



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY

WASHINGTON, D C. 20460

OFFICE OF ENVIRONMENTAL JUSTICE AND EXTERNAL CIVIL RIGHTS
OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

August 8, 2023

In Reply Refer to:

EPA File No. 01RNO-23-R9

Eileen Sobeck
Executive Director
California State Water Resources Control Board
1001 I Street
Post Office Box 100
Sacramento, CA 95812-0100
eileen.sobeck@waterboards.ca.gov

Re: Acceptance of Administrative Complaint

Dear Executive Director Sobeck:

The U.S. Environmental Protection Agency (EPA), Office of Environmental Justice & External Civil Rights, Office of External Civil Rights Compliance (OECRC), is accepting for investigation the referenced administrative complaint which was filed against the California State Water Resources Control Board (“the Board”) on December 16, 2022. The complaint alleges that the Board discriminated 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 regulation, at 40 C.F.R. Part 7. Specifically, the complaint alleges that the Board’s failure to update Bay-Delta water quality standards discriminates against members of Native Tribes and Black, Asian and Latino persons residing in and around the San Francisco Bay/Sacramento-San Joaquin Delta watershed (“Bay-Delta Region”), particularly the South Stockton community. Furthermore, the complaint alleges that the Board has intentionally excluded local Native Tribes and Black, Asian and Latino residents from participation in the policymaking process associated with the Bay-Delta Plan.

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.

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After careful consideration, OECRC has determined that the complaint meets the jurisdictional requirements stated above. First, the allegation is in writing. Second, it alleges that discrimination occurred in violation of EPA's nondiscrimination regulation. Third, the alleged discriminatory acts occurred within 180 days of the filing this complaint. Finally, it alleges discriminatory acts by the Board which is a recipient of EPA financial assistance.

OECRC will investigate the following issues:

1. Whether the California State Water Resources Control Board's administration of the water quality standard setting program with respect to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta watershed ("Bay-Delta Region"), including timeliness of rulemaking and opportunities for public participation, subjects members of Native Tribes and Black, Asian and Latino residents of the Bay-Delta Region, particularly the South Stockton community, to discrimination based on race, color, and national origin; and
2. Whether the California State Water Resources Control Board has in place and is appropriately implementing procedural safeguards required under 40 C.F.R. Parts 5 and 7, that all recipients of EPA financial assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to the Board's services, programs, and activities for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether the Board has a public participation policy and process that is consistent with Title VI and other federal civil rights laws, including EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.

The initiation of an investigation of the issues above is not a decision on the merits. OECRC is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with the Complainant and the Board, and determine next steps utilizing OECRC's internal procedures. Generally, the investigation and resolution options and procedures identified in EPA's nondiscrimination regulation and OECRC's Case Resolution Manual (CRM) will be utilized for the complaint investigation process. We invite you to review OECRC's Case Resolution Manual for a more detailed explanation of OECRC's complaint resolution process.¹

OECRC is providing the Board with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of this letter notifying the Board of the acceptance of Administrative Complaint No. 01RNO-23-R9. *See* 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that OECRC shall attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, OECRC will contact the Complainant and the Board within 10 days of the date of this letter to provide information

¹ https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf

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about OECRC's complaint process, and to offer and discuss the alternative dispute resolution (ADR) and informal resolution agreement processes as potential options for resolution of the issues which OECRC has accepted for investigation.² If the Board (and the Complainant with respect to ADR) agrees to engage in either of these potential resolution processes, OECRC will suspend the 180 day timeframe for issuing Preliminary Findings³ for the duration of the IRA process. In the event that either of these potential resolution processes fails to result in an agreement, OECRC will notify the Complainant as well as the Board that OECRC has resumed its process for issuing preliminary findings within 180 days of the start of the investigation – excluding any days spent in either of these potential resolution processes.⁴

Please be advised that a copy of the complaint is being provided to you, consistent with 40 C.F.R. § 7.120(e). OECRC is releasing the complaint with appropriate redactions consistent with the Freedom of Information Act (FOIA) and the Privacy Act and will only release identifying information to the extent necessary to comply with 40 C.F.R. Parts 5 and 7.⁵

EPA's 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.

In the interim, if you have any questions, please contact me (Hoang.Anhthu@epa.gov; 202-809-3297), or Case Managers Al Sweeney (Sweeney.Alfred@epa.gov; 202-564-7949) and Rebecca Gillman (Gillman.Rebecca@epa.gov; 202-564-7969).

Sincerely,

Anhthu Hoang
Acting Director
Office of External Civil Rights Compliance

Enclosure: Via Email, Redacted Copy of Complaint

² Informal Resolution occurs between OECRC and the recipient. See Case Resolution Manual, Section 3.1; https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf. p. 22.

³ See 40 C.F.R. § 7.115(c)(1).

⁴ See 40 C.F.R. § 7.115(c).

⁵ Freedom of Information Act, 5 U.S.C. § 552(b)(6) and (7)(c) and the Privacy Act of 1974, 5 U.S.C. § 552a.

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cc: Ariadne Goerke
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