



## OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

January 17, 2025

In Reply Refer to:

EPA Complaint No: 06RNO-24-R6 (City of Albuquerque)  
07RNO-24-R6 (Albuquerque City Council)

Kacey J. Hovden  
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**RE: Acceptance and Closure<sup>1</sup> of Administrative Complaints**

Dear Kacey Hovden:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights, Office of External Civil Rights Compliance (OECRC), is accepting for investigation **EPA Complaint No. 06RNO-24-R6** (the “Complaint”) involving the City of Albuquerque (City) and the Albuquerque City Council, which was received by the EPA on May 31, 2024.<sup>2</sup>

The Complaint concerns the Albuquerque-Bernalillo County Air Quality Control Board’s (the “Air Board”) rulemaking proceeding and issuance of the Health, Environment, and Equity Impacts (HEEI) Rule on December 19, 2023. The Complaint alleges that the City Council took various

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<sup>1</sup> See *infra* footnote 2.

<sup>2</sup> Complainants filed a complaint containing allegations involving the City (06RNO-24-R6) and the City Council (07RNO-24-R6), which OECRC acknowledged directly to those entities on June 5, 2024. Through evaluation of the Complaint, OECRC has determined that the City is the primary recipient of EPA financial assistance, and the City Council is the legislative body that governs the City. Accordingly, OECRC will proceed to investigate the allegations against both the City and the City Council under one case number using Complaint No. 06RNO-24-R3 as the complaint number. OECRC has administratively closed Complaint No. 07RNO-24-R6 as of the date of this letter.

actions to prevent the adoption of the HEEI Rule – including but not limited to the City Council’s adoption of a resolution and ordinance that would change the make-up and authority of the Air Board. The Complaint alleges that these actions by the City Council discriminate against residents on the basis of race, color, and national origin.

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 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.

After careful consideration, OECRC is accepting the Complaint for investigation because the Complaint meets OECRC’s four jurisdictional requirements. First, the Complaint is in writing. Second, the Complaint alleges a discriminatory act that, if true, may violate Title VI and EPA’s nondiscrimination regulation. Third, the Complaint was filed within 180 days of the allegedly discriminatory act.<sup>3</sup> Finally, the City, including the City Council, is a recipient of EPA financial assistance.

Accordingly, with respect to Complaint No. 06RNO-24-R6, OECRC will investigate the following issue:

- Whether the actions of the City Council surrounding the Air Board’s rulemaking proceeding and issuance of the HEEI Rule discriminated against persons in Albuquerque on the basis of race, color, and national origin, in violation of Title VI of the Civil Rights Act of 1964, 42 USC § 2000(d) *et seq.*, and EPA’s nondiscrimination regulation, 40 C.F.R. Part 7.

### **Next Steps**

EPA’s nondiscrimination 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 retaliation or intimidation may file a complaint with OECRC.

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<sup>3</sup> Complainants allege that on December 4, 2023, the City Council overrode the Albuquerque Mayor’s veto of a City Council introduced resolution and ordinance that would impede the Air Board’s ability to promulgate certain regulations in an attempt to prevent the adoption of the HEEI Rule. As the date of this alleged discriminatory act is within 180 days of the filing date for this complaint (May 30, 2024), the allegation is timely.

Kacey J. Hovden

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 City and the Complainants, and determine next steps utilizing OECRC's internal procedures. OECRC follows the investigation procedures identified in EPA's nondiscrimination regulation, 40 C.F.R. Part 7. We invite you to review OECRC's Case Resolution Manual for a more detailed explanation of OECRC's complaint resolution process, available at: <https://www.epa.gov/external-civil-rights/case-resolution-manual>.

The City may send a written submission to OECRC responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of the letter notifying the City of the acceptance of EPA Complaint No. 06RNO-24-R6. 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 you within 10 days of the date of this letter to provide information about OECRC's complaint process, and to offer and discuss the informal resolution processes as potential options for resolution of the issues which OECRC has accepted for investigation. If the City agrees to engage in any informal resolution process, OECRC will suspend the timeframe to issue preliminary findings within 180 days of initiating the investigation. In the event that any informal resolution process fails to result in an agreement, OECRC will notify you that OECRC has resumed its complaint investigation and will issue preliminary findings within 180 days of the start of the investigation – excluding any days spent in any informal resolution process.

If you have any questions, please contact me at (202) 564-8796, or by email at [hoang.anhthu@epa.gov](mailto:hoang.anhthu@epa.gov). You may also contact Kurt Temple, Case Manager, at (202) 564-7299, or by email at [temple.kurt@epa.gov](mailto:temple.kurt@epa.gov).

Sincerely,



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Acting Director  
Office of External Civil Rights Compliance  
Office of Environmental Justice &  
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cc: Ariadne Goerke  
Deputy Associate General Counsel  
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