Message

From: Dorka, Lilian [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AF796221E00A4A338CEA3C72ADBD0D57-DORKA, LILL]
Sent: 3/1/2017 11:28:11 PM
To: Martinez, Brittany [Martinez.Brittany@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Wilson, Adam [wilson.adam@epa.gov]; Goerke, Ariadne [Goerke.Ariadne@epa.gov]; Miller, Amy [Miller.Amy@epa.gov]
Subject: RE: Title VI HDOA [WARNING: DKIM validation failed]

Importance: High

Ex. 5 AC/DP

Here is the email I sent him in response to his note to Amy. I don't thinkANYONE could misunderstand what I said??

From: Dorka, Lilian
Sent: Friday, February 24, 2017 12:56 PM
To: matts@emcenter.org
Cc: Martinez, Brittany <Martinez.Brittany@epa.gov>; O'Lone, Mary <olone.mary@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: HDOA and mediation

Hello Mr. Strassberg,

Thank you for your note. EPA's External Civil Rights Compliance Office has a pending Title VI civil rights complaint involving the HI Department of Agriculture. This office is in the process of evaluating this complaint consistent with our nondiscrimination regulation and our Case Resolution Manual (CRM) to determine if ECRCO has the required jurisdiction to accept this complaint for investigation. (See CRM at: https://www.epa.gov/ocr/case-resolution-manual)

Please note that, as this is an open complaint, we cannot share any additional information with you regarding this case. With respect to your email below, please note that, as you are not a party to this Title VI civil rights complaint and do not represent EPA, we cannot engage in any further discussion with you about this pending ECRCO civil rights complaint.

Sincerely,

Lilian Sotolongo Dorka
Director, External Civil Rights Compliance Office
EPA, Office of General Counsel
202-564-9649
WJC-N Room 2450

From: Miller, Amy
Sent: Friday, February 24, 2017 11:56 AM
To: matts@emcenter.org; Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Cc: Martinez, Brittany <Martinez.Brittany@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Subject: HDOA and mediation

Dear Matt:

Thank you for your email and sorry for the delay in response. It has been a hectic week. As I mentioned to you when we met the Office of Civil Rights is the lead on civil rights investigations. I am not familiar with the process but I suspect it is similar to enforcement mediation and has a set of existing mediators. I think it would be best for you to talk to the investigator assigned to this case, Brittany Martinez at (202) 564-0727. When you talk to Brittany please make sure to explain your relationship between USDA and HDOA.

On a programmatic front I hope you will stay in touch regarding Kauai issues. I would be curious to know if Scott is planning to take the recommendations from your report and implement them as he moves forward with a state-wide Good Neighbor program.

Regards,

Amy C. Miller
Senior Policy Advisor
Office of Regional Administrator
U.S. Environmental Protection Agency, Region IX
(415) 947-4198
miller.amy@epa.gov

From: matts@emcenter.org [mailto:matts@emcenter.org]
Sent: Thursday, February 16, 2017 10:40 AM
To: Miller, Amy <Miller.Amy@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Subject: Re: Follow-up to Friday's meeting [WARNING: DKIM validation failed]

Kathleen and Amy:

This week I met with Hawaii Department of Agriculture (HDOA) Chairperson Scott Enright and Earth Justice attorney Paul Achitoff to evaluate whether it would be constructive to engage in mediation to resolve the Title VI action. I did not conduct a full Situational Assessment which would have included several rounds of interviewing stakeholders on Kauai and Molokai and would have been very expensive. However, given my experience working on the Evaluation of the Kauai Agricultural Good Neighbor Program where I spent a week on Kauai in the fall of 2015 interviewing stakeholders (including Native Hawaiians) about restricted use pesticides, I feel comfortable making this recommendation without a more detailed assessment. It is also helpful that I have an established relationship with Scott and can have very frank conversations with him. Paul was also very cooperative and generous with his time.

During my conversations with Scott and Paul, I assessed several factors including prior negotiation history, areas of disagreement, potential areas of agreement, goals for the litigation, other options to achieve those goals, whether mediation would enable the parties to achieve their goals, and their willingness to engage in mediation. In short, I am recommending that the parties consider mediation for the following reasons.

Although Scott and Paul are familiar with each other, they have never sat down together and negotiated past issues or the current Title VI claim. While they disagree on several issues, both parties are willing to engage in a constructive discussion. Paul was able to develop a list of actions that he would find acceptable to resolve the matter and Scott is willing to discuss those action items with Paul. As a result, mediation would allow the parties to achieve their objectives and would likely be a preferable method to address the issues compared to investigating and/or litigating the claim. Importantly, mediation would also enable the parties to tailor the settlement to meet their priorities and also set a precedent for the parties to negotiate rather than litigate their differences.

I presume that EPA needs to approve the use of mediation for the Title VI action and will contact the parties after it makes a decision. If that is not the case, please let me know. I was also very clear with Paul about my prior work with EPA and my current work connection to HDOA. If the parties decide to proceed with mediation but choose a different mediator, I was happy to help get the process started. Either way, I look forward to hearing from you.

Matt

Matt Strassberg
EMC/Ag Mediation
www.emcenter.org
(802) 583-1100 ext 101

-----Original Message-----
From: Martinez, Brittany
Sent: Wednesday, March 01, 2017 5:48 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>
Subject: FW: Title VI HDOA [WARNING: DKIM validation failed]

Just received this message from Matt Strassberg.

-----Original Message-----
From: matts@emcenter.org [mailto:matts@emcenter.org]
Sent: Wednesday, March 01, 2017 5:46 PM
To: Martinez, Brittany <Martinez.Brittany@epa.gov>
Subject: Title VI HDOA [WARNING: DKIM validation failed]

Brittany:

Amy Miller from Region IX suggested I contact you. I am a former Region IX attorney who now directs the Environmental Mediation Center (EMC). The EMC administers USDA certified state agricultural mediation programs in 4 states including Hawaii. Though that work I am very familiar with the issues and was hired to evaluate Kauai's Agricultural Good Neighbor Program. A copy of our report is available on our website www.emcenter.org.

While I do not want to over step in any way and understand that HQ is in the lead, I want to inquire about any steps necessary that I could take to be considered as a possible mediator for this case should the parties express interest in mediation. Are you available to talk next week? If so, please suggest a time that is convenient for you.

Matt

Matt Strassberg
EMC/Ag Mediation
Ex. 6 Personal Privacy (PP) cell)

Sent from my iPhone