



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C. 20460

Office of Environmental Justice and External Civil Rights

Office of External Civil Rights Compliance

January 5, 2023

**In Reply Refer to:**

EPA Complaint No. 02RNO-23-R5

John J. Kim  
Director  
Illinois Environmental Protection Agency  
1021 North Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
John.j.kim@illinois.gov

**Re: Rejection of Correspondence as an Administrative Complaint**

Dear Director Kim:

On October 31, 2022, the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights, Office of External Civil Rights Compliance (OECRC), received correspondence containing allegations that IL EPA discriminated against impacted communities in Illinois on the basis of race, color, and national origin in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.*, and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7 when it issued air permits for the Churchill Cabinet facility (Permit No. 76030017) on October 19, 2022, and Premcor facility (Permit No. 96030063) on July 11, 2022. Specifically, the correspondence alleges that IL EPA's criteria and methods of administering its Clean Air Act permitting program, including its public involvement process, used to issue air permits to the Churchill Cabinet and Premcor facilities have resulted in significant, adverse, and disproportionate harms to the surrounding communities. This letter is to notify you that OECRC determined the correspondence is not a complaint and is administratively closing this matter for the reasons that follow. At the same time, OECRC will consider the allegations raised as it investigates a complaint involving IL EPA that raises similar concerns about the recipient's air permitting program.

Pursuant to EPA's nondiscrimination regulation, OECRC conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the 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 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA

financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. Additionally, pursuant to Section 1.1 of the EPA Case Resolution Manual, an anonymous correspondence will not be considered a complaint.

After careful consideration, OECRC is administratively closing this matter as of the date of this letter for the reasons that follow. OECRC cannot accept “anonymous correspondence” as a complaint.<sup>1</sup> OECRC contacted the complainant on November 1, 2022 to share the section of the Case Resolution Manual about anonymous complaints and to provide the complainant with an opportunity to sign the complaint and provide contact information. In response, the complainant indicated that complainant would not take such action because the complainant feared IL EPA would release its personal information and would retaliate against them. OECRC offered the complainant another opportunity to provide the requested information on November 9, 2022 and advised the complainant that, pursuant to 40 C.F.R. Part 7.120(e), it agreed to keep a complainant’s identity confidential except to the extent necessary to carry out the purposes of 40 C.F.R. Part 7, including the conduct of investigations, hearing or judicial proceedings. Additionally, OECRC explained that, as a matter of practice, OECRC redacts complaints for personal privacy information consistent with the Freedom of Information Act (FOIA) and Privacy Act, and OECRC only releases identifying information to the extent necessary to comply with 40 C.F.R. Parts 5 and 7.<sup>2</sup> Further, OECRC directed the complainant to 40 C.F.R. Part 7.100, which reaffirms that recipients are prohibited from retaliating against any person who has participated in this complaint process. To date, OECRC has not received any further response or communications from the complainant. Accordingly, OECRC is administratively closing this matter.

Nonetheless, OECRC notes that on January 25, 2021, it accepted EPA Complaint No. 01RNO-21-R5 against the IL EPA that alleged IL EPA discriminated against the “LatinX and African American” communities in southeast Chicago on the basis of race and national origin, in violation of Title VI of the Civil Rights Act of 1964 and EPA’s nondiscrimination regulation at 40 C.F.R. Part 7, through its methods of administering the Clean Air Act permitting process that was used to issue a Construction Permit (Application No. 19090021) to General III, LLC. The allegations in the complainant’s correspondence raise similar concerns as those addressed in EPA Complaint No. 01RNO-21-R5 regarding IL EPA’s criteria and methods of administering its Clean Air Act program, including its public involvement process. As such, OECRC will consider the information provided in the correspondence as it continues the investigation of the Complaint No. 01RNO-21-R5. The complainant may continue to engage with OECRC as a witness and provide information relevant to the open investigation in EPA Complaint No. 01RNO-21-R5.

If you have any questions about this correspondence, please contact me by telephone at (212) 637-5033 or by email at [hoang.anhthu@epa.gov](mailto:hoang.anhthu@epa.gov) or Katelyn Liesner, Case Manager, at (202) 564-2035 or by email at [liesner.katelyn@epa.gov](mailto:liesner.katelyn@epa.gov).

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<sup>1</sup> *See* OECRC’s Case Resolution Manual, Section 1.1 at: [https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf)

<sup>2</sup> Freedom of Information Act, 5 U.S.C. § 552(b)(6) and (7)(c) and the Privacy Act of 1974, 5 U.S.C. § 552a.

Sincerely,

Anhthu Hoang  
Acting Director  
Office of External Civil Rights Compliance  
Office of Environmental Justice and External Civil Rights

cc: Ariadne Goerke  
Deputy Associate General Counsel  
Civil Rights & Finance Law Office

Cheryl Newton  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 5

Robert Kaplan  
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U.S. EPA Region 5