



## OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

November 18, 2024

### **In Reply Refer to:**

EPA Complaint No. 01R-23-R4

Richard E. Dunn  
Director  
Environmental Protection Division  
Georgia Department of Natural Resources  
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14th Floor East Tower, Suite 1456  
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### **Re: Rejection of Administrative Complaint**

Dear Director Dunn:

The U.S. Environmental Protection Agency (“EPA”), Office of External Civil Rights Compliance (“OECRC”) is rejecting for investigation EPA Complaint No. 01R-23-R4 (“Complaint”), received on January 4, 2023, involving the Environmental Protection Division of the Georgia Department of Natural Resources (“EPD”). The Complaint alleges that EPD failed to comply with its obligations not to discriminate on the basis of race when issuing air quality permits in the predominately Black community of Adel, Georgia, in violation of Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq. (“Title VI”) and EPA’s nondiscrimination regulation at 40 C.F.R. Part 7.<sup>1</sup> For the reasons described below, OECRC is rejecting this 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 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

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<sup>1</sup> See Complaint at OECRC’s online docket: [https://www.epa.gov/system/files/documents/2023-01/01R-23-R4%20Complaint\\_Redacted.pdf](https://www.epa.gov/system/files/documents/2023-01/01R-23-R4%20Complaint_Redacted.pdf).

for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15. OECRC has determined that the complaint involving EPD has met all jurisdictional factors explained above.

In general, OECRC will accept, reject, or refer a complaint after considering the jurisdictional requirements described above. However, if OECRC obtains information leading OECRC to conclude that an investigation is unwarranted for prudential reasons, OECRC may reject the complaint.<sup>2</sup> After careful consideration, OECRC is rejecting EPA Complaint No. 01R-23-R4, because OECRC has determined that an investigation is unjustified for prudential reasons due to changed circumstances.

According to the Complaint, on August 5, 2022, EPD issued an air quality permit for the construction and operation of a wood pellet mill (“the Facility”) to Spectrum Energy Georgia, LLC (“Spectrum”). The complaint alleges that EPD did not consider the demographics of the Facility’s neighboring population in reviewing the potential impacts of the facility’s operation in its permitting process. In addition, the complaint claims that EPD did not consider the cumulative impacts of the Facility’s emissions given the vulnerability of the residents and the existing high density of industrial sources operating in the area. Accordingly, the Complainants requested:

EPD must create and enforce a permit review policy that considers and evaluates the potential for disproportionate adverse impacts on communities protected by Title VI. EPD must change its current policy of refusing to engage in analysis to determine whether its decisions have discriminatory effects. EPA should advise EPD on how to develop criteria and methods for its permitting program that are fair, equitable, and compliant with Title VI.<sup>3</sup>

On January 23, 2023, when meeting with OECRC, Complainants clarified that they were not seeking to challenge the Spectrum Permit, but rather they sought an investigation into whether EPD’s state-wide air permitting process concerning wood pellet mills is discriminatory.

Notably, after filing this Complaint, which had allegations focused on the permitting of the Spectrum Facility, Complainants clarified that they had entered into a settlement agreement with Spectrum arising out of their administrative petition objecting to the Facility permit. Although the settlement agreement did not resolve any Title VI issues, it did include terms to address and mitigate air quality and other concerns pertaining specifically to the Spectrum Facility. Some of the terms include installing air quality monitors around the facility; providing up-to-date data to Complainants; holding public forums at least twice a year; providing air filters to daycare centers, churches, and homes near the facility; monitoring air pollution controls once a month; and paying \$25,000 to a public health fund controlled by Complainants for every potential future violation. Additional terms include “good neighbor provisions” and a “seat at the table and information sharing” with Complainants.

In addition, EPA is taking a number of steps that will provide valuable information allowing regulatory agencies to take informed actions to protect human health and the environment in communities near wood pellet production facilities. The EPA Office of Research and Development Center for Public

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<sup>2</sup> See OECRC Case Resolution Manual, Section 1.8, pp. 11, available at: [https://www.epa.gov/sites/default/files/202101/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/default/files/202101/documents/2021.1.5_final_case_resolution_manual_.pdf)

<sup>3</sup> Complaint, 16.

Health and Environmental Assessment, in collaboration with partners in EPA Region 4, has initiated the Wood Pellet Research Project (“Project”).<sup>4</sup> The Project’s goals are two-fold: (1) To assess possible air, water, and community health impacts of industrial wood pellet production facilities in the southeastern U.S.; and (2) To identify and/or fill information gaps that could be useful for future decision making about the creation or expansion of wood pellet production facilities on the community health and environmental impacts of wood pellet production facilities.

Among the activities Project scientists will be conducting are mapping and completing an environmental justice assessment of communities nearby wood pellet production facilities, measuring or modelling exposures to potential air contaminants associated with operation of wood pellet facilities, and using historical health records to compare changes in communities’ health before and after existing facilities began operation. On March 21, 2024, an interagency group comprised of representatives from the EPA Office of Environmental Justice and External Civil Rights, EPA Region 4, the EPA Office of Research and Development’s Wood Pellet Research Team, and the Council on Environmental Quality of the Executive Office of the President, participated in a site visit to two communities with biomass wood pellet industrial plants in Britton's Neck, SC and Dobbins Heights, NC, respectively. The interagency group sought to gather information in support of the Project.

On July 25, 2023, the EPA also announced proposed updates to the Air Emissions Reporting Requirements to improve the EPA's collection of certain emissions data critical for performing air quality and risk analyses, among other regulatory and non-regulatory activities.<sup>5</sup> In particular, the EPA is proposing the requirement of certain sources to report information regarding emission of criteria air pollutants and hazardous air pollutants (e.g., related to industrial wood pellet production), as well as their precursors.<sup>6</sup>

In consideration of the actions EPA has taken to examine the potential impacts of the operation of wood pellet production mills since this Complaint was filed, OECRC has determined that an investigation into its air permitting program is not appropriate at this time.<sup>7</sup>

Finally, the Complaint also alleges that EPD did not provide procedural safeguards required under 40 C.F.R. Part 7.<sup>8</sup> OECRC already has pending an investigation involving the Georgia Department of Natural Resources (“DNR”), EPA Complaint No. 03R-22-R4, including, specifically, “Whether DNR has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to DNR services, programs, and activities, for individuals with limited English proficiency and individuals with disabilities, and whether

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<sup>4</sup> See CPHEA, SHC.410.2.13. More at: <https://www.epa.gov/risk/us-epa-wood-pellet-research-project>.

<sup>5</sup> See <https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr>.

<sup>6</sup> See <https://www.federalregister.gov/documents/2023/08/09/2023-16158/revisions-to-the-air-emissions-reporting-requirements>.

<sup>7</sup> See OECRC Case Resolution Manual Section 1.8, pp. 10-12.

<sup>8</sup> Complaint, 7.

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the DNR has a public participation policy and process that is consistent with Title VI and the other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7."<sup>9</sup>

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 feel free to contact me by telephone at (202) 564-8796 or by email at [hoang.anhthu@epa.gov](mailto:hoang.anhthu@epa.gov).

Sincerely,



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

cc:

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<sup>9</sup> See OECRC Complaint No. 03R-22-R4 on our online docket: <https://www.epa.gov/external-civil-rights/external-civil-rights-docket-2014-present>.