Message

From: Dorka, Lilian [Dorka.Lilian@epa.gov]
Sent: 7/28/2017 3:19:06 PM
To: Johnston, Tom [TLJ@adem.alabama.gov]
CC: Sibley, Shawn S [SSibley@adem.alabama.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Biffl, Betsy [Biffl.Betsy@epa.gov]; Martinez, Brittany [Martinez.Brittany@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]
Subject: Re: Alabama (ADEM) Title VI Matters

Thank you Tom. Let's go ahead with 1:30 Central. Will that be ok?

Sent from my iPhone

On Jul 28, 2017, at 11:06 AM, Johnston, Tom <TLJ@adem.alabama.gov> wrote:

> Good morning, Lilian. Shawn and I remain available today, so just let us know a time that is convenient for you and staff.
> Thanks.
>
> Thomas L. Johnston
> General Counsel
> <image001.png>
> Alabama Department of Environmental Management
> Post Office Box 301463
> Montgomery, Alabama 36130-1463
> (334) 271-7855
> tlj@adem.state.al.us
>
> **From:** Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
> **Sent:** Thursday, July 27, 2017 5:02 PM
> **To:** Johnston, Tom <TLJ@adem.alabama.gov>
> **Cc:** Sibley, Shawn S <SSibley@adem.alabama.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>; Martinez, Brittany <Martinez.Brittany@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
> **Subject:** Re: Alabama (ADEM) Title VI Matters
>
> Thanks so much Tom! Does make ends get or afternoon work best for you? I can accommodate either. Although, I have not checked in with Betsy or Kurt or Brittany to see who is available.
>
> Sent from my iPhone
>
> On Jul 27, 2017, at 12:47 PM, Johnston, Tom <TLJ@adem.alabama.gov> wrote:
>
>> Thanks, Lilian. Shawn and I both are available for a call on Friday (tomorrow). Our schedules are flexible, so just let us know when would be convenient on your end.
>>
>> Thomas L. Johnston
>> General Counsel
>> <image001.png>
>> Alabama Department of Environmental Management
>> Post Office Box 301463
>> Montgomery, Alabama 36130-1463

(334) 271-7855
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From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, July 26, 2017 12:24 PM
To: Johnston, Tom <TLJ@adem.alabama.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>; Martinez, Brittany <Martinez.Brittany@epa.gov>
Subject: RE: Alabama (ADEM) Title VI Matters
Importance: High

Hello Tom, after carefully reviewing your note, I think it would be very beneficial for us to have a conversation to clarify some of these points. Would you be available any time this Friday, 7/28 for a phone call? Thanks very much! Lilian

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From: Dorka, Lilian
Sent: Tuesday, July 25, 2017 6:26 PM
To: 'Johnston, Tom' <TLJ@adem.alabama.gov>
Subject: RE: Alabama (ADEM) Title VI Matters

Hi Tom, thanks for your note. I am just getting to read I but wanted to at least acknowledge my receipt of it. I want to read your note more carefully tonight and speak with our team tomorrow to make sure I understand your concerns and can respond appropriately. Thanks! Lilian

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From: Johnston, Tom [mailto:TLJ@adem.alabama.gov]
Sent: Tuesday, July 25, 2017 11:25 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Subject: Alabama (ADEM) Title VI Matters

Lilian,

Following up on our telephone conversation, I appreciate the progress we made on several matters. Since Lance was not on the call, and out of the office on Thursday and Friday, I conveyed to him the substance of our discussion and the progress we made. He was pleased with our conversation, with one big exception: your new allegation that an additional Title VI retaliation complaint was filed against ADEM some four years ago regarding a meeting of the Alabama Environmental Management Commission (EMC) in 2013. It is unclear if ECRCO has already decided to investigate the matter that occurred in 2013 or if ECRCO has not yet decided to investigate the 2013 matter as a Title VI retaliation complaint.

If ECRCO has already decided to investigate the purported Title VI complaint, I have been instructed to request the following from your office: a written notice of ECRCO's decision to investigate the new or expanded complaint; an explanation of why ADEM was not previously notified of the investigation; a written notice of any other complaints about which ECRCO has not previously notified ADEM; documentation that the purported complaint(s) meets the requirements of 40 C.F.R. Part 7 [complaint was in writing, alleged a discriminatory act under Title VI by ADEM, was within 180 days of the alleged ADEM action]; and, copy or copies of the alleged complaint(s).

If ECRCO has not yet decided to investigate the purported Title VI complaint, it is clear from the information you provided that the purported complaint does not meet the minimum requirements set out in 40 C.F.R. Part 7 and should be dismissed.

Lance informed me that he was also taken aback when the issue of a new Title VI retaliation complaint was brought up in his conversation with Kevin. Quite frankly, he feels your bringing up this issue for the first time at this late date appears uncomfortably similar to ECRCO's arbitrary and unilateral bootstrapping of a programmatic complaint on to the Dothan Title VI complaint. When he receives the information requested above we will respond to your new allegation. This new turn of events does not appear to him to be in keeping with what he thought were genuine and impartial efforts to timely resolve ADEM Title VI matters.

Thank you again for the progress we made in several areas, even as we continue discussions on the above item. We will be updating you shortly on our activities in those areas. I look forward to speaking with you again soon.

Thomas L. Johnston
General Counsel
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