 (Office Line)

202-565-0196 (Fax Line)

From: Whickum, Cheryl
Sent: Wednesday, September 10, 2014 10:34 AM
To: Farrell, Ericka
Cc: Wooden-Aguilar, Helena
Subject: FOR REVIEW - Lado, Marianne Engleman and D'Ambrosio, Jocelyn; Reeder, Tom Ltrs - Re _ Notify Receipt of Admin Cmplnt _ EPA File No _ 11R-14-R4

A Warm & Hearty…

Ms. Ericka:

Hard copy of the above has been prepared for finalization, placed in your box, & is ready for your review/concurrence.

Thank you,

Cheryl Whickum

U. S. EPA, Office of Civil Rights

Title VI - External Compliance Program

1200 Pennsylvania Ave, NW, WJC-North, Rm 2524

Mail Code: 1201A

Washington, DC 20460

202-564-4366 (Direct Line)

202-564-7272 (Office Line)

202-565-0196 (Fax Line)

From: Farrell, Ericka
Sent: Tuesday, September 09, 2014 9:36 AM
To: Whickum, Cheryl

Subject: Notification Letters - Earthjustice/NC

Good Morning Ms. Cheryl,

Can you please finalized for Ms. Helena's signature. Thanks.

Ericka Farrell

Office of Civil Rights

External Complaints & Resolution

2025640717

To: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Mon 8/24/2015 12:22:37 PM
Subject: Re: REACH - March 6th as the date the 180 clock was tolled.

I did give comments back to Jeryl which is why she wrote that email to V.

I am waiting for another draft from her.

I personally don't see any downside to waiting until the end of the week (assuming they do pick the mediator by then).

I don't think it matters much if OCR stands strong this week or next. Will still seems to think there is a downside to sending it before the mediator is selected.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Rhodes, Julia
Sent: Friday, August 21, 2015 8:46 AM
To: Golightly-Howell, Velveta; Covington, Jeryl
Cc: Dorka, Lilian; Temple, Kurt; Wooden-Aguilar, Helena; O'Lone, Mary; Moffa, Anthony; Farrell, Ericka
Subject: RE: REACH - March 6th as the date the 180 clock was tolled.

Hi Velveta, CRFLO is still reviewing the letter and will be cognizant of the interests expressed in your email as we do so.

Julia Rhodes

Assistant General Counsel for the Civil Rights Practice Group

Civil Rights and Finance Law Office

Office of General Counsel

Environmental Protection Agency

1200 Pennsylvania Avenue, NW, 2399A

Washington, DC 20460

Phone: 202.564.1417

From: Golightly-Howell, Velveta
Sent: Thursday, August 20, 2015 6:40 PM
To: Covington, Jeryl
Cc: Dorka, Lilian; Temple, Kurt; Wooden-Aguilar, Helena; Rhodes, Julia; O'Lone, Mary; Moffa, Anthony; Farrell, Ericka
Subject: Re: REACH - March 6th as the date the 180 clock was tolled.

Thanks Jeryl. Please consult Julia re: including some indication that Ms. Lado Engleman was directed to the website ADR Fact Sheet which contains the specific advisement. I am uncomfortable just letting what she may have said to the media about expecting a decision and even assuming she didn't, with the mere reporting of this. I'm open to all options. There comes a time, though, when OCR has to stand strong and go on the offensive.

Velveta

Sent from my iPhone

On Aug 20, 2015, at 12:59 PM, Covington, Jeryl <Covington.Jeryl@epa.gov> wrote:

For consideration-

OCR has a draft tolling letter prepared for REACH and under review by OGC (attached). Nonetheless, the draft does not reference prior email communications, the request for clarification, or address the complainant's request to complete an interview of Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy

Secondly, per the emails below, Will Hall recommended that the tolling letter be issued once the mediator is selected. Based on today's communication, Mr. Hall has indicated that the selection of the mediator is near and can possibly occur next week.

From: O'Lone, Mary
Sent: Thursday, August 20, 2015 10:54 AM
To: Covington, Jeryl
Cc: Rhodes, Julia
Subject: FW: REACH - March 6th as the date the 180 clock was tolled.

Jeryl-

Did you guys ever work with Will to come up with language on how to describe the date the tolling happened to make sure all the appropriate buzz words are mentioned (e.g., confidentiality, 3rd party neutral) per the email below?

Will had recommended that we not send a letter like this until the mediator had been selected. It sounds like they are really close to doing that, so maybe you should see if he still thinks we should wait to issue this letter or if it is OK to do it now. Issuing it on a milestone like mediator selection might be a good thing & it can become a standard practice.

Let me know what you all want me to review only that bare bones letter or to wait until you produce something that has a little more to it. Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary
Sent: Friday, March 27, 2015 4:26 PM

To: Golightly-Howell, Velveta; Wooden-Aguilar, Helena; Matthew, Dayna; Dorka, Lilian
Cc: Rhodes, Julia; Covington, Jeryl; Farrell, Ericka; Moffa, Anthony; Hall, William
Subject: REACH - March 6th as the date the 180 clock was tolled.

We in OGC are all about providing our client's defensible options.

As a follow-up to his email below, Will and I just spoke about March 6th as the date for tolling the 180 day clock.

Ex. 5 - Deliberative Process; Attorney Client

Have a good weekend. Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Hall, William
Sent: Friday, March 27, 2015 11:29 AM
To: O'Lone, Mary
Subject: RE: Questions about dates

I understand that you're wanting to put a date on the start of the convening process. OCR's emails to the complainants and recipient indicating that OCR had asked me to contact them went out on March 6. I would consider that the start of the convening process.

Will

William E. Hall, Ph.D.
Conflict Prevention and Resolution Center
U.S. Environmental Protection Agency
"Making Agreement Easier" | (202) 564-0214
http://intranet.epa.gov/adr or http://www.epa.gov/adr

From: O'Lone, Mary
Sent: Thursday, March 26, 2015 12:00 PM
To: Hall, William
Subject: Questions about dates

Will-

You had your first solo follow up with NC DENR on what date?

And the date when you had your first solo follow-up call with Earthjustice?

I am trying to nail down when “convening” was underway.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

<11R-14-R4 ADR Vaart (08202015).docx>

<11R-14-R4 ADR complainant (08202015).docx>

To: Covington, Jeryl[Covington.Jeryl@epa.gov]
Cc: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Thur 8/20/2015 2:54:13 PM
Subject: FW: REACH - March 6th as the date the 180 clock was tolled.

Jeryl-

Did you guys ever work with Will to come up with language on how to describe the date the tolling happened to make sure all the appropriate buzz words are mentioned (e.g., confidentiality, 3rd party neutral) per the email below?

Will had recommended that we not send a letter like this until the mediator had been selected. It sounds like they are really close to doing that, so maybe you should see if he still thinks we should wait to issue this letter or if it is OK to do it now. Issuing it on a milestone like mediator selection might be a good thing & it can become a standard practice.

Let me know what you all want me to review only that bare bones letter or to wait until you produce something that has a little more to it. Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary
Sent: Friday, March 27, 2015 4:26 PM

To: Golightly-Howell, Velveta; Wooden-Aguilar, Helena; Matthew, Dayna; Dorka, Lilian
Cc: Rhodes, Julia; Covington, Jeryl; Farrell, Ericka; Moffa, Anthony; Hall, William
Subject: REACH - March 6th as the date the 180 clock was tolled.

We in OGC are all about providing our client's defensible options.

Ex. 5 - Deliberative Process; Attorney Client

Have a good weekend. Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Hall, William
Sent: Friday, March 27, 2015 11:29 AM
To: O'Lone, Mary
Subject: RE: Questions about dates

I understand that you're wanting to put a date on the start of the convening process. OCR's emails to the complainants and recipient indicating that OCR had asked me to contact them went out on March 6. I would consider that the start of the convening process.

Will

William E. Hall, Ph.D.
Conflict Prevention and Resolution Center
U.S. Environmental Protection Agency
"Making Agreement Easier" | (202) 564-0214
http://intranet.epa.gov/adr or http://www.epa.gov/adr

From: O'Lone, Mary
Sent: Thursday, March 26, 2015 12:00 PM
To: Hall, William

Subject: Questions about dates

Will-

You had your first solo follow up with NC DENR on what date?

And the date when you had your first solo follow-up call with Earthjustice?

I am trying to nail down when "convening" was underway.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

To: Gsell, Alyssa[Gsell.Alyssa@epa.gov]
From: O'Lone, Mary
Sent: Thur 8/20/2015 1:44:24 PM
Subject: FW: Marianne says OCR is missing deadline in REACH CAFO complaint

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Golightly-Howell, Velveta
Sent: Wednesday, August 19, 2015 6:47 PM
To: Dorka, Lilian; Packard, Elise; O'Lone, Mary; Rhodes, Julia; Hall, William; Moffa, Anthony; Covington, Jeryl; Temple, Kurt; Wooden-Aguilar, Helena
Cc: O'Lone, Mary; Packard, Elise; Rhodes, Julia; Hall, William; Moffa, Anthony; Covington, Jeryl; Wooden-Aguilar, Helena
Subject: Re: Marianne says OCR is missing deadline in REACH CAFO complaint

I agree that the tolling letter needs to be issued pronto. That is by Monday, the 24th. In it, we need to find a diplomatic, but clear, to definitively indicate that Earthjustice's was advised in March when the ADR-related process that the case is held in abeyance in such cases. That is, refer the reader to the ADR Fact Sheet on OCR's website which conveys this. I'm available to discuss.

Velveta

P.S. Everyone, please ensure that Kurt is included in any internal and external communications related to the External Compliance Program.

Sent from my iPhone

On Aug 19, 2015, at 6:18 PM, Dorka, Lilian <Dorka.Lilian@epa.gov> wrote:

Thanks to me it raises a question about whether they are actually expecting ADR to work. Why would ocr be issuing a findings letter while parties are "in good faith" attempting mediation? Then again I have to admit not feeling all that comfortable about our not having issued a rolling letter yet.

I understand Will cannot share a lot with us. However, if I'm Wills opinion their discussions are those of a group seriously involved in seeking mediation, such as the fact that they are in process of selecting a mediator, I would recommend that we issue the tolling letter officially and chronicle the fact that since x date the parties have been involved in ADR discussions and as they are now pursing the selection of a mediator, ocr is suspending further investigation o allow the mediation process to proceed. The fact is that they know we have not issued a Request for Information. Hindsight is 20/20 but perhaps we should issue those RFI letters right before we offer ADR.

Sent from my iPhone

On Aug 19, 2015, at 5:55 PM, O'Lone, Mary <o'lone.mary@epa.gov> wrote:

All-

Alyssa at DOJ passed this article along to me today.

http://www.coastalreview.org/2015/08/times-up-for-decision-on-hog-farms/

I am not quite sure why Marianne has any expectation that a finding is coming out today.

In addition to it being explained on the web page referenced in the acceptance letter, Helena's March 6, 2015 email to Marianne said "If NC DENR and the Complainants, your clients, agree to engage in ADR, OCR will suspend its investigation and toll the associated regulatory deadline for the duration of the ADR process. " A variation of that statement is provided earlier in Helena's email. So Marianne was told this twice in writing.

She certainly (or the reporter certainly) didn't mention that they are attempting ADR which is the reason she doesn't expect a decision. I don't know if it is Marianne doesn't get it, the reporter didn't get it If she did say it, or Marianne is purposefully creating the impression that OCR is missing a deadline.

"Of course, such an action will require that EPA finish its investigation. Engelman Lado said that based on her conversations with the Office of Civil Rights, she does not believe it will meet its deadline today.

Colaizzi did not respond to recent requests for comments about the status of the investigation. And, just as it has delayed its action for communities across the United States, the Office of Civil Rights has offered several delayed responses to questions from *News North Carolina Health*, sometimes missing deadlines weeks at a time.

Still, Engelman Lado expressed optimism about the work ahead. “I believe EPA would like to do a better job,” she said, adding that her case is receiving attention at the agency.

But if the EPA’s civil rights office does stall, Engelman Lado’s group will not sit still. “We wouldn’t let it languish for 20 years,” she said. “We can go to court.”

While she says the complaint is getting some vague "attention," she also gives that parting line.

Will- Do you get the impression that they think OCR is investigating the complaint while they are in the ADR process? Do you think she & her clients are expecting a decision today?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

To: Jordan, Scott[Jordan.Scott@epa.gov]; Schrock, Bill[Schrock.Bill@epa.gov]
Cc: Orlin, David[Orlin.David@epa.gov]; Elmore, Larry[Elmore.Larry@epa.gov]; Dunkins, Robin[Dunkins.Robin@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Rhodes, Julia[Rhodes.Julia@epa.gov]; Swenson, Erik[Swenson.Erik@epa.gov]
From: O'Lone, Mary
Sent: Thur 2/5/2015 3:57:20 PM
Subject: RE: CAFO Lawsuits and Petitions - CRFLO Interest

Scott-

EPA's Office of Civil Rights, CRFLO's client office, has received a complaint filed under Title VI of the Civil Rights Act of 1964 by Earthjustice on behalf of a grassroots group (REACH) & Waterkeepers in NC about the swine CAFO general permit that NC DENR issued in the fall. It alleges that NC DENR's issuance of the Swine Waste Management System General Permit without adequate measures to control, dispose of, and monitor the significant amounts of animal waste and pollutants from swine operations creates adverse health and other impacts that are borne disproportionately by African Americans, Hispanics, and Native Americans.

The complaint has not yet been accepted for investigation, but is on that trajectory (not a publically discussed fact). In order to determine whether Title VI has been violated, OCR has to answer the question of whether there are adverse disparate impacts from the operation of the swine farms issued certificates of coverage under the General Permit. I was looking around to see if EPA already had a methodology to assess health impacts from air emissions from CAFOS which is what lead me to NAEMS. NAEMS led me to the litigation.

We know there is lots of activity & sensitivity to CAFO issues within EPA. CRFLO's interest is to help make sure OCR is aware of & understands all the other moving pieces within EPA on CAFO issues & that it coordinates as appropriate. So no interest in the CAA or EPCRA litigation per se other than being aware of it. More interested in where EPA is on the underlying issues of CAFO emissions, measuring emissions, assessing impacts, etc.

Hope this helps. Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Jordan, Scott
Sent: Thursday, February 05, 2015 10:25 AM
To: O'Lone, Mary; Schrock, Bill
Cc: Orlin, David; Elmore, Larry; Dunkins, Robin; Zenick, Elliott
Subject: CAFO Lawsuits and Petitions - CRFLO Interest

Mary –

As we move forward with the litigation and figuring out how to respond to the petitions, it would be helpful to know what CRFLO's interest is in this, so we can ensure proper coordination on the aspects of this that you are concerned about.

Thanks,

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: O'Lone, Mary
Sent: Monday, February 02, 2015 1:15 PM
To: Schrock, Bill; Jordan, Scott
Cc: Orlin, David; Elmore, Larry; Dunkins, Robin

Subject: Re: CAFO Lawsuits - Relationship of 111 CAFO regulation to NAEMs methodology that went to SAB?

Bill-

I would be interested on any details you can give.

Thanks, Mary

FYI. On another note, we talked a while back about health studies related to CAFO emissions. Same day I heard about the ammonia litigation, I also saw a reference to this study re: ammonia & swine AFOs in NC. See attached.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Schrock, Bill
Sent: Monday, February 2, 2015 12:59 PM
To: Jordan, Scott; O'Lone, Mary
Cc: Orlin, David; Elmore, Larry; Dunkins, Robin
Subject: RE: CAFO Lawsuits - Relationship of 111 CAFO regulation to NAEMs methodology that went to SAB?

Mary/Scott – Yes the two items are related. Our response in discussions with anyone interested has been that v Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process We are evaluating some options with ORD for moving it forward with reduced money and still get the product we want at the end of the day, but until we pick an approach our schedule for completion is uncertain.

On a related matter, the NOI we received from EIP (in early December) on the failure to complete emission factors for VOC from AFOs is also directly related to the work on NAEMS. Let me know if you all need any further details on this. Thanks.

Bill Schrock
U.S. EPA
RTP, NC 27709
(919) 541-5032
(919) 541-3470 (fax)

From: Jordan, Scott
Sent: Monday, February 02, 2015 12:44 PM
To: O'Lone, Mary; Schrock, Bill
Cc: Orlin, David
Subject: Re: CAFO Lawsuits - Relationship of 111 CAFO regulation to NAEMs methodology that went to SAB?

Bill -

I do not know the answer to Mary's question. Do you know? Or can you let me know who might know the answer?

Thanks,

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: O'Lone, Mary
Sent: Monday, February 2, 2015 12:36 PM
To: Jordan, Scott
Subject: Fw: CAFO Lawsuits

Scott-

See email trail below. Just wondering if the regulating of emissions under 111 is related to the development on the NAEMs methodology that went to the SAB a couple of years ago.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Orlin, David
Sent: Monday, February 2, 2015 9:52 AM
To: O'Lone, Mary
Subject: FW: CAFO Lawsuits

Hi Mary,

There are actually two lawsuits on CAFOs—one asking for regulation under CAA 108 (criteria for NAAQS) and one asking for regulation under 111 (new source performance standards). They are based off the same petition (that was asking for regulation under both sections) but they filed two cases (perhaps to maximize their chances of winning one). The article below has links to both complaints—I think I have a hard copy of one.

I am happy to talk generally. FYI Scott Jordan has been the staff attorney on the 111 issues and I think that program has been a little more proactive in talking to the plaintiffs about schedules, and emissions factors for CAFOs etc. Lea Anderson will be the staff person on the NAAQS side of this complaint but she has not really been involved in these issues to date (except in the sense that she works on the NAAQS that in theory should address adverse effects from ammonia deposition). And as you know, Sheila Igoe is our general ag point of contact.

David Orlin

U.S. EPA, Office of General Counsel

(202) 564-1222

From: Schrock, Bill
Sent: Wednesday, January 28, 2015 4:09 PM
To: Dunkins, Robin; Jordan, Scott; Waite, Randy
Cc: Spence, Kelley; Elmore, Larry
Subject: CAFO Lawsuits

I had not seen this yet.

Court Asked to Compel EPA to Respond on Farm Emissions Petitions

Posted January 28, 2015, 3:56 P.M. ET

By Patrick Ambrosio

Environmental and public health groups asked a federal district court to require the Environmental Protection Agency to respond to a pair of petitions seeking the regulation of air pollution emitted from industrial farms.

The Environmental Integrity Project, Center for Food Safety and others, in separate lawsuits filed today allege the EPA is in violation of the Administrative Procedure Act, which requires a timely response to petitions for rulemaking.

One lawsuit requests that the U.S. District Court for the District of Columbia require the EPA respond to a 2011 petition seeking the regulation of ammonia emissions from industrial farms and other sources. The petition asked the EPA to make an endangerment finding for ammonia and designate ammonia as a criteria pollutant under the Clean Air Act. The designation as a criteria pollutant would trigger a requirement for the EPA to set national ambient air quality standards to protect public health and welfare.

The second lawsuit, also filed in the D.C. District Court, seeks a court order requiring an EPA response to a 2009 petition for the regulation of concentrated animal feeding operations as a stationary source of air pollution. That would require the agency establish new source performance standards for the estimated 20,000 large-scale farms in the U.S.

Both lawsuits request the court order the EPA to respond to the petitions within 90 days.

The D.C. District Court in 2014 dismissed a citizen lawsuit that sought an order to require the EPA to regulate emissions from concentrated animal feeding operations and to list ammonia and hydrogen as criteria pollutants. The court found the EPA doesn't have a nondiscretionary duty to list a specific pollutant as a criteria pollutant until the agency makes an endangerment finding on that pollutant.

Bill Schrock
U.S. EPA
RTP, NC 27709
(919) 541-5032
(919) 541-3470 (fax)

To: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Mon 9/15/2014 1:47:14 PM
Subject: Re: Short list of items from last week

Babysitting, but assigned the drafting of the accept reject since the timeframe was though to be shorter than it actually is.

Jeryl isn't back until I thin Wednesday afternoon.

I can already tell the protocol process is going to slow moving REACH down. If we didn't have to go up & down the various chains so much, I bet the Earthjustice stuff could be reviewed by people by Friday & they could actually tell Gwen and/or the Administrator something substantive when they meet. So frustrating already. It is such a promising complaint, something OCR could move on without much work. ARGHHHH.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Rhodes, Julia
Sent: Monday, September 15, 2014 9:39 AM
To: O'Lone, Mary
Subject: FW: Short list of items from last week

Erika is on REACH? Or is she just babysitting it til Jeryl gets back?

Julia Rhodes

Assistant General Counsel for the Civil Rights Practice Group

Civil Rights and Finance Law Office

Office of General Counsel

Environmental Protection Agency

1200 Pennsylvania Avenue, NW, 2399A

Washington, DC 20460

Phone: 202.564.1417

From: Wooden-Aguilar, Helena
Sent: Monday, September 15, 2014 9:30 AM
To: O'Lone, Mary
Cc: Rhodes, Julia
Subject: RE: Short list of items from last week

1. What I will need is an email explaining who we need and why. I am going to ask Jeryl (once she returns) to start on this and I will have her start looking at the SCS information below. As you know we are starting the Protocol process for the REACH complaint and I have asked folks to draft a case management plan for the 1st meeting (which will probably be in October). In that plan I will have a section for OEI and the statistically needs.

2. Thanks for putting that email together. I will have to prepare it for Velveta (as you recall she does not want us directly contacting the DCRO's).

3. Right but I do think the protocol group will meet and it will be up to OCR to recommend a path forward. The path forward might include your thoughts below.

Regarding the JR, I am on the hook for this. I think we discussed last week that while some initial issues were flagged regarding ripeness we are moving forward. Does Ericka have this or is this with you? If with Ericka, perfect. I will send Julia/CRPG a draft JR for your review. I want to move this asap to Velveta.

Helena

From: O'Lone, Mary
Sent: Monday, September 15, 2014 9:14 AM
To: Wooden-Aguilar, Helena
Cc: Rhodes, Julia

Subject: Short list of items from last week

Just a few things on my mind from last week that I don't want to get lost in the sauce:

1. Statistician. Would you please contact OEI to ask if they can give us a statistician to assist us with both REACH and the DEN work. At this point, we'd want them to read some studies & give us their opinion as to whether they were appropriate & reliable from a statistical standpoint. It would be great if they had someone who was also familiar with EJ type studies. (Man, we really need Loren now. I read the REACH analysis of demographics around the CAFOs and this is right up his alley. My brain is slowly grinding trying to figure out what the report says -- other than, if a good study, it overwhelmingly proves their case. It looks similar to what we did Ex. 5 - Atty Client/Deliberative Process so I am going to have to go back & re-read that stuff & pull out my Cartoon Guide to Statistics).

Here is stuff from the EPA intranet:

Statistical Consulting Services
Office of Environmental Information's (OEI's) Office of Information Analysis and Access (OIAA) provides resources to the Agency to assist in the analysis of problems that require statistical knowledge. For the Program Offices and Regions, the statistical consulting staff will answer questions requiring statistical expertise or direct referrals to proper sources. OIAA staff is also available for ancillary services, such as journal review, contract report review, training, presentations, or testimony. For more information, contact Barry Nussbaum at Nussbaum.Barry@epa.gov or 202-566-1493.

2. R4 for person familiar with NC CAFOs. I sent you an email last week you can forward to Ken LaPierre asking if he has anyone.

3. Regroup on REACH. Let's talk at some point about the idea of REACH "going into the protocol." If the study does turn out to be reliable & well done -- something OCR would give due deference to -- as I mentioned Friday, one option might

Ex. 5 - Deliberative Process; Attorney Client

I am going to try to talk to the OECA CAFO contacts Caroline gave me last week to get some background & see if they know CAFO people in other HQ programs. My initial thought is to try to loop all the CAFO people in on a discussion evaluating what Earthjustice has sent in. I will let Jeryl know what I found out & she can take over organizing any discussion we decide to have when she gets back.

Thanks, Mary

Mary O'Lone

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(202) 564-4992

To: Packard, Elise[Packard.Elise@epa.gov]
From: O'Lone, Mary
Sent: Thur 2/9/2017 6:58:38 PM
Subject: FW: Draft letter to D. Price
Draft response to Congressman David Price (1.13.17).docx

Elise-

Do you know if this letter has gone out?

I asked Carla about it last week when I was looking for a copy of the Sen. Booker to put in OneTracker.

If it hasn't gone out, there are a couple of completely minor edits I might do.

Thanks, Mary

Mary M. O'Lone

Civil Rights and Finance Law Office

Office of General Counsel, US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Wilson, Adam
Sent: Friday, January 13, 2017 9:26 AM
To: O'Lone, Mary <OLone.Mary@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: RE: Draft letter to D. Price

Thanks, Mary. I've updated the letter accordingly (lifted language from the final draft of the desk statement and deleted extra details).

Elise, how else can I help? Latest draft is attached.

From: O'Lone, Mary
Sent: Thursday, January 12, 2017 6:00 PM
To: Wilson, Adam <wilson.adam@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: RE: Draft letter to D. Price

Desk statement will likely say just this:

On [DATE], EPA's External Civil Rights Compliance Office (ECRCO) issued a Letter of Concern to the North Carolina Department of Environmental Quality (NCDEQ) as a part of a civil rights investigation into alleged discrimination and retaliation related to NC DEQ's Swine Waste Management System General Permit (Swine Waste General Permit).

The investigation is still ongoing and we don'' talk about open investigations.

From: Wilson, Adam
Sent: Thursday, January 12, 2017 5:12 PM
To: O'Lone, Mary <OLone.Mary@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: RE: Draft letter to D. Price

Mary, is the description in my draft letter significantly different from content in the desk statement? When will the desk statement be finalized? **Elise**, how long can this letter wait?

From: O'Lone, Mary
Sent: Thursday, January 12, 2017 5:08 PM
To: Wilson, Adam <wilson.adam@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: RE: Draft letter to D. Price

Adam-

So sorry, since we discussed the draft desk statement our thinking on the content of it & how

much we will talk about the letter has drastically changed.

I don't know if we want to wait on this letter until the desk statement is finalized & just use that sentence or two for this response.

If we say more than we did in the Booker letter, I imagine it will be just to say that we issued a letter today to NC DEQ in the case. It is an ongoing investigation and can't talk about it.

From: Wilson, Adam
Sent: Thursday, January 12, 2017 4:59 PM
To: O'Lone, Mary <OLone.Mary@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: Draft letter to D. Price

Hi Mary and Elise,

Attached is a draft response to Congressman David Price's letter regarding REACH. The language is largely borrowed from Julia's response to Cory Booker and Mary's draft press release for the Letter of Concern. Seeing as you're both super busy, I'm sending it to you both.

Price's letter (also attached) asked us to make a finding before the end of the Obama administration. The letter I drafted doesn't directly address his request; rather, it describes the history of the case, the Letter of Concern, and our plan to attempt to reach an informal resolution. So I consider his request answered as much as we can. Let me know if you feel differently.

What do you think about attaching the Letter of Concern? I see pros and cons. Just putting the idea out there.

Many thanks,

--Adam

P.S. It's exceedingly unlikely that we haven't sent the letter to Senator Booker, but if we still have it, we spelled his name wrong. No "e" in Cory.

Adam Wilson

Civil Rights and Finance Law Office

Office of General Counsel (MC 2399A)

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW

Washington, DC 20460

(202) 564-3357

To: Johnson, Johahna[Johnson.Johahna@epa.gov]
From: O'Lone, Mary
Sent: Mon 6/6/2016 4:41:44 AM
Subject: Re: draft email for Marianne

Can you add this question to the Marianne email worded better if possible:

Ex. 6 - Personal Privacy h to Avi Garbow that odors seep into her house "even when the windows are shut as the Health Department has advised." Any idea what the Health Department she is talking about & what it has advised and why?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary
Sent: Sunday, June 5, 2016 11:28:05 AM
To: Johnson, Johahna
Subject: Re: draft email for Marianne

Thanks for figuring all that out. Can you please write up questions to her for these to add to mine? Looks like 4 questions.

1. yes she did on the new attys. will forward email to you.

2. NC policy watch - forgot that. Which study are we talking about -- the 2014 disparity analysis?

3. what do you mean exactly by what was sent to DEQ?

4. ok, thanks. can you please figure out which statements in the complaint they will support? I'd like to list the paragraph numbers.

5. they did send in 2016 published Guidry, Johnston, Wing report. It is the one about H2S near 3 middle schools.

6. yeah, I wanted it to see if anyone has critiqued the methodology in that study b/c Johnston said it was the same as the methodology used in the 2014/2015 disparity analysis.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Johnson, Johahna
Sent: Friday, June 3, 2016 3:34:50 PM
To: O'Lone, Mary
Subject: RE: draft email for Marianne

Hi Mary,

A couple of questions for Marianne if you agree. I am not sure I have been copied on all the emails so some of this may have already been sent in:

1. Did she ever send us a designation of representation for the new attorneys?

2. During the Johnston interview, someone offered to reach out to NC Policy Watch and see if they received any critiques of the study. Did that occur?

3. What was sent to DEQ?

4. Tables with statewide analysis, if final – I believe this is what was missing to support statements in complaint

5. Published Gentry (?) report

6. Johnston offered to send in critiques from oil study – but are these even relevant? Maybe if critiques are of methodology?

Johahna Johnson

Civil Rights and Finance Law Office

Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-6119

From: O'Lone, Mary
Sent: Thursday, June 02, 2016 4:03 PM
To: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: Re: draft email for Marianne

Adding to that-

Dr. Johnston indicated she was going to check to see if she could get copies of any feedback that may have come in related to her recently published study that used the same methodology as this study. Do you have that?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary
Sent: Thursday, June 2, 2016 3:56:28 PM
To: Johnson, Johahna
Subject: draft email for Marianne

Marianne-

Ex. 5 - Deliberative Process; Ex. 6 Personal Privacy

Mary O'Lone

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