UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

July 27, 2020

In Reply Refer to:
EPA Complaint No. 01R-20-R4

Lance R. LeFleur
Director
Alabama Department of Environmental Management
Post Office Box 301463
Montgomery, AL 36130-1463
llefleur@adem.alabama.gov

Re: Rejection and Closure of Administrative Complaint

Dear Director LeFleur:

On July 15, 2020, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received electronic correspondence from a complainant's representative regarding EPA Complaint No. 01R-20-R4. For the reason explained below, the complaint remains rejected without prejudice.

On November 22, 2019, ECRCO issued a rejection and closure letter of EPA Complaint No. 01R-20-R4. The administrative complaint alleged that Alabama Department of Environmental Management discriminated against an African American community by approving an application to renew and modify Solid Waste Disposal Facility Permit No. 35-06 (Permit), in violation of Title VI of the Civil Rights Act of 1964 and EPA's nondiscrimination regulation, 40 C.F.R. Part 7. ECRCO rejected the complaint as not ripe for review because it anticipated future events which may not unfold as outlined in the complaint, or that the same complaint allegations are currently pending with a local agency, or had been raised through a recipient's internal grievance procedures.[1] The rejection was issued without prejudice and allowed the complainant's representative to refile the complaint with ECRCO within sixty (60) days of a subsequent act or event that raised an allegation of discrimination.

In the July 15, 2020 correspondence, the complainant's representative notified ECRCO that the Alabama Environmental Management Commission (Commission) took final action and approved the application for the renewal and modification of Permit No. 35-06 on June 12, 2020.

[1] *See* ECRCO Case Resolution Manual, Section 2.6, at 12-13, available at: https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf

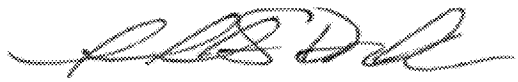
Director Lance LeFleur

The complainant's representative additionally stated that subsequent to this approval, on July 10, 2020, petitioners filed an appeal of the Commission's decision to the Circuit Court of Montgomery County, Alabama (Montgomery County Circuit Court).[2] In the correspondence, complainant's representative also inquired whether ECRCO, in accordance with its guidance, wished to extend the time for submission of the complaint until after the final decision of the Montgomery County Circuit Court.

Given these circumstances, ECRCO has determined that future events may not unfold as outlined in the complaint. Accordingly, the complaint allegations are not yet ripe for review. ECRCO reaffirms its rejection of the complaint and does so without prejudice. The complainant's representative may refile this complaint within sixty (60) days of the Montgomery County Circuit Court's final decision. If the complaint is refiled, ECRCO will evaluate the complaint to determine whether to accept, reject or refer it.

If you have questions about this letter, please contact me at dorka.lilian@epa.gov, or Case Manager, Jeryl Covington, at (202) 564-7713, or via email at covington.jeryl@epa.gov.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Angelia Talbert-Duarte
Associate General Counsel
Civil Rights & Finance Law Office

Beverly Banister
Acting Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 4

Leif Palmer
Regional Counsel
US EPA Region 4

[2] Notice of Appeal *Bobby Lewis et.al. v. Alabama Dep't of Envtl. Mgmt.*, 03-CV-2020-900877.00 (July 10, 2020).