OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE
WASHINGTON, D.C. 20460

June 17, 2024

In Reply Refer To:
EPA Complaint No. 03RNO-23-R1

William A. DiBella, Chairman
The Metropolitan District
555 Mail Street
Hartford, CT 06103
wdibella@themdc.com

Re: Rejection of Administrative Complaint

Dear Chairman DiBella:

On January 18, 2023, the U.S. Environmental Protection Agency (EPA), Office of External Civil Rights Compliance (OECRC) received an administrative complaint filed against the Metropolitan District Commission ("MDC").[1] The Complaint alleged that MDC discriminated against the Complainant and Black and Brown residents of the North End of Hartford 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 regulations, at 40 C.F.R. Part 7, by failing to provide appropriate oversight of sanitary sewer repair work and failing to allocate sufficient funding for infrastructure repairs to address flooding and sewage overflows as well as basement backups in Hartford's North End.

Pursuant to EPA's nondiscrimination regulations, 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 regulations. 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 regulations (i.e., an

[1] According to the Complaint and Amended Complaint, the Metropolitan District Commission and two other recipients collectively engaged in discriminatory treatment against members of the North Hartford community based on race, color, and national origin.

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.

In general, OECRC will accept, reject, or refer a complaint after considering the four jurisdictional factors described above. However, if OECRC obtains information leading OECRC to conclude that an investigation is unjustified for prudential reasons, OECRC may reject a complaint allegation.[2]

After careful consideration,[3] OECRC is rejecting this Complaint for investigation because it does not satisfy the jurisdictional requirements. The alleged discriminatory actions that MDC took did not occur within 180 days of filing this Complaint, nor does the Complaint allege facts related to a continuing policy or practice as defined by OECRC's Case Resolution Manual.[4] As such, the Complaint does not meet the timeliness requirement, and OECRC is rejecting this Complaint as of the date of this letter.[5]

EPA's nondiscrimination 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 the Case Manager assigned to this matter, V'Hesspa Glenn by telephone at (202) 809-5029 or by email at glenn.vhesspa@epa.gov.

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[2] *See* OECRC Case Resolution Manual (CRM), Section 1.8, available at: https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

[3] In an effort to clarify the Complainant's allegations, OECRC conducted an interview with the Complainant on February 9, 2023, and had multiple follow up conversations with the Complainant between February and April 2023. OECRC also reviewed information that the Complainant shared: a supplement to the Complaint (received on February 9, 2023), an Amended Complaint that added CT DEEP as an EPA recipient involved in discrimination (received on February 28, 2023), and approximately 37 emails the Complainant sent to OECRC between January 28, 2023 and May 22, 2023.

[4] *See* CRM Section 1.5(4)(a). Although the Complaint alleges ongoing "routine flooding," this allegation would not constitute a continuing violation on the part of the recipients but rather a harm. Per the CRM, "a continuing violation is occasioned by continual unlawful acts, not continual ill effects from an original violation." CRM Section 15(4)(a).

[5] EPA Case No. 03RNO-23-R1 will not be accepted as the Complaint lacks the necessary jurisdictional and prudential elements to proceed with investigation. However, there is some crossover with the allegations introduced in the cited Complaint and EPA Case No. 01RNO-24-R1, all of which will be considered in the investigation of 01RNO-24-R1.

Sincerely,

Adam Wilson
Acting Deputy 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

Karen McGuire
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 1

Carl Dierker
Regional Counsel
US EPA Region 1