UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 20, 2015

OFFICE OF CIVIL RIGHTS

Return Receipt Requested
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In Reply Refer to:
EPA File No.: 11R-14-R4

Donald R. van der Vaart
Secretary
North Carolina Department of Environment and
Natural Resources
1611 Mail Service Center
Raleigh, NC 27699-1611

Re: Notification of Acceptance of Administrative Complaint

Dear Secretary van der Vaart,

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting an administrative complaint, 11R-14-R4, filed against the North Carolina Department of Environment and Natural Resources (DENR) dated September 3, 2014. The complaint generally alleges that DENR violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*, and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

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

After careful consideration, the EPA is accepting the following allegation for investigation:

- North Carolina DENR's regulation of swine feeding operations discriminates against African Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring communities and violates Title VI and EPA's implementing regulations.

This allegation is accepted for investigation because it meets the EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against North Carolina DENR, an applicant for, or recipient of, EPA financial assistance. This acceptance in no way amounts to a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and your designees and determine next steps utilizing its internal procedures. As a part of OCR's established investigative process, you will receive a request for information from OCR in the near future. In the intervening time, please feel free to provide OCR with any information that you believe will assist EPA in this matter.

OCR would like to notify you that the complaint raises another allegation related to NC DENR's failure to enforce its regulatory and/or statutory requirements for swine farms. However, the complaint did not provide enough information for OCR to complete its jurisdictional review. As a part of OCR's established jurisdictional review process, OCR has requested the Complainants provide the necessary information within twenty (20) days of their receipt of the enclosed letter. If this information is not provided within this period, OCR will not accept the allegation for investigation.

The EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R. §7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at http://www.epa.gov\civilrights\faq-adrt6.htm. We will be contacting both the Complainants' representative and your designated representative in the near future to discuss potential interest in pursuing ADR. Please provide OCR with the name and contact information of your designated representative at your earliest convenience.

If you have any other questions, please do not hesitate to contact Helena Wooden-Aguilar, Assistant Director, External Civil Rights Program at (202) 564-0792, by e-mail at wooden-aguilar.helena@epa.gov, or U.S. mail at U.S. EPA, Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,

Velveta Golightly-Howell
Director