



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

February 24, 2016

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 2090

**In Reply Refer To:**

EPA File No. 13R-16-R4

Mr. David A. Ludder  
9150 McDougal Court  
Tallahassee, Florida 32312-4208

**Re: Acceptance of Administrative Complaint**

Dear Mr. Ludder:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting your February 3, 2016 administrative complaint (13R-16-R4) filed against the Alabama Department of Environmental Management (ADEM). The complaint generally alleges that ADEM 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). Generally, 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.

As of the date of this letter, OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. 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 ADEM, which is an applicant for, or recipient of, EPA financial assistance.

After careful consideration, OCR will investigate the following:

Whether ADEM discriminated against African-American residents in the surrounding community on the basis of race/color through the modification of the solid waste disposal permit number 35-06 and authorization to the City of Dothan to expand the City of Dothan Sanitary Landfill in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation; and

Whether ADEM is complying with the procedural safeguard provision delineated in 40 C.F.R. Part 7 Subpart D, which require recipients of EPA financial assistance to have specific policies and procedures in place to comply with their affirmative non-discrimination obligations.<sup>1</sup>

The decision to investigate the issues above is not a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and the recipients, if appropriate, and determine next steps utilizing its internal procedures. In the intervening time, OCR will provide the Recipient with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving their copy of the letter. *See* 40 C.F.R. 7.120(d)(1)(ii-iii).

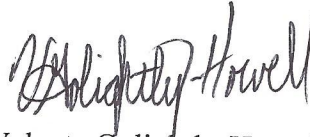
The EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R § 7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the subject complaint, and may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at <http://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi>. We will be contacting both you and representatives of ADEM in the future to discuss your potential interest in pursuing ADR, as well as ADEM's interest in entering into informal resolution discussions. We invite you to review OCR's Interim Case Resolution Manual at: [http://www.epa.gov/sites/production/files/2015-12/documents/ocr\\_crm\\_final.pdf](http://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf) for a fuller explanation of the complaint resolution process.

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<sup>1</sup> Note that this issue was originally raised by you in August 2013.

If you have any questions about this letter, please feel free to contact Brittany Martinez at (202) 564-0727, by e-mail at [martinez.brittany@epa.gov](mailto:martinez.brittany@epa.gov), or via 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  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Ken Lapiere  
Assistant Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 4