

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

December 4, 2019

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 0855

In Reply Refer To:

Complaint No. 17RD-16-R5

Liesl Eichler Clark, Director
Michigan Department of Environment, Great Lakes, and Energy
P.O. Box 30473
Lansing MI 48909

Dear Director Clark:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement (Agreement) entered into between EPA and the Michigan Department of Environment, Great Lakes, and Energy (EGLE).¹ On August 23, 2016, ECRCO accepted for investigation an administrative complaint brought under Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1973 (Section 504), and EPA's nondiscrimination regulation at 40 C.F.R. Part 7, which alleged that EGLE engaged in discrimination based on race, national origin, including limited-English proficiency (LEP), and disability. The complaint was assigned EPA Complaint No. 17RD-16-R5. Specifically, the issues accepted for investigation were:

1. Whether EGLE² discriminated against the complainant and other similarly situated individuals in Flint, Michigan, on the bases of race, national origin, including LEP, and disability with respect to the administration of the Safe Drinking Water Act of 1974, including public notification and involvement; and
2. Whether EGLE discriminated against individuals in Flint, Michigan on the bases of race, national origin, including LEP, and disability by failing to have in place procedures for addressing compliance with the nondiscrimination requirements of EPA's nondiscrimination regulation.

¹ Pursuant to Executive Order 2019-06, effective April 22, 2019, Michigan's Department of Environmental Quality (DEQ) was renamed the Department of Environment, Great Lakes, and Energy (EGLE). All references in this resolution letter are to EGLE and not DEQ.

² Complaints were also brought against Genesee County (18RD-16-R5) and the City of Flint (19RD-16-R5). ECRCO accepted the same issues for investigation as to them. Those complaints, however, are being resolved separately and are not the subject of this resolution letter or Agreement (17RD-16-R5).

During the course of EPA's investigation, EGLE agreed to enter into an Informal Resolution Agreement in order to resolve EPA Complaint No. 17RD-16-R5. The enclosed Agreement is entered into by EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI, Section 504 and 40 C.F.R. Part 7. It resolves EPA Complaint No. 17RD-16-R5. It is understood that the Agreement does not constitute an admission by EGLE of any violation or a finding by EPA of compliance or noncompliance with applicable federal non-discrimination laws and regulation.

The enclosed Agreement does not affect EGLE's continuing responsibility under Title VI, Section 504, 40 C.F.R. Parts 5 and 7, and, as applicable, other federal nondiscrimination laws, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth EPA's disposition of the complaint. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA is committed to working with the EGLE as it implements the provisions of the Agreement. We appreciate EGLE's cooperation in resolving this complaint. If you have any questions regarding the Agreement between EPA and EGLE, please contact me at (202) 564-9649, by e-mail at dorka.lilian@epa.gov, or U.S. mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office (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

Enclosure

Cc: Angelia Talbert-Duarte
Acting Associate General Counsel
EPA Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Deputy Civil Rights Official
EPA Region 5

Nelson T. Leverett
Regional Counsel
EPA Region 5

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



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

AGREEMENT
between the

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

and the

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EPA Complaint No. 17RD-16-R5

I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and United States Environmental Protection Agency's (EPA) implementing regulation at 40 C.F.R. Part 7 prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance.
- B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504) and 40 C.F.R. Part 7 prohibit discrimination on the basis of disability in any programs or activities receiving federal financial assistance.
- C. The Michigan Department of Environment, Great Lakes, and Energy (EGLE)¹ is a recipient of federal financial assistance from the EPA and is subject to the provisions of Title VI, Section 504 and 40 C.F.R. Part 7, and, as applicable, other federal nondiscrimination laws.²
- D. On August 23, 2016, EPA's External Civil Rights Compliance Office (ECRCO) (formerly Office of Civil Rights) accepted for investigation EPA Complaint No. 17RD-16-R5 and opened an investigation into alleged discrimination based on race, and national origin, including limited-English proficiency (LEP), in violation of Title VI and 40 C.F.R. Part 7; and disability in violation of Section

¹ Pursuant to Executive Order 2019-06, effective April 22, 2019, the Department of Environmental Quality was renamed the Department of Environment, Great Lakes, and Energy.

² Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

504 and 40 C.F.R. Part 7. This complaint alleged that EGLE discriminated against the complainant, as well as other similarly situated individuals in Flint, Michigan, on the bases of race and disability and relates to EGLE's administration of the Safe Drinking Water Act of 1974 (SDWA), including public notification and involvement, and failure to have in place procedures for addressing compliance with the nondiscrimination requirements.³

- E. During the course of ECRCO's investigation into EPA Complaint No. 17RD-16-R5, EGLE agreed to enter into a voluntary informal resolution agreement in order to resolve the complaint.
- F. This Agreement is entered into by EGLE and ECRCO.
- G. This Agreement is entered into pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI, Section 504 and 40 C.F.R. Part 7, and resolves EPA Complaint No. 17RD-16-R5 and additional concerns identified by ECRCO.
- H. This Agreement does not constitute an admission by EGLE or a finding by ECRCO of violations of Title VI, Section 504 or 40 C.F.R. Part 7.
- I. EGLE is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI, Section 504, 40 C.F.R. Part 7, and, as applicable, other federal nondiscrimination laws. The activities detailed in Section III of this Agreement, which EGLE has voluntarily agreed to undertake and implement, are in furtherance of this commitment.

Not Addressed by this Agreement

- J. Other than the alleged discrimination issues, which are being specifically addressed in this Agreement, the issues related specifically to Flint drinking water raised in EPA Complaint No. 17RD-16-R5 are being or have been addressed between EPA and EGLE and the City of Flint through other channels.

II. BACKGROUND

- A. This Section II details activities which EGLE has undertaken, or is currently engaged in, to meet its obligations under federal nondiscrimination laws and generally to better serve the people of the State of Michigan. The State of

³ In EPA's closure letter of a different case, EPA Complaint No. 01R-94-R5, EPA advised Michigan Department of Environmental Quality (now EGLE) that it would focus, in this case, on: 1) improving EGLE's public participation program to reduce the risk of future disparate treatment; 2) improving EGLE's development and implementation of a foundational non-discrimination program that establishes appropriate procedural safeguards while addressing civil rights complaints as well as policies and procedures for ensuring meaningful access for persons with disabilities and limited-English proficiency to EGLE programs and activities; and 3) ensuring that EGLE has an appropriate process in place for addressing environmental complaints. These three areas are addressed in this Agreement.

Michigan and EGLE have made changes to the policies governing EGLE's permitting, nondiscrimination, and public participation programs in furtherance of EGLE's commitment to carry out its responsibilities in a nondiscriminatory manner.

- B. Former Governor Rick Snyder convened a Flint Water Advisory Task Force in October 2015 to provide recommendations to the Governor. On March 21, 2016, this Task Force issued a final report. In this report, the Task Force recommended that the Governor "Issue an Executive Order mandating guidance and training on Environmental Justice across all state agencies in Michigan, highlighting the Flint water crisis as an example of environmental injustice." The Task Force further recommended that the "state should reinvigorate and update implementation of an Environmental Justice Plan for the State of Michigan."
- C. In February of 2017, former Governor Snyder created the Environmental Justice Work Group (EJWG) following direct recommendations from the Flint Water Advisory Task Force and the Flint Water Interagency Coordinating Committee's Policy Subcommittee. The EJWG was charged to develop and provide recommendations to the Governor that improve environmental justice awareness and engagement in state and local agencies; and examine policy and recommend for implementation of environmental justice guidance, training, curriculum, and policy that further increases quality of life for all Michiganders. The EJWG submitted a final report to former Governor Snyder in March of 2018 with 33 recommendations. Based on these recommendations former Governor Snyder announced a series of initiatives in July of 2018 including assigning an Environmental Justice Ombudsman in his office, establishing an Environmental Justice Interagency Working Group through Executive Directive 2018-3, and the development of comprehensive environmental justice/social equity training for state and local employees.
- D. On January 2, 2019, Governor Whitmer issued Executive Directive No. 2019-1, "Protecting Public Health, Safety, and Welfare" (Attachment A), regarding prompt and adequate responses to threats to public health, safety, and welfare. The Directive states that the State of Michigan "must be open, transparent, and accountable to Michigan residents." Among other terms, the Directive provides a process for elevation of issues related to imminent threats to public health. Specifically, it directs: "An employee in the executive branch of Michigan state government who becomes aware of an imminent threat to the public health, safety, or welfare shall immediately report information relating to that threat to the employee's department director or autonomous agency head." It further provides a process for promptly responding to this information.
- E. On February 20, 2019, Governor Whitmer executed Executive Order No. 2019-06 (Attachment B) (replacing former Governor Snyder's Executive Order 2018-03), regarding environmental justice for the State of Michigan, and establishing within

EGLE the Interagency Environmental Justice Response Team, the Office of the Clean Water Public Advocate, and the Office of the Environmental Justice Public Advocate.

- F. The Interagency Environmental Justice Response Team (Response Team) is an advisory body within EGLE with the goal of assuring that all Michigan residents benefit from the same protections from environmental hazards. The Response Team consists of directors, presidents, or chairpersons, as applicable, or their designees, from EGLE, the Michigan Department of Agriculture and Rural Development, the Michigan Department of Civil Rights, the Michigan Department of Health and Human Services, the Michigan Department of Natural Resources, the Michigan Strategic Fund, the Michigan Department of Transportation, and the Michigan Public Service Commission.
- G. The Executive Order details many specific directives for the Response Team to carry out to achieve its goal. Among these directives is the requirement that the Response Team assist EGLE in developing, implementing, and regularly updating a statewide environmental justice plan. In addition, the Response Team is responsible for identifying state departments or agencies that could benefit from developing a departmental or agency environmental justice plan and assisting in the plans' development. The Response Team is charged with "identify[ing] and mak[ing] recommendations to address discriminatory public health or environmental effects of state laws, regulations, policies, and activities on Michigan residents, including an examination of disproportionate impacts." The Response Team also is tasked with making recommendations to ensure consistency with federal environmental justice programs.⁴ For the full list of the directives of the Response Team, see Section 1(b) of the Executive Order.
- H. Executive Order 2019-06 also established the Office of the Clean Water Public Advocate and the Office of the Environmental Justice Public Advocate. Under the terms of the Order, the Clean Water Public Advocate, among other responsibilities, accepts and investigates complaints and concerns related to drinking water quality within the State of Michigan. The Environmental Justice Public Advocate, among other responsibilities, accepts and investigates complaints and concerns related to environmental justice within the State of Michigan and "[a]ssists in the development, and monitor[s] the implementation of, state and federal laws, rules, and regulations relating to environmental justice." For the full list of the directives for the Office of the Clean Water Public Advocate and the Office of the Environmental Justice Public Advocate, see Sections 1(c) and 1(f), respectively.

⁴ As stated in the Presidential Memorandum accompanying Executive Order 12898, "Environmental and civil rights statutes provide many opportunities to address environmental hazards in minority communities and low-income communities."

- I. EGLE has implemented the Pollution Emergency Alert System (PEAS) to allow for reports of spills, releases, or other environmental emergencies. The PEAS hotline is staffed to take calls 24 hours a day, 7 days a week. EGLE has also implemented the Environmental Assistance Center (EAC) to take non-emergency calls for questions or information about EGLE programs, regulations, reporting requirements, reportable quantities, etc.
- J. EGLE has worked with ECRCO to address the issues identified by ECRCO for investigation in EPA Complaint Number 17RD-16-R5 and pursuant to the requirements of federal nondiscrimination laws and EPA's implementing regulation, including through the provision of technical assistance from ECRCO on EGLE Policy and Procedures Nos. 09-007 (Policy on Public Involvement in Department Decisions) and 09-024 (Nondiscrimination in EGLE Programs), to be implemented by EGLE as set forth in Section III below.

III. SPECIFIC EGLE COMMITMENTS

EGLE agrees to undertake the following commitments:

A. *Public Participation Policy*

1. EGLE understands that meaningful public involvement consists of informing, consulting, and working with potentially affected communities at various stages of the environmental decision-making process to address their needs. Therefore, EGLE will ensure its public involvement process is available to all persons regardless of race, color, national origin (including limited-English proficiency), age, disability, and sex. In addition, EGLE will ensure that the factors used to determine the appropriate time, place, location, duration, and security at public meetings are developed and applied in a nondiscriminatory manner.
2. EGLE agrees to adopt and implement Policy and Procedure No. 09-007, Policy on Public Involvement in Department Decisions.
3. EGLE will prominently post its Policy and Procedure No. 09-007, Policy on Public Involvement in Department Decisions, on the EGLE website, and will include versions translated into Spanish and Arabic, and which will be accessible to individuals with disabilities.
4. Within 60 days of the effective date of this Agreement, EGLE will report to ECRCO information about the location and accessibility of Policy and Procedure No. 09-007, Policy on Public Involvement in Department Decisions, such as providing a link to EGLE's Website. This will be sufficient to complete the Public Participation Policy commitment of Section III.A. of this Agreement.

B. *Notice of Nondiscrimination*

1. EGLE will prominently post its Notice of Nondiscrimination on EGLE's Website and in EGLE's offices or facilities.
2. EGLE will have its Notice of Nondiscrimination in Spanish and Arabic also prominently posted on EGLE's Website.
3. The Notice of Nondiscrimination will be made accessible to individuals with disabilities, including ensuring that the Notice as posted on its Website Homepage is accessible to visually impaired persons.
4. The Notice will contain, at a minimum, the following statements or assurances:
 - a. EGLE does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of its programs or activities, as required by applicable laws and regulations.
 - b. Intimidation and retaliation are prohibited and claims of intimidation and retaliation will be handled promptly if they occur.
 - c. EGLE is responsible for coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements implemented by 40 C.F.R. Part 7 (Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency) and Part 5, as applicable, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.
 - d. If you have any questions about this notice or any of EGLE's non-discrimination programs, policies or procedures or if you believe that you have been discriminated against with respect to an EGLE program or activity, you may contact:

Katherine Kruse
Nondiscrimination Compliance Coordinator
Michigan Department of Environment, Great Lakes, and Energy
525 West Allegan Street
P.O. Box 30473
Lansing, Michigan 48909-7973
Email: EGLE-NondiscriminationCC@michigan.gov
Phone: 517-249-0906

Or, you may visit our website at <http://www.michigan.gov/egle/> and click the link for Nondiscrimination Policy and Procedure to obtain a copy of the EGLE's procedures to file a grievance/ complaint of discrimination.

5. If the identity of Nondiscrimination Compliance Coordinator changes, then EGLE will update materials as appropriate.
6. In addition to the Notice of Nondiscrimination for posting on EGLE's Website and in EGLE's offices or facilities, EGLE's Notice of Nondiscrimination for general publications that are distributed to the public (*e.g.*, public outreach materials, such as brochures, notices, fact sheets or other information on rights and services; applications or forms to participate in or access EGLE programs, processes or activities) will include the information detailed in III.B.4.a. and b. ("EGLE does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of its programs or activities, and prohibits intimidation and retaliation, as required by applicable laws and regulations.").
7. Within 30 days of the effective date of this Agreement, EGLE will publish its Notice of Nondiscrimination as specified above. This will be sufficient to complete the Notice of Nondiscrimination commitment of Section III.B. of this Agreement

C. *Nondiscrimination in EGLE Programs Policy*

1. Grievance Procedures
 - a. EGLE will prominently publish in print and on-line its Grievance Procedures to process discrimination complaints filed under federal nondiscrimination statutes, and will do so on a continual basis, to allow for prompt and fair resolution of those discrimination complaints. The Grievance Procedures shall be contained in Policy and Procedure No.09-024, Nondiscrimination in EGLE Programs.
 - b. The Grievance Procedures address the following:
 - i. Who may file a complaint under the procedures;
 - ii. Which informal process(es) are available, and the options for complainants to bypass an informal process for a formal process at any point;

- iii. That a prompt and fair resolution of discrimination complaints alleging violations of 40 C.F.R. Part 7 will be conducted;
 - iv. That the preponderance of the evidence standard will be applied during the analysis of the complaint;
 - v. That retaliation is prohibited and that claims of retaliation will be handled promptly if they occur;
 - vi. That written notice will be promptly provided about the outcome of the investigation, including whether discrimination is found, and a description of the investigation process.
2. Access for Persons with Disabilities
- a. EGLE's commitments to disability access shall be contained in Policy and Procedure No.09-024, Nondiscrimination in EGLE Programs.
 - b. EGLE will provide individuals with disabilities the opportunity for meaningful access and opportunity for full participation in its programs and activities, including the following:
 - i. EGLE will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the programs and activities provided by EGLE in a timely manner and in such a way as to protect the privacy and independence of the individual.
 - ii. Individuals with disabilities have a right to request accommodations. Individuals will receive accommodations appropriate to their needs in order to fully participate in or benefit from EGLE's programs and activities in an accessible, nondiscriminatory and integrated setting.
3. EGLE will make communities it serves aware that services for individuals with disabilities are available. EGLE will prominently post its Policy and Procedure No. 09-024, Nondiscrimination in EGLE Programs, on the EGLE website, and will include versions translated into Spanish and Arabic, and which will be accessible to individuals with disabilities.

4. Within 60 days of the effective date of this Agreement, EGLE will report to ECRCO information about the location of Policy and Procedure No. 09-024, Nondiscrimination in EGLE Programs, such as providing a link to EGLE's Website. This will be sufficient to complete the Nondiscrimination in EGLE Programs Policy commitment of Section III.C. of this Agreement.

D. *Access for Persons with Limited-English Proficiency*

1. EGLE will develop and implement a LEP Plan to ensure meaningful access to all EGLE programs and activities for limited-English proficient individuals.
2. EGLE will conduct the appropriate analysis to determine what language services it may need to provide to ensure that LEP individuals can meaningfully participate in all EGLE programs and activities. This information shall be contained in EGLE's LEP Plan.
3. EGLE will make communities it serves aware of its LEP plan and how to access language assistance services, at no cost. This information will be provided in appropriate languages other than English based on the appropriate analysis conducted in accordance with Section III.D.2.b. above.
4. Within 120 days of the effective date of this Agreement, EGLE will forward to ECRCO for review a final draft of its LEP Plan to ensure meaningful access to all EGLE programs and activities for limited-English proficient individuals, as well as information about the proposed location and accessibility of the LEP Plan, such as a link to its Website. ECRCO will review the draft LEP Plan and provide any comments within 30 days of receipt. EGLE will submit a final plan within 30 days of receipt of ECRCO's comments. This will be sufficient to complete the requirements of Access for Persons with Limited-English Proficiency, Section III.D. of this Agreement.

E. *Designation of Nondiscrimination Coordinator*

1. EGLE will ensure that it has designated at least one Nondiscrimination Coordinator whose responsibilities include the following:
 - a. Provide information to individuals regarding their right to services, aids, benefits, and participation in any EGLE program or activity without regard to their race, national origin, color, sex, disability, age; and inform individuals that EGLE will not engage in intimidation or retaliation against any individual or group because they have exercised their rights to participate in actions protected,

or oppose action prohibited by EPA's nondiscrimination regulation, or for the purpose of interfering with such rights.

- b. Provide information about EGLE's formal and informal grievance processes and the ability to file a discrimination complaint with EGLE.
 - c. Maintain grievance policies to ensure that all discrimination complaints filed with EGLE under federal nondiscrimination statutes are processed promptly and appropriately. One element of any policy and procedure or mechanism must include EGLE providing meaningful access for limited-English proficient individuals and individuals with disabilities to EGLE programs and activities.
 - d. Ensure the tracking of all discrimination complaints filed with EGLE under federal nondiscrimination statutes including any patterns or systemic problems.
 - e. Conduct an annual review of all discrimination complaints filed with the EGLE Nondiscrimination Coordinator under federal nondiscrimination statutes in order to identify and address any patterns or systemic problems.
 - f. Inform and advise EGLE staff regarding EGLE's obligations to comply with federal nondiscrimination statutes and serve as a resource on such issues.
 - g. Ensure that complainants are updated on the progress of their discrimination complaints filed with EGLE under federal nondiscrimination statutes and are promptly informed as to any determinations made.
 - h. Annually assess the efficacy of EGLE's efforts to maintain compliance with federal nondiscrimination statutes.
 - i. Receive training in Alternative Dispute Resolution.
 - j. Ensure EGLE employees are appropriately trained on EGLE nondiscrimination policies and procedures, as well as the nature of the federal nondiscrimination obligations.
2. The Nondiscrimination Coordinator will not have other responsibilities that create a conflict of interest with the Nondiscrimination Coordinator responsibilities (*e.g.*, also serving as EGLE legal advisor to EGLE on

discrimination claims filed against EGLE or engaging in oversight and review of EGLE permitting activities).

3. Within 30 days of the effective date of this Agreement, EGLE will forward to ECRCO proof that the Nondiscrimination Coordinator has accepted the responsibilities identified in Section III.E.2. This will be sufficient to complete the Designation of Nondiscrimination Coordinator commitment of Section III.E. of this Agreement

F. *Training*

1. Within 120 days after implementing the policies, plans and procedures identified in this Agreement, including those involving Nondiscrimination Notice, Grievance Procedures, Nondiscrimination Coordinator, Public Participation, Access for Persons with Limited-English Proficiency, and Access for Persons with Disabilities, EGLE will identify and ensure that all appropriate staff have been trained on its internal nondiscrimination policies and procedures and on federal nondiscrimination obligations. EGLE will provide documentation to ECRCO showing that all appropriate staff have been trained. This will be sufficient to complete the training requirements of Section III.F.1. of this Agreement.
2. Within 90 days after the effective date of this Agreement, EGLE will have a plan in place to ensure that such training is a routine part of its new employee orientation. Additionally, EGLE will provide such training to current EGLE employees. EGLE will forward to ECRCO a final draft of the plan. ECRCO will review the draft plan and provide any comments within 30 days of receipt. EGLE will submit a final plan within 30 days of receipt of ECRCO's comments. This will be sufficient to complete the training requirements of Section III.F.2. of this Agreement.

G. *Integration of Federal Nondiscrimination Laws*

1. EGLE will promote integration of federal nondiscrimination laws with its environmental justice programs, policies, and activities.
2. By signing this Agreement, EGLE commits itself to perform the obligation recited in the Section III.G.1. and accordingly, this commitment is complete and no further monitoring by EPA of this commitment is necessary.

IV. GENERAL

- A. In consideration of EGLE's implementation of commitments and actions described in Section III of this Agreement, ECRCO will end its investigation and consider resolved EPA Complaint No. 17RD-16-R5 and not issue a decision

containing findings on the merits of the complaint.

- B. ECRCO will monitor the implementation of the commitments in this Agreement to ensure they are fully implemented. Once the commitments in Section III of this Agreement are satisfied, ECRCO will issue a letter documenting closure of its monitoring actions in EPA Complaint No. 17RD-16-R5 and closure of the complaint as of the date of that letter.
- C. EGLE will, within 30 days of the implementation of each commitment in Section III, and consistent with the timeframes in Section III, document and report their implementation, by email to the Director, External Civil Rights Compliance Office, Office of General Counsel, US EPA, at Dorka.Lilian@epa.gov.
- D. ECRCO will review and provide feedback about any documentation submitted by EGLE demonstrating completion of each commitment and will provide an assessment as to whether the documentation satisfies the commitment.
- E. ECRCO will, upon request, provide technical assistance to EGLE regarding any of the civil rights obligations previously referenced.
- F. EPA will provide support as requested by EGLE through dialogue, training, and/or technical assistance to advance federal nondiscrimination laws (ECRCO) and environmental justice (EPA Region 5).

V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- B. Documents submitted by EGLE to EPA shall be sent by email or mail to the Director of ECRCO at Dorka.Lilian@epa.gov or External Civil Rights Compliance Office, Office of General Counsel, US EPA (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
- C. Documents submitted by ECRCO to EGLE shall be sent by email or mail to the Director of EGLE at ClarkL20@michigan.gov or Director, Michigan Department of Environment, Great Lakes, and Energy, P.O. Box 30473, Lansing MI 48909, with a copy to the Division Chief of the Environment, Natural Resources, and Agriculture Division of the Michigan Department of Attorney at AG-ENRA-EFiles@michigan.gov or Division Chief, Environment, Natural Resources, and Agriculture Division of the Michigan Department of Attorney General, P.O. Box 30755, Lansing, MI 48909.

VI. EFFECT OF THE AGREEMENT

- A. EGLE understands that, if necessary, ECRCO may visit EGLE, interview staff, and request such additional reports or data as are necessary for ECRCO to determine whether EGLE has fulfilled the terms of this Agreement.
- B. EGLE understands that ECRCO will not close its monitoring of this Agreement until ECRCO determines that EGLE has fully implemented the commitments of Section III of this Agreement and that a failure to satisfy any of the commitments of Section III of this Agreement may result in the ECRCO opening an investigation.
- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to EGLE's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written Agreement by the Director of EGLE and the Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between EGLE and ECRCO regarding the matters addressed herein, and no other statement, promise, or Agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by EGLE and ECRCO in accordance with the provisions of Section VI(C) above.
- E. This Agreement does not affect EGLE's continuing responsibility to comply with Title VI, Section 504, 40 C.F.R. Part 7, and, as applicable, other federal nondiscrimination laws, nor does it affect ECRCO's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Director of EGLE has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of ECRCO has the authority to enter into this Agreement.

On behalf of the Michigan Department of Environment, Great Lakes, and Energy.



Liesl Eichler Clark, Director
Michigan Department of Environment, Great Lakes, and Energy

12/2/19
(Date)

On behalf of the U.S. Environmental Protection Agency.



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

November 19, 2019
(Date)