



OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

March 28 , 2024

In Reply Refer To:

EPA Complaint No. 01R-23-R3

Khalil Zaied
Director
Baltimore City Department of Public Works
Abel Wolfman Municipal Building
200 Holliday Street, Unit 600
Baltimore, MD 21202
khalil.zaied@baltimorecity.gov

Re: Rejection of Administrative Complaint

Dear Director Zaied:

This letter is to notify you that the Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights, Office of External Civil Rights Compliance (OECRC) is rejecting the complaint filed against the City of Baltimore Department of Public Works (DPW) on October 24, 2022, which alleged DPW discriminates against Black residents of West Baltimore based on race, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulations. Specifically, the complaint asserts three claims. First, the complaint alleges DPW subjected Black residents in West Baltimore to discrimination by failing to provide appropriate notice regarding *E. coli* contamination of the West Baltimore drinking water supply (Claim 1). Second, the complaint alleges DPW is involved in fraud, waste, and misappropriation of public funds (Claim 2). Finally, the complaint alleges DPW has a policy of depriving the Black residents of West Baltimore of the opportunity to restore its "eco-balance" (Claim 3). As explained below, OECRC is rejecting all three claims and closing the complaint as of the date of this letter.

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

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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.

In general, OECRC will accept, reject, or refer a complaint after considering the four jurisdictional factors discussed above. However, if OECRC obtains information leading OECRC to conclude that an investigation is unjustified for prudential reasons, OECRC may reject the complaint.¹

In an effort to determine jurisdiction, OECRC conducted interviews with the Complainant on November 1, 2022, and December 27, 2022, examined all documents provided to OECRC, and examined publicly available information. OECRC also consulted with the EPA's Region 3 Safe Drinking Water Program to determine the status of the claims. After careful consideration, OECRC is rejecting this complaint.

Claim 1:

Although Claim 1 has met the jurisdictional requirements described above, OECRC has determined that the harm alleged, that DPW does not have a program in place to ensure the predominantly Black community of West Baltimore would receive sufficient notice when the drinking water supply is breached or contaminated, has been resolved.² OECRC's preliminary examination reveals that on November 1, 2022, the Maryland Department of the Environment (MDE) issued to DPW a Notice of Violation (NOV); the NOV described deficiencies in DPW's notification system and identified appropriate corrective actions. Since then, DPW has taken steps to comply with MDE's order. DPW has updated standard operating procedures and taken provided templates for internal and external communications on Tier 1 events (which includes *E. coli* contamination. By putting in place policies and practices to ensure any future events meet SDWA's public notification requirements and provide timely notice to any community impacted by contamination in the drinking water, DPW has fully addressed the issue raised in this complaint.

Claim 2:

Claim 2's allegations of waste, fraud, and misappropriation of the funds obtained from the City of Baltimore's collection of water service rates are beyond the scope of EPA's authority since

¹ See OECRC Case Resolution Manual, Section 2.6, pp. 12-13, https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

² See CRM at Sections 1.8

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the allegations are against DPW.³ OECRC would ordinarily refer claims of waste, fraud and abuse of EPA federal assistance to the EPA Office of the Inspector General (OIG).⁴ However, the complaint alleges fraud, waste and abuse of the City's funds; therefore OECRC is rejecting this claim and not referring the allegations to the EPA OIG. Claims of fraud, waste and abuse of funds from the City of Baltimore may be filed with The Baltimore City Office of Inspector General; therefore, you may file a complaint regarding this issue with City's OIG:

<https://inspector-general.baltimorecity.gov/file-report#:~:text=Complete%20the%20OIG%20Electronic%20Complaint%20Form&text=When%20reporting%20fraud%2C%20waste%2C%20abuse,aid%20us%20in%20our%20investigation>.

If the Complainant believes that DPW has committed acts resulting in fraud, waste, or abuse of EPA federal funds, they may file a complaint with EPA's Office of the Inspector General (OIG). They may contact the OIG at <https://www.epa.gov/office-inspector-general/forms/epa-oig-hotline-complaint-form>.

Claim 3:

Claim 3's allegation that DPW has deprived the residents of West Baltimore the ability to restore its "eco-balance" did not provide sufficient factual information for OECRC to infer discrimination may have occurred,⁵ even after OECRC interviewed the Complainant on two separate occasions (November 1, 2022, and December 27, 2022). At neither interview did the Complainant provide sufficient factual information to allow OECRC to infer discrimination occurred or is occurring. Therefore, OECRC is rejecting this claim.

For the reasons explained above, OECRC is rejecting the complaint and closing this matter 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 either have 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 further questions, please feel free to contact me at (202) 564-7299, by email at kurt.temple@epa.gov. If you have questions relating to Safe Drinking Water Act requirements, please contact William Richardson at (215) 814-5675 or richardson.william@epa.gov.

³ See CRM at Sections 1.5

⁴ See <https://www.epaoig.gov/>.

⁵ *Id.*

Director Khalil Zaied

Sincerely,

 for

Kurt Temple

Acting Director

Office of Environmental Justice & External Civil Rights

Office of External Civil Rights Compliance

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

Diana Esher
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 3

Donna Travia
Acting Regional Counsel
U.S. EPA Region 3