



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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

December 20, 2018

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 0954

In Reply Refer to:

EPA Complaint No. 03D-18-R9

Mark Pestrella
Director
LA County Department of Public Works
900 South Fremont Avenue
Alhambra, CA 91803

Re: Notification of Rejection of Administrative Complaint

Dear Director Pestrella:

On August 13, 2018, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received a complaint alleging that the Los Angeles County Department of Public Works ("DPW") had violated Section 504 of the Rehabilitation Act of 1973 (Section 504) and the EPA's nondiscrimination regulation (*see* 40 C.F.R. Part 7), on the basis of disability, by spraying Roundup without prior notice near the home of a person with a disability. After careful review, ECRCO has concluded that an investigation in this case is not justified in light of the facts presented. Accordingly, this matter is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO 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.

In addition to the above factors, ECRCO will also consider any additional information from the complainant, potential recipient or other credible sources to evaluate whether an investigation is justified for prudential reasons. For example, if ECRCO obtains credible information indicating that the allegations raised by the complaint have been resolved and there are no systemic allegations, ECRCO may find the complaint allegations are moot. That is, ECRCO may determine that there are no current allegations appropriate for further resolution, and the complaint will be rejected.

During its preliminary review of the complaint, ECRCO contacted the Complainant in August and September 2018 to obtain additional information. The Complainant explained that she approached DPW pesticide applicator staff while they were spraying in April 2018, and requested they cease spraying. After the spraying occurred, she contacted LA County Supervisor, Kathryn Barger's ("LA County") office. Specifically, she wrote to Jarrod DeGonia, Senior Field Deputy, in LA County. With Complainant's permission, ECRCO spoke with Mr. DeGonia, who provided a record of the Complainant's email exchange with LA County. In her email, Complainant noted her disability and requested that DPW find alternative methods for weed removal. In Mr. DeGonia's response, he informed the Complainant that LA County would instruct DPW to maintain an open dialogue with the Kagel Canyon community, including providing prior notice to the community before spraying Roundup. In addition, Mr. DeGonia also notified Complainant that LA County would direct DPW to continue to work with the community to find an alternative to spraying for weed removal.

During ECRCO's discussion with LA County, Mr. DeGonia shared that there is a temporary moratorium on spraying Roundup in Kagel Canyon. Furthermore, on behalf of LA County, Mr. DeGonia, as promised in his email to the Complainant, instructed DPW to temporarily discontinue spraying and to ensure that spraying did not commence until proper notice and outreach is conducted with the residents of Complainant's community.

After evaluating the information provided by the Complainant, LA County, and DPW, ECRCO has determined that there are no current allegations appropriate for further resolution and no systemic allegations were raised in the complaint. Specifically, LA County addressed the Complainant's concern for prior notice when it instructed DPW to provide notice and conduct outreach with the Kagel Canyon community before spraying Roundup in the area. Furthermore, there is a temporary moratorium on spraying in the Kagel Canyon community, which currently addresses the Complainant's concern raised in both the complaint to ECRCO and the Complainant's email to LA County about the use of Roundup to remove weeds in the Kagel Canyon area. Accordingly, ECRCO is closing this case as of the date of this letter.

ECRCO directed the Complainant to contact DPW's Nondiscrimination Program, if she has any future reasonable accommodation requests related to spraying or similar issues based on disability. ECRCO provided the Complainant with DPW's Nondiscrimination Coordinator, Katie Mac's contact information and a link to the DPW ADA Nondiscrimination Program's website.

ECRCO is committed to ensuring that recipients of EPA financial assistance implement a nondiscrimination program and adhere to specific procedural safeguards to ensure meaningful access to all programs and activities by all persons, in compliance with their nondiscrimination

obligations set forth in 40 C.F.R. Parts 5 and 7. ECRCO is available to provide technical assistance and answer any question you may have with respect to the nondiscrimination provisions of our regulation.

If you have questions please feel free to contact Zahra Khan, Case Manager, at 202-564-0460, by email at khan.zahra@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



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

cc: Angelia Talbert-Duarte
Acting Associate General Counsel
Civil Rights & Finance Law Office

Deborah Jordan
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 9

Katie Mac
Administrative Services Manager II
Los Angeles County Public Works

Jarrod R. DeGonia
Senior Field Deputy, CDC/Housing Deputy
Office of LA County Supervisor Kathryn Barger