



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D C. 20460

Office of Environmental Justice and External Civil Rights
Office of External Civil Rights Compliance

August 10, 2023

In Reply Refer to:

EPA Complaint No: 01RNO-22-R5

Phil Roos, Director
Michigan Department of Environment, Great Lakes, and Energy
525 West Allegan Street
Post Office Box 30471
Lansing, MI 48909-7973
RoosP@michigan.gov

Re: Resolution of EPA Complaint No. 01RNO-22-R5

Dear Director Roos:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights (OEJECR), Office of External Civil Rights Compliance (OECRC), has resolved EPA Complaint No. 01RNO-22-R5 based on the enclosed Informal Resolution Agreement (Agreement), which is entered into between EPA and the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

On March 11, 2022, EPA accepted for investigation a complaint against EGLE alleging discrimination on the basis of race, national origin, disability, and age in violation of Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7. Specifically, EPA accepted the following issues for investigation:

1. Whether EGLE discriminated on the basis of race, color, and national origin in violation of Title VI and the EPA's implementing regulation at 40 C.F.R. Part 7, when it approved Permit to Install (PTI) Application No. 2021-0019 for the Ajax Asphalt Plant;
2. Whether EGLE discriminated on the basis of race, color, or national origin, disability, and age in violation of Title VI, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 and the EPA's implementing regulation at 40 C.F.R. Part 7, by failing to provide meaningful public participation in connection with the approval of the application for PTI Application No. 2021-0019 for the Ajax Asphalt Plant; and
3. Whether EGLE's criteria and methods of administering its air permit program, including its exercise of authority under Rule 228, has the intent and/or effect of

subjecting persons to discrimination on the basis of race, color, and national origin in violation of Title VI and the EPA's implementing regulation at 40 C.F.R. Part 7.

During the course of EPA's investigation, EGLE agreed to enter into the IRA process in order to resolve EPA Complaint No. 01RNO-22-R5. The enclosed Agreement, signed on August 10, 2023, is entered into by EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI and 40 C.F.R. Part 7. It is understood that the Agreement does not constitute an admission by EGLE of any violation or a finding by EPA of compliance or noncompliance with applicable federal non-discrimination laws and regulation.

EPA Region 5's work with Michigan EGLE to protect communities, human health, and the environment continues outside of the Agreement. The agencies jointly continue to expand our understanding of new science and tools and to minimize or avoid the adverse impacts of pollution. EPA Region 5 will continue its cross-program work to advance environmental justice and equity in Flint, Michigan.

EPA continues to take seriously its oversight role when, for example, reviewing draft environmental permits. Recent Region 5 Air and Radiation Division (ARD) work to address air quality concerns in Flint includes mobile monitoring, working with educators to build and install indoor air filters in schools; and hosting an all-day Clean Air Act workshop to help interested community members learn more about available tools for addressing air pollution. ARD will conduct additional air monitoring in Flint in the fall of 2023 and commits to discussing the results with stakeholders as soon as they are available.

Region 5's Enforcement and Compliance Assurance Division (ECAD) continues to inspect facilities to ensure compliance and takes enforcement actions as appropriate. Region 5 encourages the community to raise concerns to the Region and to use the Agency's Report-A-Violation system ([Report Environmental Violations | ECHO | US EPA](#)) when a suspected violation has occurred. Relatedly, we appreciate the recent request from Complainants' Representatives to meet with Region 5 to share initial findings from their facility review activities, and look forward to scheduling a meeting with them soon.

Region 5 will continue working with Michigan EGLE on the implementation of the Resource Conservation and Recovery Act (RCRA) Subtitle C Hazardous Waste Permitting and Corrective Action requirements and RCRA Subtitle D Coal Combustion Residuals requirements, and to facilitate Brownfield redevelopment in the state of Michigan. Region 5 will also continue to work with Flint community leaders, the City of Flint, EGLE, and Michigan Department of Health and Human Services to address questions and concerns about drinking water.

Finally, EPA Region 5 and OEJECR also welcome the opportunity to participate with EGLE in community-driven assessment and action to address cumulative impacts in Flint, whether through the PACE EH or another approach with similar goals. As stated in EPA's April 2022 Equity Action Plan, "developing a clear and consistent ability to apply cumulative impacts [analysis] throughout the environmental and public health regulatory endeavor is a necessary precondition for fully achieving EPA's mission to protect the human health and the environment,

including all communities and individuals at all life stages.”¹ Our ongoing work in Flint can demonstrate what this looks like in practice.

The enclosed Agreement does not affect EGLE’s continuing responsibility under Title VI, 40 C.F.R. Parts 5 and 7, and other federal nondiscrimination laws, nor does it affect OECRC’s investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth EPA’s disposition of the complaint. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA is committed to working with EGLE as it implements the provisions of the Agreement. If you have any questions regarding this letter and the Agreement between EPA and EGLE, please contact me at (202) 809-3297 or by e-mail at hoang.anhthu@epa.gov.

Sincerely,

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

cc: Ariadne Goerke
Deputy Associate General Counsel
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James Clift
Deputy Director
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¹ See EPA’s EO 13985 Equity Action Plan at: https://www.epa.gov/system/files/documents/2022-04/epa_equityactionplan_april2022_508.pdf.