Message

From: Dorka, Lilian [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AF796221E00A4A338CEA3C72ADBD0D57-DORKA, LILL]
Sent: 10/28/2019 1:35:53 PM
To: David A. Ludder [davidaludder@enviro-lawyer.com]
CC: Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Covington, Jeryl [Covington.Jeryl@epa.gov]; Robinson, Brittany [Robinson.Brittany@epa.gov]; Rhodes, Julia [Rhodes.Julia@epa.gov]; Harrison, Brenda [Harrison.Brenda@epa.gov]
Subject: RE: Request for Waiver of 180-day Time Limitation for Filing Administrative Complaint under 40 C.F.R. § 7.120

Dear Mr. Ludder:

I wanted to acknowledge receipt of your email and attachment. We will review and respond as soon as possible.

Thank you,

Lilian Dorka

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-9649 - Office
202-695-9888 - Cell

From: David A. Ludder <davidaludder@enviro-lawyer.com>
Sent: Monday, October 28, 2019 9:00 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Title VI Complaints <Title_VI_Complaints@epa.gov>
Subject: Request for Waiver of 180-day Time Limitation for Filing Administrative Complaint under 40 C.F.R. § 7.120

Ms. Lilian Dorka, Director
External Civil Rights Compliance Office
U.S. Environmental Protection Agency
Washington, D.C.

Re: **Request for Waiver of 180-day Time Limitation for Filing Administrative Complaint under 40 C.F.R. § 7.120**

Dear Ms. Dorka:

On behalf of my clients who are African-American residents living near the City of Dothan Sanitary Landfill in Dothan Alabama, I request a waiver of the 180-day time limitation for filing an administrative complaint under 40 C.F.R. § 7.120 concerning the Alabama Department of Environmental Management's reissuance and modification of Solid Waste Disposal Facility Permit No. 35-06 on May 6, 2019. As ground therefor, I show as follows:

1. On May 6, 2019, the Alabama Department of Environmental Management reissued and modified Solid Waste Disposal Facility Permit No. 35-06 to include a lateral expansion of the City of Dothan's municipal solid waste landfill.

2. Absent a waiver of the 180-day time limitation for the filing of an administrative complaint under 40 C.F.R. § 7.120 concerning the Alabama Department of Environmental Management's reissuance and modification of Solid Waste Disposal facility Permit No. 35-06, the filing of such a complaint would be due on November 2, 2019.

3. On June 4, 2019, residents living near the existing and proposed expansion of the municipal solid waste landfill filed a request with the Alabama Environmental Management Commission for an administrative hearing to contest the reissuance and modification of Solid Waste Disposal Facility Permit No. 35-06. A copy of the request is attached hereto. Included in the request for hearing is an allegation that the Alabama Department of Environmental Management's reissuance and modification of Solid Waste Disposal Facility Permit No. 35-06 contravenes the Department's "Non-discrimination Statement."

4. The filing of the request for hearing with the Alabama Environmental Management Commission does not stay Solid Waste Facility Permit No. 35-06. However, the Commission is authorized to disapprove or modify the reissuance and modification of Solid Waste Disposal Facility Permit No. 35-06. The Commission's action becomes the "final" action of the Alabama Department of Environmental Management, subject thereafter to judicial review. Ala. Code 1975 § 22-22A-7(c).

5. The Alabama Environmental Management Commission appointed a hearing officer who conducted a seven and one-half day administrative hearing on the request for hearing. Testimony concluded on September 19, 2019. Transcripts of the hearing became available on October 3, 2019. The parties are currently engaged in drafting briefs and proposed recommended orders for the hearing officer's consideration.

6. Inasmuch as the Alabama Environmental Management Commission may disapprove or modify the reissuance and modification of Solid Waste Disposal Facility Permit No. 35-06, the extent of any disparate impacts that may violate 40 C.F.R. § 7.35 may change with that disapproval or modification. Indeed, if the Commission disapproves Solid Waste Disposal Facility Permit No. 35-06, any present claim of violation of 40 C.F.R. § 7.35 would become moot.

Accordingly, I request - on behalf of my clients - a waiver of the 180-day time limitation for the filing of an administrative complaint under 40 C.F.R. § 7.120 concerning the Alabama Department of Environmental Management's issuance and modification of Solid Waste Disposal Facility Permit No. 35-06 until 60 days after the Alabama Environmental Management Commission enters its final decision to approve, disapprove or modify the May 6, 2019 reissuance and modification of Solid Waste Disposal Facility Permit No. 35-06.

Respectfully,

David A. Ludder
Law Office of David A. Ludder, PLLC
9150 McDougal Ct. | Tallahassee, FL 32312-4208
Phone (850) 386-5671 | Fax (203) 306-4110
Facebook | **Linkedin** | **Email** | **Webpage**

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.