UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

March 17, 2017

Return Receipt Requested
Certified Mail #: 7015 3010 0001 1267 5348

In Reply Refer to:
EPA File No: 14U-15-R3

Mr. Robert Rice
West Virginia Department of Environmental Protection
Office of Abandoned Mine Lands and Reclamation
601 57th Street
Charleston, West Virginia 25304

Re: Closure of Administrative Complaint

Dear Mr. Rice:

On June 24, 2015, U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence from a resident of Mingo County, West Virginia (Complainant) regarding concerns about damage to Complainant's home and property from nearby abandoned mines. In the correspondence, Complainant indicated that Complainant had contacted West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation regarding Complainant's property and your office's involvement in this matter. ECRCO has determined that it cannot accept this administrative compliant for investigation because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Id. Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

Complainant's original correspondence did not provide ECRCO with enough information to determine whether ECRCO could investigate the concerns. Accordingly, in a letter dated August 27, 2015, ECRCO sought clarification from Complainant about Complainant's

correspondence. Specifically, ECRCO requested that Complainant provide the following information:

1. A description of the alleged discriminatory act(s) committed by the West Virginia Department of Environmental Protection that violated EPA's nondiscrimination regulations.

2. A description of how the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation; discriminated against the complainant and on what basis(es); *e.g,* race, color, national origin, sex, age or disability.

3. The date(s) of the alleged discriminatory act(s) committed by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation that occurred within the 180 calendar days of when the complaint was filed (June 17, 2015).

ECRCO received responses from Complainant on September 9, 2015 and December 2, 2015. The responses, however, did not describe the alleged discrimination, nor did they provide dates for an alleged discriminatory act. In other words, Complainant did not state how, when, and on what basis(es) the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation allegedly discriminated against Complainant.

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. Therefore, ECRCO is rejecting and closing this complaint as of the date of this letter.

ECRCO has been in touch with the following organizations and has informed Complainant that these organizations could be of service to regarding Complainant's concerns:

U.S. Department of the Interior
Office of Surface Mining Reclamation and Enforcement
Roger W. Calhoun, Director
Charleston Field Office
1027 Virginia Street, East
Charleston, West Virginia 25301
(304) 347-7158

West Virginia Environmental Council
Conni Gratop Lewis
2207 Washington St E
Charleston West Virginia 25324
(304) 543-5811

West Virginia Rivers Coalition
Angie Rosser
3501 MacCorkle Ave. SE #129
Charleston West Virginia 25304
(304) 637-7201

If you have any questions about this letter, please contact Jonathan Stein of my staff at (202) 564-2088, via email at Stein.Jonathan@epa.gov, or by mail at U.S. EPA, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

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

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

John A. Armstead
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 3