



OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

January 22, 2025

In Reply Refer to:

EPA Complaint No. 01RNO-24-R6

Kelly Keel
Executive Director
Texas Commission on Environmental Quality
Post Office Box 13087, MC 109
Austin, TX 78711-3087
execdir@tceq.texas.gov

Re: Rejection of Administrative Complaint

Dear Executive Director Keel:

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 filed against the Texas Commission on Environmental Quality (TCEQ) which the EPA received on April 9, 2024. The complaint alleges that the TCEQ discriminated against Black and Hispanic residents in Harris County on the basis of race and national origin, by issuing the Notice of Issuance of Amendment to Air Quality Standard Permit for Concrete Batch Plants (2024 Amended Permit), 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. For the reasons identified below, OECRC is rejecting this complaint without prejudice and closing this case 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 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 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

Executive Director Kelly Keel

complaint.¹

After careful consideration, OECRC has determined that, while the complaint meets the jurisdictional requirements stated above, an investigation is unjustified for prudential reasons as the complaint is not ripe for investigation. Specifically, OECRC learned that the Complainants filed a complaint in 126th District Court of Travis County,² Texas. In the state litigation, Complainants ask the Court to reverse TCEQ's 2024 Concrete Batch Plant (CBP) Standard Permit. Since the outcome of the state litigation could impact the allegations raised in the Complaint, an investigation is unripe at this time. Therefore, OECRC is rejecting this complaint without prejudice as of the date of this letter.

A rejection without prejudice means the Complainant may re-file a complaint with OECRC within 60 calendar days of the date of the state court decision, if that resolution does not appropriately address the issues the Complainants raised.³ If the complaint is re-filed, OECRC will proceed with its preliminary review to determine whether the complaint should be accepted, rejected, or referred.

EPA's nondiscrimination 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 questions, please contact me at (202) 564-8796 or by email at Hoang.Anhthu@epa.gov.

Sincerely,

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

¹ See Case Resolution Manual, Section 1.9, pp. 14-15 at https://www.epa.gov/system/files/documents/2025-01/case-resolution-manual-update_final_jan-2025.pdf

² See

<https://odysseyweb.traviscountytexas.gov/app/RegisterOfActions/#/1BB39FEEBDE6BB16C6C5E14C74F3632CB744CB4887D38AE5962F22F5A5F5F417324F0A2A863668936B80B76B1DA296C7C391167D0B8D680E2CE9BA10FF1E31403EA969D9EDE693AB8390C35847CE8C0F/anon/portalembd>

³ See Case Resolution Manual, Section 1.9, pp. 14-15 at https://www.epa.gov/system/files/documents/2025-01/case-resolution-manual-update_final_jan-2025.pdf

Executive Director Kelly Keel

cc: Ariadne Goerke
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