



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C. 20460

Office of Environmental Justice and External Civil Rights
Office of External Civil Rights Compliance

October 3, 2023

In Reply Refer to:

EPA Complaint No. 04R-23-R4

Andrew Westcott
Policy Director and General Counsel
Alabama House of Representatives
11 South Union Street
Montgomery, AL 36130

Patrick Harris
Secretary of the Senate
Alabama State Senate
Office of the Secretary of Senate
11 South Union Street
Montgomery, AL 36130

Re: Rejection of Administrative Complaint

Dear Messrs. Westcott and Harris:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights, Office of External Civil Rights Compliance (OECRC) is rejecting for investigation the administrative complaint the Southern Poverty Law Center on behalf of the Center for Rural Enterprise and Environmental Justice and the Natural Resources Defense Council filed against the State of Alabama Legislature (the State),¹ which OECRC received on March 6, 2023. The Complaint alleges that the State, through its regulations, policies and practices for Clean Water State Revolving Fund (SRF) as implemented by the Alabama Department of Environmental Management (ADEM), discriminates against the Black residents of Alabama, particularly residents of the Black Belt region of Alabama,² on the basis of race, 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. Specifically, the complaint alleges that the State, prevents Black residents from accessing federal SRF support to improve

¹ The Complaint also identifies ADEM as an entity that has prevented the use of the Clean Water State Revolving Fund for on-site sanitation needs. OECRC is accepting the complaint against ADEM (Complaint No. 03R-23-R4) for investigation.

² The complaint uses the term "Black Belt" to refer to the following 17 Alabama counties: Greene, Sumter, Choctaw, Hale, Marengo, Perry, Dallas, Wilcox, Lowndes, Butler, Montgomery, Crenshaw, Macon, Butler, Pike, Russell, and Barbour.

onsite sanitation access. As explained below, EPA is not accepting for investigation the allegations against the State for lack of jurisdiction.

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 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 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.

After careful consideration, OECRC is rejecting the allegations regarding the State because the State of Alabama Legislature is not a recipient of EPA financial assistance. Accordingly, OECRC is closing EPA Complaint No. 04R-23-R4 as of the date of this letter.

EPA's regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with OECRC.

If you have any questions, please contact me (202-809-3297, hoang.anhthu@epa.gov).

Sincerely,

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

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

Carol Kemker
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
US EPA Region 4

Leif Palmer
Regional Counsel
US EPA Region 4