To: Jones, Kim A[Jones.Kima@epa.gov]
From: Tommelleo, Nancy
Sent: Mon 1/12/2015 4:09:00 PM
Subject: FW: FYI. Current draft of REACH letters
REACH 11R-14-R4 Earthjustice Acceptance Letter - Draft (1 9 2015) mmo.doc
REACH 11R-14-R4 NC DENR Acceptance Letter - Draft (1 9 2015) mmo.doc

FYI

Nancy L. Tommelleo

Deputy Regional Counsel

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

fax: 404.562.9663

tommelleo.nancy@epa.gov

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From: O'Lone, Mary
Sent: Friday, January 09, 2015 4:40 PM
To: Tommelleo, Nancy
Cc: Rhodes, Julia; Johnson, Johahna; Wooden-Aguilar, Helena
Subject: FYI. Current draft of REACH letters

Nancy-

Per our conversation earlier today, here are the current draft REACH letters. They are still under review up here.

Also, you should have gotten an invitation to the SharePoint site for the DEN. What you are seeing is what OCR has found so far. It is a bit more than what I was able to send you late last year. We know that some items exist that are still not up there. When all of the searching & scanning is complete, we will come up with a list of any documents still missing (if any).

Since this is a DEN SharePoint site, it only contains the documents relevant Ex. 5 - Deliberative Process/ Atty Client Ex. 5 - Deliberative Process/ Atty Client Also, it will only contain records of 3rd party communications, not any draft documents or analyses OCR may have been working on. Katsumi is now sorting through emails & other materials he has recently located to make sure that what is put up there is relevant to the enforcement allegation. He will add those after he does a check for relevance & quality control (e.g., all pages are there & legible).

If you want to see correspondence related to the other complaint about events in Ex. 5 - Deliberative Process/ Atty Client Ex. 5 - Deliberative Process/ Atty Client we can work to get you those as well.

I will give you a heads up that in reading one of the internal OCR draft documents from early 2014, I found a statement that ADR had not been broached with either party. I mentioned it to Helena today & she didn't say anything different. I also mentioned to Helena that OCR & R4 should nail down the lead & roles & responsibilities for the case. I think she will be looking to set up an organizing/case management meeting next month.

I think we may have mentioned this yesterday, but in case not, Johahna & I are drafting some

short summaries of the cases for DEN members. I am hoping we can get those to you in the next couple of weeks.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

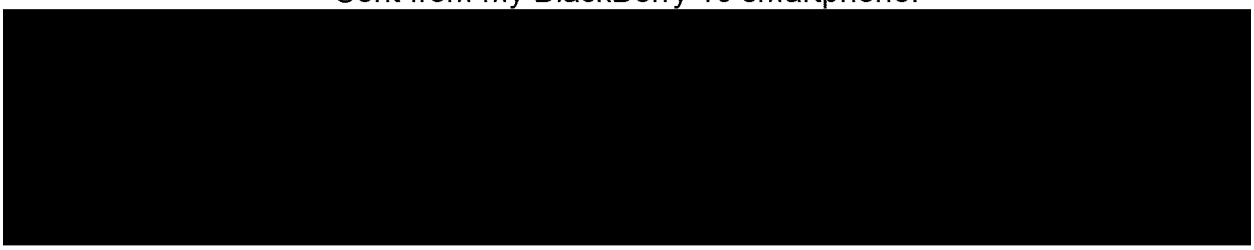
Washington, DC 20460

(202) 564-4992

To: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: Tommelleo, Nancy
Sent: Sat 12/20/2014 1:26:29 PM
Subject: Re: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Julia: meant to send you some documents I pulled off NCDENR's. Website. (ndenr.org). It's the general permit, fact sheet, and "report of proceedings of public permt" which has transcripts of public comments on the draft permit.
I had taken a look at the permit to see if it had air requirements and to see what state authority it was issued under. I did not look at the public comment transcript but know you were asking OCR about this.
I will send these docs to you Monday when I am back in the office.

Sent from my BlackBerry 10 smartphone.



Thanks for your prompt response. Will let you know if additional information is requested.

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: Tommelleo, Nancy
Sent: Thursday, December 18, 2014 4:16 PM
To: Rhodes, Julia

Cc: Wilkes, Mary; Davis, Molly; Ghosh, Mita; Floyd, Tanya; Rubini, Suzanne; Tommelleo, Nancy
Subject: RE: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Julia:

Below are the Region's responses to the two questions you posed in your email regarding the NC CAFO General Permit.

1. Did EPA comment on the draft general permit? If so, what were those comments?

No. EPA did not comment on the draft general permit (AWG100000). EPA does not review or comment on these kinds of State Operating Permits because we lack CWA jurisdiction to do so (they are not issued pursuant to CWA authority). NC issues State Operating Permits to Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOS) for facilities that do not discharge to waters of the US. These permits are no-discharge permits and are not CWA NPDES permits. Consequently, the State does not send us, for review or comment, their draft State Operating Permits, like the one in question.

Other information: The State of NC currently has 3 State Operating General Permits for animal waste operations (a/k/a Animal Waste Management System State General Permits): AWG200000 for cattle; AWG300000 for poultry; and AWG100000 for swine. According to the FY15 106 Work Plan, there are about 1,106 large CAFOs with State Operating Permits and about 17 CAFO facilities covered under the NDPES program in North Carolina.

2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforces the permit under both the CAA and CWA

CWA: See above. EPA does not review or enforce these State Operating General Permits as there is no federal jurisdiction to do so. However, we can inspect/enforce at CAFOs for NMP violations.

CWA - NMP Inspection/Enforcement: The CWA requires all unpermitted (i.e., those without NPDES permits) large CAFO facilities to have nutrient management plans (NMP) to claim an exemption from stormwater permitting requirements. EPA can use its enforcement discretion to conduct inspections at a CAFO facility to ensure the facility is complying with the NMP. If it is found during an inspection that a CAFO facility is actually discharging to waters of the U.S. without NPDES permit coverage, EPA may bring an enforcement action against the facility for unpermitted discharges of pollutants to waters of the U.S.

Since 2011, EPA Region 4 conducted 16 NMP inspections at CAFO facilities in NC and a majority of these inspections were conducted at facilities permitted under the NC State Operating General Permit.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

CAA: The State Operating General Permit (AWG100000) is issued under North Carolina's water pollution regulations (North Carolina G.S. 143-215). The permit does not contain any air requirements nor is it issued under any NC air regulatory authority. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-

Let us know if you need further information or have any questions about the above.

Thanks

Nancy

Nancy L. Tommelleo

Deputy Regional Counsel

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

fax: 404.562.9663

tommelleo.nancy@epa.gov

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From: Rhodes, Julia
Sent: Wednesday, December 17, 2014 11:48 AM
To: Tommelleo, Nancy
Subject: FW: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Hi Nancy,

Attached is a draft document for your consideration.

Before moving forward this matter, we need your assistance in answering the following questions:

1. Did EPA comment on the draft general permit? If so, what were those comments

2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforcements the permit under both the CAA and CWA

Other questions that OCR and CRFLO are grappling with but ORC should feel free to weigh in on are:

1. Do we know if complainants submitted comments on DENR's draft general permit? If so what were they?

2. Any cut points/decision points where there may be decisions to either end the investigation or take the investigation in a different direction

3. Where along the 18 month investigatory trajectory will there be points where decisions will be made

4. Can/should we engage in ADR prior to accepting a complaint

Also, it is possible depending on what the jurisdictional determination is in this case, that there will be a need for a series of briefings on CAFOs, as well as meetings with EarthJustice.

Feel free to give me a call if you have any questions.

Thanks, in advance, for your assistance.

Julia

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

To: Rhodes, Julia[Rhodes.Julia@epa.gov]
Cc: Wilkes, Mary[Wilkes.Mary@epa.gov]; Davis, Molly[Davis.Molly@epa.gov]; Ghosh, Mita[Ghosh.Mita@epa.gov]; Floyd, Tanya[Floyd.Tanya@epa.gov]; Rubini, Suzanne[Rubini.Suzanne@epa.gov]; Tommelleo, Nancy[Tommelleo.Nancy@epa.gov]
From: Tommelleo, Nancy
Sent: Thur 12/18/2014 9:16:26 PM
Subject: RE: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Julia:

Below are the Region's responses to the two questions you posed in your email regarding the NC CAFO General Permit.

1. Did EPA comment on the draft general permit? If so, what were those comments?

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Other information: The State of NC currently has 3 State Operating General Permits for animal waste operations (a/k/a Animal Waste Management System State General Permits): AWG200000 for cattle; AWG300000 for poultry; and AWG100000 for swine. According to the FY15 106 Work Plan, there are about 1,106 large CAFOs with State Operating Permits and about 17 CAFO facilities covered under the NDPES program in North Carolina.

2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforces the permit under both the CAA and CWA

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CWA - NMP Inspection/Enforcement: The CWA requires all unpermitted (i.e., those without NPDES permits) large CAFO facilities to have nutrient management plans (NMP) to claim an exemption from stormwater permitting requirements. EPA can use its enforcement discretion to conduct inspections at a CAFO facility to ensure the facility is complying with the NMP. If it is found during an inspection that a CAFO facility is actually discharging to waters of the U.S. without NPDES permit coverage, EPA may bring an enforcement action against the facility for unpermitted discharges of pollutants to waters of the U.S.

Since 2011, EPA Region 4 conducted 16 NMP inspections at CAFO facilities in NC and a majority of these inspections were conducted at facilities permitted under the NC State Operating General Permit.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

CAA: The State Operating General Permit (AWG100000) is issued under North Carolina's water pollution regulations (North Carolina G.S. 143-215). The permit does not contain any air requirements nor is it issued under any NC air regulatory authority. As such, we have not identified any mechanism for enforcement of this permit using CAA authority. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-

Let us know if you need further information or have any questions about the above.

Thanks

Nancy

Nancy L. Tommelleo

Deputy Regional Counsel

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

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From: Rhodes, Julia
Sent: Wednesday, December 17, 2014 11:48 AM
To: Tommelleo, Nancy
Subject: FW: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Hi Nancy,

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Before moving forward this matter, we need your assistance in answering the following questions:

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2. After DENR finalized and issued the general permit, what are the mechanisms available

by which EPA reviews, engages or enforcements the permit under both the CAA and CWA

Other questions that OCR and CRFLO are grappling with but ORC should feel free to weigh in on are:

1. Do we know if complainants submitted comments on DENR's draft general permit? If so what were they?

2. Any cut points/decision points where there may be decisions to either end the investigation or take the investigation in a different direction

3. Where along the 18 month investigatory trajectory will there be points where decisions will be made

4. Can/should we engage in ADR prior to accepting a complaint

Also, it is possible depending on what the jurisdictional determination is in this case, that there will be a need for a series of briefings on CAFOs, as well as meetings with EarthJustice.

Feel free to give me a call if you have any questions.

Thanks, in advance, for your assistance.

Julia

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

To: Jones, Kim A[Jones.Kima@epa.gov]
From: Tommelleo, Nancy
Sent: Thur 11/13/2014 5:24:51 PM
Subject: RE: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

Thanks very much.

Nancy L. Tommelleo

Deputy Regional Counsel

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

fax: 404.562.9663

tommelleo.nancy@epa.gov

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From: Jones, Kim A
Sent: Wednesday, November 12, 2014 2:32 PM
To: Tommelleo, Nancy
Subject: RE: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

Nancy,

I talked to Rhonda. She sat in for Ken La Pierre. Ex. 5 - Deliberative Process/ Atty Client Ex. 5 - Deliberative Process/ Atty Client She said on the call were Velveta and Helena and Helena led the discussion. They did not speak in specific terms at all about roles and responsibilities. They talked about the EPA Order issued 5/01/2013 regarding Deputy Civil Rights Officials and the EPA Case Management Protocol, but that they did not define roles or discuss regional roles. Ex. 5 - Deliberative Process/ Atty Client Ex. 5 - Deliberative Process/ Atty Client She said it was really just an over view of what the DCRO's role would be according to the EPA Order.

Rhonda does not have a Title 6 background, so some of the discussion she was not familiar with. She said they talked about the North Carolina complaint briefly but again, nothing specific.

She sent me the EPA Order for DCRO and protocol. I will take a look at it.

Call me or email me if you need anything.

From: Tommelleo, Nancy
Sent: Wednesday, November 12, 2014 9:23 AM
To: Jones, Kim A
Subject: FW: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

Kim:

Will you touch base with Rhonda Bailey and find out what happened on the call. Can you please also get us a copy of the complaint and anything that HQ OCR has sent out on this NC CAFO matter?

Thanks

Nancy

Nancy L. Tommelleo

Deputy Regional Counsel

United States Environmental Protection Agency

Region 4

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tel: 404.562.9571

fax: 404.562.9663

tommelleo.nancy@epa.gov

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this message.

From: Starfield, Lawrence
Sent: Friday, November 07, 2014 7:43 PM
To: Heard, Anne; Tommelleo, Nancy; Kreisler, Eva
Subject: FW: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

FYI, the latest.

Sent from my Windows Phone

From: Golightly-Howell, Velveta
Sent: 11/7/2014 5:57 PM
To: Starfield, Lawrence
Cc: Wooden-Aguilar, Helena; Reeder, John
Subject: RE: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

Thanks Larry. The meeting went well. Ken sent a rep – Rhonda Bailey, Acting EEO Manager – as he had a conflict. It sounds good that Nancy may have an attorney who can help. I'll ask Helena to reach out to Eva next week and to see if Ken and/or Rhonda can participate. Wish you all a great weekend!

Velveta

202.564.6685

From: Starfield, Lawrence
Sent: Friday, November 07, 2014 4:01 PM
To: Reeder, John; Golightly-Howell, Velveta
Subject: RE: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

John and Velveta,

Sorry to have missed the call – I was in a meeting and just saw John's email. I also hope you reached out to Region IV to participate. Nancy Tommelleo in ORC has been talking to Velveta about the Regional role in Title VI cases, and may have a Regional attorney ready to help.

Perhaps next week, someone from OCR could brief Eva Kreisler in my office and someone from R4 (if they weren't on the call) on the conversation earlier today.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Reeder, John
Sent: Friday, November 07, 2014 1:06 PM
To: Shapiro, Mike; Starfield, Lawrence
Subject: TIME SENSITIVE - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

Larry and Mike,

I just had learned that DOJ is meeting with OCR today about the CAFO Earth Justice Title VI case in North Carolina. I think this is mostly a listening session about how DOJ interprets "disparate impact." I really think it would be beneficial to have you, as DCROs, to come and listen/participate.

The meeting is in one hour…obviously could be a problem for you. If so, do you think you could send a representative. I'm going to go too.

The meeting is in OCR's conference room 2430. There is a call-in number on the Agenda, attached.

Thank you, and apologies we didn't think to have DCRO's invited at the get-go.

John E. Reeder

Deputy Chief of Staff

2025646082

From: Golightly-Howell, Velveta
Sent: Friday, November 07, 2014 12:06 PM
To: KeyesFleming, Gwendolyn; Reeder, John
Cc: Packard, Elise; Rhodes, Julia; O'Lone, Mary; Wooden-Aguilar, Helena; Covington, Jeryl; Farrell, Ericka; Turkevich, Paul
Subject: REACH, Inc., - Complaint under Title VI of the Civil Rights Act of 1964 and EPA-DOJ 11.07.2014 Meeting

Hi Gwen and John. We look forward to one or both of you joining this afternoon's meeting with DOJ reps. John, thank you for agreeing to reach out to Mike, Larry and possibly other DCROs whose programs are implicated by the claims to see if they can attend or send a rep. Attached is the complaint and the agenda with the MCI connection info. We've taken the one proposed by DOJ and somewhat modified it. Thanks.

Velveta

To: Wilkes, Mary[Wilkes.Mary@epa.gov]
From: Tommelleo, Nancy
Sent: Thur 1/12/2017 3:58:41 PM
Subject: RE: NEED YOUR ASSISTANCE WITH URGENT REVIEW OF DRAFT LETTER OF CONCERN TO NC DEQ RE HOG OPERATIONS CIVIL RIGHTS CASE

Not yet. I am calling Ken today to check in on this **Ex. 5 - Deliberative Process**

Nancy L. Tommelleo

Deputy Regional Counsel

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

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From: Wilkes, Mary
Sent: Thursday, January 12, 2017 10:54 AM
To: Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>
Subject: FW: NEED YOUR ASSISTANCE WITH URGENT REVIEW OF DRAFT LETTER OF CONCERN TO NC DEQ RE HOG OPERATIONS CIVIL RIGHTS CASE

I was going to call in for this on Friday, but I got busy with something at home and forgot all about it. Did you sit in or get a download from Ken?

From: Heard, Anne
Sent: Thursday, January 05, 2017 9:39 PM
To: Lapierre, Kenneth <Lapierre.Kenneth@epa.gov>
Cc: Wilkes, Mary <Wilkes.Mary@epa.gov>; Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>
Subject: Re: NEED YOUR ASSISTANCE WITH URGENT REVIEW OF DRAFT LETTER OF CONCERN TO NC DEQ RE HOG OPERATIONS CIVIL RIGHTS CASE

Okay

Sent from my iPhone

On Jan 5, 2017, at 9:29 PM, Lapierre, Kenneth <Lapierre.Kenneth@epa.gov> wrote:

> That works for me. Let's use the following call in number so that Mary and Nancy can join us, if they can.

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

> Thanks. Ken
>
> Sent from my iPhone

On Jan 5, 2017, at 9:27 PM, Heard, Anne <Heard.Anne@epa.gov> wrote:

Certainly. What about 1:00?

Sent from my iPhone

On Jan 5, 2017, at 7:29 PM, Lapierre, Kenneth <Lapierre.Kenneth@epa.gov> wrote:

Anne:

Attached is a draft letter that Lilian and her team intend on sending to NCDEQ within the next week or so. The letter itself is fine but I have concerns about this being the first contact that EPA has with the new leadership at NCDEQ and it may not even be the appointed new permanent Commissioner when they send the letter. Maybe me, you, Mary, and Nancy can discuss tomorrow after lunch sometime?

Thanks--Ken

Kenneth R. Lapierre

Assistant Regional Administrator

U.S. EPA Region 4

(404) 562-8570

<image001.png>

*I AM **Diversity!***

From: Dorka, Lilian
Sent: Thursday, January 5, 2017 6:22 PM
To: Shaw, Betsy <Shaw.Betsy@epa.gov>; Robbins, Chris <Robbins.Chris@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Garbow, Avi <Garbow.Avi@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Lapierre, Kenneth <Lapierre.Kenneth@epa.gov>
Subject: NEED YOUR ASSISTANCE WITH URGENT REVIEW OF DRAFT LETTER OF CONCERN TO NC DEQ RE HOG OPERATIONS CIVIL RIGHTS CASE
Importance: High

Hello ORD, OECA, OW, OAR and OLEM Colleagues,

Happy new year and best wishes for 2017! Thank you all so much for all of the assistance you have already provided on this on this high priority case involving NC DEQ's administration of the swine feeding operations in their state. We are again asking for your assistance by way of urgent review of the attached "Letter of Concern" that we anticipate issuing next week. This draft already reflects comments/edits from OGC, DOJ, Region 4 and ORD.

ORD, thanks for your assistance in crafting some of the specific parts of this letter. We have a couple of follow up questions for you in the highlighted comment boxes. We are asking for the other program offices to please review this letter (and please see specifically the comment bubble on page 11) and provide any comments/question **by noon on Tuesday 1/10.** We very much appreciate your help! If you have any questions, please let me or Mary O'Lone know how we can help. Thanks so much!

Lilian

<draft REACH LOC to NC DEQ 1.4.2017.CLEAN 1-5-16.docx>

To: Wilson, Adam[wilson.adam@epa.gov]; Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Wed 10/19/2016 12:55:23 PM
Subject: FW: Follow Up to October 5th Meeting (EPA File No. 11R-14-R4)

FYI.

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: Dorka, Lilian
Sent: Tuesday, October 18, 2016 9:44 PM
To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Tejada, Matthew <Tejada.Matthew@epa.gov>; Ali, Mustafa <Ali.Mustafa@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Lee, Charles <Lee.Charles@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Pieh, Luseni <Pieh.Luseni@epa.gov>; Lapierre, Kenneth <Lapierre.Kenneth@epa.gov>; Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>; HALIM-CHESTNUT, NAIMA <Halim-Chestnut.Naima@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Lawrence, Tanya <Lawrence.Tanya@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: Re: Follow Up to October 5th Meeting (EPA File No. 11R-14-R4)

Hello Everyone,

I would like to acknowledge receipt this email, thank her and all who attended for traveling up for the meeting, etc, thank her for providing this additional information that we will add to the

file, send her a list of EPA participants at the meeting (in person and on phone), and, w respect to the onsite, I would like to let her know we would like to set up a time, soon, to discuss it with her.

Any concerns/suggestions on any aspects of my proposed message? Thanks!

Sent from my iPhone

On Oct 18, 2016, at 8:18 PM, Marianne Lado <marianne.lado@gmail.com> wrote:

Dear Lilian,

This email is sent on behalf of the North Carolina Environmental Justice Network (NCEJN), the Rural Empowerment Association for Community Help (REACH), and Waterkeeper Alliance, Inc., to thank you, Matt Fritz, Mustafa Ali, Mary O'Lone and all others who helped pull together the meeting on October 5, 2016 at EPA regarding the status of their complaint (EPA File No. 11R-14-R4). We appreciated the time devoted to the meeting and the commitment that you and others expressed in carrying forward the investigation.

As Ex. 6 - Personal Privacy said at the beginning of the meeting, she and other community members in Eastern North Carolina feel like prisoners in their homes, denied the freedom to sit outside, exposed to the odor and effects of animal feces and urine. Many of the participants in the room – including Ex. 6 - Personal Privacy and Ex. 6 - Personal Privacy have been raising concerns about the racially disparate impacts of industrial swine operations in eastern North Carolina for decades. They are tremendous resources for information about impacts, research, and past efforts to address these issues, among other things. We were glad, therefore, that they were able to travel to DC for this meeting.

At the same time, as we discussed in the meeting, the conversation did not afford the same opportunities as a site visit. We look forward to finalizing arrangements for members of the staff at the Office of Civil Rights to come to Ex. 6 - Personal Privacy We renew our offer to organize a tour and interviews with members of the community and to help in any way that we can. Please let us know how you would like to proceed and whether there is a point person for making arrangements.

We also wanted to ask you for a list of the participants in our Oct. 5 meeting: we noted some of the names but probably not all.

Finally, it was notable that as we were meeting, Hurricane Matthew was moving up the East Coast toward North Carolina. When community members returned to eastern North Carolina, many soon found themselves surrounded by rising waters. Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Hog Waste Contamination and Flooded Coal Ash Ponds" (Oct. 14, 2016), available at http://waterkeeper.org/waterkeeper-alliance-and-north-carolina-riverkeepers-conduct-aerial-patrols-document-hog-waste-contamination-and-flooded-coal-ash-ponds/; https://www.flickr.com/photos/waterkeeperalliance/sets/72157673749082442. As you know, the REACH complaint alleges that lagoons are prone to ruptures and spills, impairing surface water quality, at ¶ 75, and, further, that hurricanes in the region have "led to severe flooding of industrial swine facilities, the rupture of lagoons, and the overflow of waste into North Carolina's creeks, rivers, and streams." ¶ 76. The complaint further alleges that the waste spilled from overflowing lagoons is linked to outbreaks of harmful pathogens, as well as adverse environmental impacts. ¶ 77. Unfortunately, there is a high probability of hurricanes in eastern North Carolina, and the horrifying impacts we've seen are also predictable. The events of the last week reinforce the undeniable evidence that industrial hog operations as permitted by DEQ have adverse impacts. See also Hernández, Fritz & Mooney, "Factory Farming Practices are Under Scrutiny Again in N.C. After Disastrous Hurricane Floods," *The Washington Post* (Oct. 16, 2016), available at https://www.washingtonpost.com/news/capital-weather-gang/wp/2016/10/16/factory-farming-practices-are-under-scrutiny-again-in-n-c-after-disastrous-hurricane-floods/. Please add this letter and the information about the impacts of Hurricane Matthew to the case file, and we request that OCR consider these effects in its evaluation of adverse impacts.

We hope that the investigation will soon move beyond establishing adverse disproportionate impacts and that OCR will take action to enforce Title VI. As we discussed on Oct. 5, community members need to be at the table when voluntary compliance measures or other solutions are discussed.

We look forward to hearing from you about next steps on the site visit.

Sincerely,

Marianne Engelman Lado

Senior Staff Attorney

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

earthjustice.org

Elizabeth Haddix

Senior Staff Attorney

UNC Center for Civil Rights

323 West Barbee Ch. Rd.

Chapel Hill, NC 27517

T: 919.445.0176

F: 919.843.6748

www.law.unc.edu/centers/civilrights

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To: Johnson, Johahna[Johnson.Johahna@epa.gov]; Wilson, Adam[wilson.adam@epa.gov]
From: O'Lone, Mary
Sent: Fri 12/9/2016 3:47:46 AM
Subject: FW: new draft of REACH letter
draft Dec 2016 letter to NC DEQ 2016.12.08.docx

J & A-

Please let me know if you have any comments by Monday morning.

If you are swamped with other things, no worries.

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: Thursday, December 08, 2016 10:47 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>
Cc: Julia Rhodes (Rhodes.Julia@epa.gov) <Rhodes.Julia@epa.gov>
Subject: new draft of REACH letter

Lilian & Dan-

Here is a new draft. I would like to get your comments by Monday morning so I can process them & get a draft out to my chain on Tuesday. I haven't circulated beyond you two (and now Julia). I don't know how you would like to incorporate the rest of the OCR team in the review. I leave that to you two.

Dan & I spoke with Laurie about our plan for the letter. She ran it by her management who are supportive of the approach. Atty Client/ Deliberative

Atty Client/ Deliberative

I will continue to re-read the incoming letter to make sure that our letter addresses all the major points, but let me know if I missed something.

FYI, the NC administration changes January 7th.

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: Wilson, Adam[wilson.adam@epa.gov]
From: O'Lone, Mary
Sent: Fri 1/13/2017 3:35:36 PM
Subject: FW: Reactive Desk Statement for REACH Letter of Concern
11R-14-R4 REACH Case Letter of Concern Desk Statement draft 01.12.2017.docx
Letter of Concern to William G Ross NC DEQ re Admin Complaint 11R-14-R4 1-12-2017.pdf

I haven't had a chance to look at your current draft Price letter – but here is what the desk statement was in the end. Can you add this to OneTracker too please

From: Dorka, Lilian
Sent: Thursday, January 12, 2017 9:04 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Lincoln, Larry <Lincoln.Larry@epa.gov>
Cc: O'Lone, Mary <OLone.Mary@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Lapierre, Kenneth <Lapierre.Kenneth@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Tejada, Matthew <Tejada.Matthew@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: Reactive Desk Statement for REACH Letter of Concern
Importance: High

Hi Nancy and Larry, attached is the Reactive Desk Statement for this letter of concern. Although we have told both recipient and complainants that this letter is part of our ongoing investigation and that we do not consider this letter a "public document", they may provide it to the press. Even so, we will not be releasing it publically. I tried to emphasize that on the attached, but please let me know if you have any questions. Thanks!! Lilian

P/S – also attached the non-public final letter to NC DEQ.

Lilian Sotolongo Dorka

Director, External Civil Rights Compliance Office

EPA, Office of General Counsel

202-564-9649

WJC-N Room 2450

To: Wilson, Adam[wilson.adam@epa.gov]
From: Isales, Daniel
Sent: Tue 9/6/2016 2:07:11 PM
Subject: RE: REACH - PLEASE CHECK OUT THAT EWG MAP

Adam,

Of course-will do momentarily. Take care, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

Isales.daniel@epa.gov

From: Wilson, Adam
Sent: Tuesday, September 06, 2016 10:04 AM
To: Isales, Daniel <Isales.Daniel@epa.gov>
Subject: Re: REACH - PLEASE CHECK OUT THAT EWG MAP

Hi Daniel,

Thanks for the invitation but I'll be at a training tomorrow. But please add me to the invitation so I can catch the meetings moving forward.

Best,

--Adam

From: Isales, Daniel
Sent: Tuesday, September 6, 2016 8:41 AM
To: O'Lone, Mary; Farrell, Ericka; Covington, Jeryl; Wilson, Adam; Johnson, Johahna
Subject: RE: REACH - PLEASE CHECK OUT THAT EWG MAP

Let's discuss during our Wednesday standing meeting.

Adam and Johahna, if you want to join this discussion tomorrow, we have a regularly scheduled meeting Wednesday afternoons from 2:00PM – 2:30PM. Call in information is:

Ex. 6 - Personal Privacy

If you would like to be added to the invitation so that you can participate regularly, just let me know and I will add you to the invitation.

Thanks, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

Isales.daniel@epa.gov

From: O'Lone, Mary
Sent: Tuesday, September 06, 2016 8:32 AM
To: Isales, Daniel <Isales.Daniel@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: Re: REACH - PLEASE CHECK OUT THAT EWG MAP

Sorry should have included you on my email about this.

We should talk about it ASAP.

I also had some thoughts about sprayfields when looking at the aerial maps that they have in this database.

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: Saturday, September 3, 2016 6:52:42 PM
To: Isales, Daniel
Subject: REACH - PLEASE CHECK OUT THAT EWG MAP

ATTORNEY WORK PRODUCT PRIVILEGE

Dan-

Ex. 5 - Attorney Client / Deliberative

Now if we go into all of them & take out poultry (dry) making it more about hogs (wet), maybe the rankings of some block groups change. Like if we take the top 10 or 20 wet, what do those demographics look like? Also, it looks as if this map takes into account not just COC, but also NPDES & individual permits.

Ex. 5 - Attorney Client / Deliberative

Similarly, maybe we should see what an EJSCREEN map would turn up. Maybe not 3 miles, but some shorter distance(s).

What kind of analyses could NC do easily & what would they show?

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: O'Lone, Mary[OLone.Mary@epa.gov]; Isales, Daniel[Isales.Daniel@epa.gov]
Cc: Johnson, Johahna[Johnson.Johahna@epa.gov]
From: Wilson, Adam
Sent: Fri 9/23/2016 5:45:51 PM
Subject: Re: REACH - draft response to NC DEQ

I'm happy to look up the cases (though I'll have to find my way around Lotus first). I'll let you or Johahna know if I get stuck.

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

From: O'Lone, Mary
Sent: Friday, September 23, 2016 1:34:35 PM
To: Wilson, Adam; Isales, Daniel
Cc: Johnson, Johahna
Subject: RE: REACH - draft response to NC DEQ

Thanks for your comments.

I went back & reordered paragraphs, etc.

I took out the headers b/c although helpful, they kind of made the transition to the handful of ending paragraphs hard.

Let's see if Lilian will go for a bunch of paragraphs lined up without headers.

I am going to send it to her shortly.

Ex. 5 - Attorney Client

comment out of the version I send to Lilian.

Adam-

You should be able to find the dismissal letters either in Lotus Notes in CROCS or in our I drive. If you can't find any of them, let me know which ones & I will see if OCR can send them to us.

Also, Adam – I forgot to mention this before. Every document you create or review should have the header I put on this one. DRAFT DELIBERATIVE/PRIVILEGED and the date. Ex. 5 - Atty Client

Ex. 5 - Attorney Client

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: Wilson, Adam
Sent: Friday, September 23, 2016 11:57 AM
To: Isales, Daniel <Isales.Daniel@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>
Subject: Re: REACH - draft response to NC DEQ

Attached are a few thoughts/suggestions. Mary, I just wanted to make sure you emailed Johahna and Julia separately because they don't appear to have been Cc'd on your email this morning.

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

From: Isales, Daniel
Sent: Friday, September 23, 2016 11:02 AM
To: O'Lone, Mary; Wilson, Adam
Subject: RE: REACH - draft response to NC DEQ

My thoughts on the letter-nothing major. Thanks, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

Isales.daniel@epa.gov

From: O'Lone, Mary
Sent: Friday, September 23, 2016 10:08 AM
To: Wilson, Adam <wilson.adam@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>
Subject: REACH - draft response to NC DEQ

Adam-

That was an excellent first draft. You make me so happy.

I have edited it a bit & added some language.

EPA's style (and Lilian's) is to put 2 spaces after a period. I made those changes as well.

Please take a look at the letter & see if you have any comments or suggestions.

Dan, Johahna, & Julia-

Avi & Ethan asked to see it before it goes out. So, I will send it to Lilian & them at same time.

I'd like to do it by COB today.

If you have a chance, can you take a read through it today?

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: Isales, Daniel[Isales.Daniel@epa.gov]
From: Wilson, Adam
Sent: Tue 9/6/2016 2:03:50 PM
Subject: Re: REACH - PLEASE CHECK OUT THAT EWG MAP

Hi Daniel,

Thanks for the invitation but I'll be at a training tomorrow. But please add me to the invitation so I can catch the meetings moving forward.

Best,

--Adam

From: Isales, Daniel
Sent: Tuesday, September 6, 2016 8:41 AM
To: O'Lone, Mary; Farrell, Ericka; Covington, Jeryl; Wilson, Adam; Johnson, Johahna
Subject: RE: REACH - PLEASE CHECK OUT THAT EWG MAP

Let's discuss during our Wednesday standing meeting.

Adam and Johahna, if you want to join this discussion tomorrow, we have a regularly scheduled meeting Wednesday afternoons from 2:00PM – 2:30PM. Call in information is:

Ex. 6 - Personal Privacy

If you would like to be added to the invitation so that you can participate regularly, just let me know and I will add you to the invitation.

Thanks, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

lsales.daniel@epa.gov

From: O'Lone, Mary
Sent: Tuesday, September 06, 2016 8:32 AM
To: Isales, Daniel <Isales.Daniel@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: Re: REACH - PLEASE CHECK OUT THAT EWG MAP

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We should talk about it ASAP.

I also had some thoughts about sprayfields when looking at the aerial maps that they have in this database.

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: Saturday, September 3, 2016 6:52:42 PM
To: Isales, Daniel
Subject: REACH - PLEASE CHECK OUT THAT EWG MAP

ATTORNEY WORK PRODUCT PRIVILEGE

Dan-

Ex. 5 - Attorney Client

The legend has dark red as greater than 1.3 million combined hogs & poultry. Half of the 4 dark red groups east of Fayetteville are less than 50% minority - 23% (1,224) & 0% (921) minority. Two are at or above - 50% (1,091) & 62% (1,179). Total population are in the same ballpark & shown in parentheses.

Now if we go into all of them & take out poultry (dry) making it more about hogs (wet), maybe the rankings of some block groups change. Like if we take the top 10 or 20 wet, what do those demographics look like? Also, it looks as if this map takes into account not just COC, but also NPDES & individual permits.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

I am going to study this map more tomorrow. Perhaps looking at the medium red areas tells some other story. But it will be hard to beat sound bites I can see them create with that map to push back on the allegation that there is a racial issue.

Similarly, maybe we should see what an EJSCREEN map would turn up. Maybe not 3 miles, but some shorter distance(s).

What kind of analyses could NC do easily & what would they show?

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: Isales, Daniel[Isales.Daniel@epa.gov]
From: Wilson, Adam
Sent: Thur 12/8/2016 6:52:47 PM
Subject: RE: REACH-status check in

Haha I can imagine Mary saying that. I'll check in with her.

From: Isales, Daniel
Sent: Thursday, December 08, 2016 11:52 AM
To: Wilson, Adam <wilson.adam@epa.gov>
Subject: FW: REACH-status check in

Adam,

Could you ask Mary who is the right person to talk to about the FOIA issue and then follow up with that person. I was just talking to Mary and she asked me to pass along this request (she couldn't remember who the right person is at the time we were speaking). Thanks, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

Isales.daniel@epa.gov

From: Isales, Daniel
Sent: Thursday, December 08, 2016 8:55 AM
To: Wilson, Adam <wilson.adam@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; O'Lone, Mary <olone.mary@epa.gov>
Subject: REACH-status check in

I wanted to touch base as to where we are:

Ex. 5 - Atty Client

-Mary/Adam/Johahna: is there anyone from the FOIA practice group that can give us 15 minutes of their time to advise us how to start collecting responsive records in advance of the anticipated FOIAs? Kind of like a best practices session.

I'm not sure who will be around this afternoon for the 3PM-Mary, you are out in the afternoons, right? Ericka is still out. Do we want/need the call?

Thanks, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

Isales.daniel@epa.gov

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
Sent: Mon 4/20/2015 8:39:33 PM
Subject: RE: ACTION: FOLLOW UP PRESS QUESTIONS

OCR intends to promptly investigate all Title VI complaints that satisfy the jurisdictional criteria.

If a complaint is accepted for investigation, OCR will first attempt to resolve it informally.66 If informal resolution fails, OCR will conduct a factual investigation to determine whether the permit(s) at issue will create an adverse disparate impact or add to an existing adverse disparate impact on persons based on race, color, or national origin. Within 180 calendar days from the start of the complaint investigation, OCR will notify the recipient by certified mail of preliminary findings.

From: Dorka, Lilian
Sent: Monday, April 20, 2015 4:22 PM
To: Wooden-Aguilar, Helena
Subject: RE: ACTION: FOLLOW UP PRESS QUESTIONS

Thanks but did you fill in #3?

From: Wooden-Aguilar, Helena
Sent: Monday, April 20, 2015 2:27 PM
To: Dorka, Lilian
Subject: RE: ACTION: FOLLOW UP PRESS QUESTIONS

I am good with your language. See minor edits in red.

From: Dorka, Lilian
Sent: Monday, April 20, 2015 2:10 PM
To: Wooden-Aguilar, Helena
Subject: ACTION: FOLLOW UP PRESS QUESTIONS
Importance: High

Pls see #3 and check 4

From: Dorka, Lilian
Sent: Friday, April 17, 2015 5:43 PM
To: Dorka, Lilian
Subject: RE: ACTION: Interview Velveta Golightly-Howell

Hi Jennifer, please see below. Thanks!

From: Colaizzi, Jennifer C.
Sent: Friday, April 17, 2015 3:09 PM
To: Dorka, Lilian
Cc: Lee, Monica; Rhodes, Julia; Matthew, Dayna; O'Lone, Mary; Covington, Jeryl; Wooden-Aguilar, Helena; Golightly-Howell, Velveta
Subject: Re: ACTION: Interview Velveta Golightly-Howell

Reporter has follow-up Qs to our response. He stressed the importance of his readers understanding the process. He is writing for Monday.

1. What is the alternative dispute resolution that OCR is offering to DENR and Earthjustice?

Information about the Alternative Dispute Resolution being offered to the complainants and DENR can be found on OCR's Website at the following link: http://www.epa.gov/civilrights/faq-adrt6.htm .

2. Once OCR accepts a complaint for review, does that mean an investigation is actually underway? [Numerous reporters said something like, "EPA is investigating DENR after environmentalists filed their complaint...."]

As previously stated, when OCR receives a complaint, OCR conducts a preliminary review of the complaint for acceptance, rejection or referral to the appropriate agency. If

OCR's review concludes that the complaint meets the four jurisdiction requirements previously discussed, OCR will accept the complaint for investigation and an investigation is initiated.

3. What is the timeline for the investigation?

4. If OCR sides with environmentalists' argument, what are the maximum penalties/requirements it can impose on DENR?

First, As the OCR case involving DENR is currently under investigation, OCR cannot discuss any additional information regarding that case. In general, with respect to all OCR investigation, OCR is a neutral fact finder in light of the laws and regulations it enforces. If, after conducting an investigation OCR finds a violation of one to the civil rights laws, OCR is required ~~(see reg at..)~~ to seek voluntary compliance. *See* 40 C.F.R 7.130 If OCR is unable to reach voluntary compliance, per the regulation at … OCR may take formal enforcement action to initiate a proceeding to terminate federal financial assistance for EPA or to refer the matter to DOJ for judicial enforcement.

5. Can OCR force DENR to rewrite its general permit for swine operations?

As the OCR case involving DENR is currently under investigation, OCR cannot provide any additional information regarding that case.

6. How does OCR judge, in a situation like this, whether an agency was discriminatory? Is it intent (clear evidence that an agency was trying to be discriminatory)? Or effect (an agency's actions had the consequence of discrimination, whether or not it intended to)?

As the OCR case involving DENR is currently under investigation, OCR cannot discuss any additional information regarding that case.

The OCR first conducts a preliminary jurisdictional review to determine whether the complaint meets the requirements to be accepted for investigation. If so, an investigation of the accepted allegations is conducted. After evaluating the evidence gathered, the EPA must determine whether it is sufficient to preliminarily conclude that a violation of Title VI has occurred, e.g., because of intentional discrimination or an unintentional adverse disparate impact. If the EPA concludes there is not sufficient evidence of intentional discrimination or an adverse disparate impact, then a complaint is dismissed. If the EPA concludes that there is sufficient evidence, then the EPA discusses its preliminary findings with the recipient and attempts to voluntarily resolve the issues. The EPA's Title VI implementing regulations (40 C.F.R. Part 7) also state that it is the EPA's policy to seek informal resolution of Title VI complaints whenever possible. If the EPA finds a violation of Title VI and attempts to seek informal resolution or achieve voluntary compliance fail, then the EPA may initiate a process to terminate the financial assistance, or use

any other means authorized by law, including referral of the matter to the U.S. Department of Justice, to enforce Title VI.

Sent from my iPhone

On Apr 16, 2015, at 6:26 PM, "Dorka, Lilian" <Dorka.Lilian@epa.gov> wrote:

Hi Jen, I am not sure if we ever resolved this with you? If not, my sincere apologies. Here is a suggested response to use for this reporter if still needed, but also for response to any similar inquiries that may come up in the future. Thanks so much for all of your help and support! Lilian

Q1: What are steps needed to file a complaint?

A1: EPA's Office of Civil Rights (OCR) is responsible for carrying out compliance with federal nondiscrimination statutes that together prohibit discrimination on the basis of race, color or national origin -- including with respect to limited-English proficiency (Title VI), disability, sex, and age. OCR carries out this responsibility through a variety of means including: complaint investigation; agency-initiated compliance reviews; pre-grant award assurances and audits; and technical assistance and outreach activities. With respect to complaint investigations, anyone who believes that any of the federal nondiscrimination laws enforced by OCR have been violated by a recipient of EPA financial assistance may file an administrative complaint with EPA's OCR.

Q2: What is OCR's process for handling a complaint once it is filed.

A2: Pursuant to the EPA's nondiscrimination regulations, once OCR receives a complaint, OCR conducts a preliminary review of the complaint for acceptance, rejection or referral to the appropriate agency. OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 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). Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

Please note that, acceptance of a complaint for investigation in no way amounts to a decision on the merits. Rather, it means the complaint has met the four jurisdictional criteria. It does not constitute an assessment as to the veracity of the allegations or represent a conclusion as to whether any violation of the federal civil rights laws has occurred.

With respect to OCR's complaint filed by Earthjustice against the North Carolina Department of Environment and Natural Resources (DENR), consistent with EPA's non-discrimination regulations, OCR is pursuing informal resolution of the complaint, including offering alternative dispute resolution to DENR and Earthjustice, while at the same time carrying out our investigative responsibilities and obligations to enforce Title VI.

From: Colaizzi, Jennifer C.
Sent: Tuesday, April 14, 2015 5:53 PM
To: Golightly-Howell, Velveta
Cc: Dorka, Lilian; Lee, Monica; Rhodes, Julia; Matthew, Dayna; O'Lone, Mary; Covington, Jeryl; Wooden-Aguilar, Helena
Subject: RE: ACTION: Interview Velveta Golightly-Howell

Hi All:

I have been having difficulty with my e-mail system. So, if you already responded, I apologize for not seeing the response and asking again.

The reporter wants to move ahead with his story and would like an EPA quote. If we can't get him something by end of week, he will not provide our perspective. He does not want to misrepresent OCR's process for handling claims, as an environmentalist explained some of the

process to him, but he does not know how accurate her explanation is.

Does OCR want to add to the below proposed response?

Cheers,

Jen

From: Colaizzi, Jennifer C.
Sent: Thursday, April 09, 2015 9:58 AM
To: Golightly-Howell, Velveta
Cc: Dorka, Lilian; Lee, Monica; Rhodes, Julia; Matthew, Dayna; O'Lone, Mary; Covington, Jeryl; Wooden-Aguilar, Helena
Subject: Re: ACTION: Interview Velveta Golightly-Howell

Velveta:

Does this mean, my suggestion is final OCR-approved response?

Sent from my iPhone

On Apr 9, 2015, at 8:49 AM, "Golightly-Howell, Velveta" <Golightly-Howell.Velveta@epa.gov> wrote:

Your suggestion is accepted Jen. Thanks. Velveta

Sent from my iPhone

On Apr 8, 2015, at 4:45 PM, Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov> wrote:

Hi Jen

Thanks for the email. I see you have copied my management so they are looped in on the request below.

Helena

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Apr 8, 2015, at 4:15 PM, "Colaizzi, Jennifer C." <Colaizzi.Jennifer@epa.gov> wrote:

Hi All:

The reporter put this story, but his editor wants him to file potentially by the beginning of next week. Can we send him a response by Friday? Below in the chain, I suggested a starter response.

Cheers,

Jen

From: Wooden-Aguilar, Helena
Sent: Tuesday, March 24, 2015 6:16 PM
To: Colaizzi, Jennifer C.
Cc: Dorka, Lilian; Golightly-Howell, Velveta; Lee, Monica; Rhodes, Julia; Matthew, Dayna; O'Lone, Mary; Covington, Jeryl
Subject: Re: ACTION: Interview Velveta Golightly-Howell

Thanks for the email. Will bring to the Directors attention.

Helena

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Mar 24, 2015, at 4:15 PM, "Colaizzi, Jennifer C." <Colaizzi.Jennifer@epa.gov> wrote:

Hi All:

Outlet: North Carolina Health News

DDL: 3/30

Reporter is requesting to interview Velveta. However, he will accept written responses. He is looking for a background interview about the steps needed to file a complaint and OCR's process of handling a complaint once it is filed. He is unfamiliar with complaints coming to OCR. This is the second reporter who has expressed surprise with complaints being filed with OCR, as this seems uncommon.

Ex. 5 - Deliberative Process

Proposed Starter Statement:

Acceptance of a complaint for investigation in no way amounts to a decision on the merits. Rather, it means the complaint has met the four jurisdictional criteria. It does not constitute an assessment as to the veracity of the allegations or represent a conclusion as to whether any Title VI violation has occurred.

The EPA Office of Civil Rights (OCR) is pursuing a number of avenues to resolve the complaint informally, including offering alternative dispute resolution to DENR and Earthjustice, while at the same time carrying out our investigative responsibilities and obligations to enforce Title VI.

Jennifer Colaizzi
Press Officer

Office of Public Affairs

U.S. Environmental Protection Agency

202-564-7776 (o)

Ex. 6 - Personal Privacy

From: Gabe Rivin [mailto:gabe@gaberivin.com]
Sent: Monday, March 23, 2015 1:03 PM
To: Colaizzi, Jennifer C.
Subject: Interview Velveta Golightly-Howell

Hi Jennifer,

I'm an environment reporter with North Carolina Health News, and I'm working on a story about hog farms in NC. In February, the EPA's OCR agreed to review a complaint filed by environmentalists, who alleged that North Carolina has discriminatory state regulations for hog farms. I have a few questions about the OCR's processes for handling these complaints, as well as what the outcomes of these complaints might be.

Is Velveta Golightly-Howell available for an interview this week? I won't take more than 15 minutes of her time.

Thanks,

Gabe Rivin

Freelance reporter and science writer

gaberivin.com