

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

January 8, 2021

**Via Email**

**EPA Complaint No. 27R-16-R6**

Becky Keogh  
Director  
Arkansas Division of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118-5317  
keogh@adeq.state.ar.us

**Re: Resolution of EPA Complaint No. 27R-16-R6**

Dear Director Keogh:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement (“Agreement”) entered into between EPA and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ). On June 28, 2016, EPA accepted for investigation a complaint against DEQ alleging discrimination on the basis of race and color in violation of Title VI of the Civil Rights Act of 1964 and EPA’s nondiscrimination regulation, at 40 C.F.R. Part 7. The complaint was assigned EPA Complaint No. 27R-16-R6. Specifically, EPA accepted the following issue for investigation:

Whether DEQ discriminated against the predominately African American community of West Crossett, AR, on the bases of race and/or color in violation of Title VI of the Civil Rights Act, and EPA’s implementing regulation, by allowing the administrative continuance of [Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES)] Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road, Crossett, AR 71635) that allegedly does not meet the standards of the Clean Water Act; and

Whether DEQ discriminated against the predominately African American community of West Crossett, AR on the bases of race and/or color in violation of Title VI of the Civil Rights Act, and EPA’s implementing regulation, by allowing the administrative continuance of NPDES Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road Crossett, AR 71635) that allegedly exposes the community to harmful emissions and that allegedly eliminates the use of Coffee Creek in violation of the Clean Water Act.

During the course of EPA's investigation, DEQ agreed to enter into the Agreement in order to resolve EPA Complaint No. 27R-16-R6. The enclosed Agreement 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 DEQ of any violation or a finding by EPA of compliance or noncompliance with applicable federal non-discrimination laws and regulation.

The enclosed Agreement does not affect DEQ's continuing responsibility under Title VI, 40 C.F.R. Parts 5 and 7, and other federal nondiscrimination laws, nor does it affect EPA'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 DEQ as it implements the provisions of the Agreement. If you have any questions regarding this letter and the Agreement between EPA and DEQ, please contact me at (202)564-9649 or by e-mail at [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov).

Sincerely,



Lilian S. Dorka

Director  
External Civil Rights Compliance Office  
Office of General Counsel

Enclosure:

cc: Angelia Talbert-Duarte  
Associate General Counsel  
Civil Rights & Finance Law Office

David Gray  
Deputy Regional Administrator  
Deputy Civil Rights Official  
US EPA Region 6

James McGuire  
Regional Counsel  
US EPA Region 6



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**WASHINGTON, D.C. 20460**

**EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL**

**INFORMAL RESOLUTION AGREEMENT**

**between the  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY  
and the  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
EPA Complaint No. 27R-16-R6**

**I. PURPOSE AND JURISDICTION**

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and other federal nondiscrimination laws, and United States Environmental Protection Agency's (EPA) implementing regulations at 40 C.F.R. Parts 5 and 7, prohibit discrimination on the basis of race, color, national origin, disability, sex and age in the programs or activities of applicants for or recipients of federal financial assistance. The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) receives financial assistance from EPA and, therefore, must ensure nondiscrimination in programs and activities pursuant to the provisions of Title VI, and other federal nondiscrimination laws, and EPA's implementing regulations.
- B. On June 28, 2016, EPA's External Civil Rights Compliance Office (ECRCO) accepted for investigation, EPA Complaint No. 27R-16-R6, brought under Title VI and EPA's regulation at 40 C.F.R. Part 7 that alleged discrimination based on race and color in violation of Title VI. EPA accepted for investigation the following issues:
1. Whether DEQ discriminated against the predominately African American community of West Crossett, AR, on the bases of race and/or color in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of [Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES)] Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road, Crossett, AR 71635) that allegedly does not meet the standards of the Clean Water Act; and
  2. Whether DEQ discriminated against the predominately African American community of West Crossett, AR on the bases of race and/or color in

violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of NPDES Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road Crossett, AR 71635) that allegedly exposes the community to harmful emissions and that allegedly eliminates the use of Coffee Creek in violation of the Clean Water Act.

- C. During the course of ECRCO's investigation of Complaint No 27R-16-R6, DEQ agreed to enter into this Informal Resolution Agreement (Agreement). This Agreement is entered into pursuant to the authority granted EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and the EPA regulations found at 40 C.F.R. Parts 5 and 7, and resolves the issues accepted for investigation in EPA Complaint No. 27R-16-R6 and additional concerns identified by EPA.
- D. DEQ is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI, as well as the other federal non-discrimination laws enforced by EPA, and 40 C.F.R. Parts 5 and 7. The activities detailed in Sections III and IV of this Agreement which DEQ has voluntarily agreed to undertake and implement, are in furtherance of this commitment.
- E. This Agreement is entered into by DEQ and the EPA ECRCO.
- F. This Agreement does not constitute an admission by DEQ of a violation of, or a finding of compliance or noncompliance by EPA with, Title VI or 40 C.F.R. Parts 5 and 7.

## **II. BACKGROUND**

- A. EPA acknowledges that EPA issued NPDES Permit AR0001210 to Georgia-Pacific Crossett LLC in 1974, 1986, and 1991. DEQ first issued NPDES Permit AR0001210 to Georgia-Pacific Crossett LLC in 2004. DEQ maintains that it has continued to perform its obligations to monitor Georgia-Pacific Crossett LLC's compliance with its NPDES permit through inspections and reviews of Georgia-Pacific Crossett LLC's discharge monitoring reports.
- B. EPA acknowledges that prior to the acceptance of the subject complaint, EPA initiated enforcement actions against Georgia-Pacific LLC.
  - 1. Under its authority pursuant to the Clean Water Act<sup>1</sup>, on June 23, 2016, EPA entered into an administrative settlement with Georgia-Pacific LLC, a Delaware Company to address the facility's failing to utilize appropriate test procedures and follow Best Management Practices.<sup>2</sup>

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<sup>1</sup> Section 309(g) of the CWA, 33 U.S.C. §1319(g).

<sup>2</sup> United States Environmental Protection Agency, Region 6, Consent Agreement and Final Order, Docket No. CWA-06-2016-1735.

2. Under its authority pursuant to the Resource Conservation and Recovery Act (RCRA),<sup>3</sup> on August 25, 2016, EPA issued a Consent Agreement and Final Order to Georgia-Pacific LLC to address universal waste management practices, to comply with the hazardous waste manifest requirements, and to implement standard operating procedures for hazardous waste determinations.<sup>4</sup>
3. Under its authority pursuant to the Clean Air Act's (CAA) National Emission Standards for Hazardous Air Pollutants,<sup>5</sup> on September 26, 2016, EPA issued an Administrative Compliance Order on Consent to Georgia-Pacific Chemicals LLC due to improper operational performance testing.<sup>6</sup>
4. Under its authority pursuant to the Clean Air Act,<sup>7</sup> on January 9, 2017, EPA issued two (2) Administrative Orders on Consent to Georgia-Pacific LLC Chemicals, and Georgia-Pacific Crossett LLC to address violations of the Clean Air Act Risk Management Program regulations.<sup>8</sup>

C. Between 2014 and 2016, EPA, DEQ, and the Arkansas Department of Health (ADH) participated in community meetings in the City of Crossett, AR to address the following community concerns:

1. Exposure to hydrogen sulfide and overall air quality;
2. Drinking water contamination and the Georgia-Pacific wastewater treatment system;
3. Hazardous waste disposal on Georgia-Pacific property and within the community;
4. Long-term exposure to hazardous chemicals; and

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<sup>3</sup> Section 3008(a) of RCRA, 42 U.S.C. §6928 as amended by the Hazardous and Solid Waste Amendments of 1984; and 40 C.F.R. §§22.13(b) and 22.18(b)(2) and (3).

<sup>4</sup> United States Environmental Protection Agency, Region 6, Consent Agreement and Final Order, USEPA Docket No. RCRA-0602016-0909 entered into by the United States Environmental Protection Agency, Region 6 and Georgia-Pacific LLC located at 100 Mill Supply Road in Crossett, AR.

<sup>5</sup> 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3).

<sup>6</sup> United States Environmental Protection Agency, Region 6, Administrative Compliance Order on Consent, Docket No. CAA-06-2016-3417 issued to Georgia-Pacific LLC located in Crossett, AR.

<sup>7</sup> Section 113(a)(3) of the CAA, 42 U.S.C. §7413(a)(3).

<sup>8</sup> United States Environmental Protection Agency, Region 6, Administrative Compliance Order on Consent, Docket No. CAA 06-2017-3304 and No. CAA 06-2017-3305 entered into by the United States Environmental Protection Agency, Region 6 and Georgia-Pacific LLC (GP Paper and GP Chemical, respectively) located in Crossett, AR.

5. Communication at the local and state levels.<sup>9</sup>

Through the DEQ and ADH partnership, a community action plan was drafted which included action items specific to the City of Crossett, AR.

[https://www.epa.gov/sites/production/files/2017-03/documents/qtrly\\_update\\_ar\\_ej\\_action\\_plan\\_1-26-17.pdf](https://www.epa.gov/sites/production/files/2017-03/documents/qtrly_update_ar_ej_action_plan_1-26-17.pdf).

- D. DEQ's Water Quality Planning Branch manages the State's triennial review of water quality standards, the biennial Integrated Water Quality Monitoring and Assessment Report [CWA § 305(b) Report] and the List of Impaired Waterbodies [CWA § 303(d) List], and its Water Quality Monitoring Networks for surface water and groundwater. DEQ's Water Quality Planning Branch utilizes the data collected from its Water Quality Monitoring Networks for the triennial review of water quality standards, preparation of the CWA § 305(b) Report, establishing priority ranking of total maximum daily loads for impaired waterbodies,<sup>10</sup> developing water quality standards and criteria, evaluating the designated use attainments, and prioritizing restoration and remediation activities.<sup>11</sup>
- E. EPA Complaint No. 27R-16-R6 alleges that NPDES Permit No. AR0001210, issued to Georgia-Pacific Crossett LLC, is not a legal permit because it allows Georgia-Pacific Crossett LLC "to use the upper part of Coffee Creek as an extension of its facility and without meeting Clean Water Act requirements." The complaint states that "[t]he entire length of Coffee Creek from its headwaters to the Ouachita River is a navigable water as defined in the Clean Water Act at 33 U.S.C. § 1362(7) and is a water of the United States as defined in 40 C.F.R. § 122.2." The complaint describes "Coffee Creek" as follows:

[Coffee Creek] flows south from the Georgia Pacific facility approximately three miles to a dammed portion of the creek called Mill Pond. Coffee Creek then flows from the pond approximately another five miles to Mossy Lake. From Mossy Lake, Coffee Creek flows about a half of a mile to the Ouachita River at a point approximately two miles upstream from the Louisiana border.

Since 1973, the state of Arkansas's Water Quality Standards, as approved by EPA beginning in 1980,<sup>12</sup> identify Coffee Creek as a water of the state that does not have primary contact recreation and fishery uses.<sup>13</sup> DEQ acknowledges that there is existing

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<sup>9</sup> Action Plan and Chronology of Activities for the Community of Crossett; Ashley County, Arkansas; October 22, 2014; p. 1

<sup>10</sup> 40 C.F.R. § 130.8

<sup>11</sup> 40 C.F.R. § 130.7

<sup>12</sup> See Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, dated March 27, 2020, <https://www.epa.gov/wqs-tech/water-quality-standards-regulations-arkansas#state>

<sup>13</sup> Arkansas Pollution Control and Ecology Commission, Regulation 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas.

disagreement over whether the water of the state identified as “Coffee Creek” is clearly defined.

- F. On December 14, 2018, contemporaneously with the lodging of a Consent Decree, the United States, on behalf of EPA, and DEQ filed a Complaint in an action against Georgia Pacific Chemicals, and Georgia-Pacific Consumer Operations LLC (Settling Defendants) alleging that they violated Sections 113(b) and 112(r)(1) of the CAA, 42 U.S.C. §§ 7413(b) and 7412(r)(1) as well as Arkansas Code. Annotated §§ 8-4-103 et seq.<sup>14</sup>
- G. On February 7, 2019, EPA, DEQ, and Georgia-Pacific officials met with residents of Crossett, Arkansas for a public meeting to discuss the proposed Consent Decree. About three dozen Crossett residents and other concerned individuals attended.
- H. On June 4, 2019, Georgia-Pacific publicly announced the planned closure of the pulp manufacturing component (“Pulp Mill”), a significant part of the paper manufacturing facility in Crossett and a significant source of pollutant emissions. Because this planned closure would affect Georgia-Pacific’s ability to perform certain obligations under the original Consent Decree, the Parties negotiated the Amended Consent Decree and lodged it with the Court earlier this year. On February 7, 2020, the United States published notice of the Amended Consent Decree (ACD) in the Federal Register, 85 Fed. Reg. 7331 (Feb. 7, 2020).
- I. On May 18, 2020, the ACD was entered into by and between the United States of America, on behalf of the Environmental Protection Agency, DEQ, and the Settling Defendants. The ACD assessed a civil penalty in the sum of \$600,000, requires the facilities to comply with regulations, and implement supplemental environmental projects (SEPs) as outlined in the ACD. “Specifically, under the Amended Consent Decree, with the Permanent Shutdown of the Pulp Mill, Settling Defendants are required to pay civil penalties and perform certain supplemental environmental projects (“SEP”s) to reduce pollutant emissions.”<sup>15, 16</sup>
- J. As is ECRCO’s practice, during the course of this investigation, ECRCO reviewed DEQ’s policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA’s non-discrimination regulation, public participation policies and procedures, as well as required policies and

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<sup>14</sup> *United States, et al. v. Georgia Pac. Chem., et al.*, Case No. 1:18-cv-01076-SOH (W.D. Ark. Dec. 14, 2018); Section I; p. 1.

<sup>15</sup> *United States, et al. v. Georgia Pac. Chem., et al.*, Case 1:18-cv-01076-SOH (W.D. Ark. May 18, 2020); Document 17-2, Page 9 of 24 Page ID #: 258; Section II; p. 5.

<sup>16</sup> A SEP is an environmentally beneficial project that a defendant agrees to undertake in settlement of an enforcement action, but that the defendant is not otherwise legally required to perform. See EPA, Supplemental Environmental Projects Policy (May 5, 1998) (“SEP Policy”), 63 Fed. Reg. 24796, 24797-98 (May 5, 1998). In the ACD, the Settling Defendants agree to provide a long-ladder fire truck to the City of Crossett Fire Department, implement a “Vacuum Pump SEP” to achieve pollution prevention or pollution reduction, and implement an Epichlorohydrin Storage SEP to reduce the potential for pollution and off-site consequences in the event of a spill of Epichlorohydrin from the GP Chemical Facility’s trailer-based storage system.

procedures to ensure continued and meaningful access to DEQ programs and activities for persons with disabilities and limited-English proficiency. During this review, DEQ has, with ECRCO's assistance, continued to enhance its existing policies and procedures. The details of this work will be addressed under a separate process, whereby EPA will provide continued technical assistance to DEQ on its ongoing improvement to its nondiscrimination program.

### III. SPECIFIC DEQ COMMITMENTS

- A. DEQ will respond to EPA's comments on Mossy Lake and Coffee Creek prior to its final submission of Rule 2 to the Arkansas Pollution Control and Ecology Commission for the current water quality standards triennial revisions. DEQ's response will address the reevaluation of appropriate designated uses specific to Coffee Creek and Mossy Lake consistent with the CWA and federal regulations and in compliance with Arkansas law.
- B. As part of DEQ's public participation process for the next interim or triennial review of water quality standards,<sup>17</sup> DEQ will include EPA and a participant to represent the West Crossett community as a member of the triennial review stakeholder work group.<sup>18</sup> DEQ's triennial review stakeholder work group provides a forum for public input on the development of revised water quality standards.
- C. To review Georgia-Pacific Crossett LLC's NPDES compliance status, DEQ will designate a specific task force to review Georgia Pacific's sampling and analysis including a review of the supporting lab results. As is DEQ's current process, DEQ will for two (2) years continue to review all wastewater sampling and analysis performed by Georgia-Pacific Crossett under the requirements of its NPDES permit. During the next twenty-four months, DEQ will request four (4) split samples from Georgia Pacific Crossett LLC to be sent to an accredited lab selected by DEQ and DEQ will witness the sampling event. DEQ will request that two of the four split samples include samples taken from the discharge from Mossy Lake in addition to the discharge from the Aeration Basin. DEQ will post the wastewater sampling analytical results on its website within 60 days of receipt of the analytics.
- D. DEQ will continue to work with ADH's Engineering Division that prepares and submits to EPA an annual report concerning the numbers and types of violations of the Safe Drinking Water Act regulations. ADH makes this report available to the Public through its website. ADH also makes available on its website the annual drinking water quality reports for all public water systems. These reports include

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<sup>17</sup> DEQ's next triennial review is anticipated to begin in or before 2024.

<sup>18</sup> The water quality workgroup is appointed by the Governor of Arkansas. Per the WQ Assessments (<https://www.adeg.state.ar.us/water/planning/integrated/assessment/pdfs/20161011-listening-session-presentation.pdf>), "Stakeholder Members include: Local, State, and Federal Government entities; Industrial, Municipal, and Utility entities; Conservation and Environmental entities, and 30 members invited by the Director." The stakeholder work group meetings are public meetings. Stakeholders are the point of contact. A listserv is used to inform the public/interested parties.

public water systems' reported monitoring data and explanation of contaminants of concerns in accordance with state and federal laws. The water quality data from all five (5) public water systems in the Crossett area can be found on ADH's website. ADH also provides drinking water information for each community public water system in Arkansas. DEQ will assist ADH, as appropriate, and provide a link on DEQ's website to these ADH resources within 60 days of the signing of this Agreement.

- E. DEQ will continue to work to finalize reissuance of the Georgia Pacific Crossett LLC NPDES permit to conform with the requirements of the CWA and federal regulations in concert with EPA (Region 6). If Georgia-Pacific Chemicals LLC and Georgia-Pacific Consumer Operations LLC must obtain federal or state permits for any compliance obligations under the Amended Consent Decree, DEQ will continue to work to finalize the issuance of those permits, as appropriate. DEQ will post the Georgia Pacific Crossett LLC NPDES permit application, and final permit on its website within 60 days of approving the NPDES permit.
- F. It is DEQ's and EPA's understanding that odor reductions, particularly those related to hydrogen sulfide and other sulfur compounds, will continue due to changes to and elimination of certain processes at the facility. DEQ will continue to encourage Georgia-Pacific Crossett LLC to institute BMPs and work with Georgia-Pacific Crossett LLC to authorize changes at the facility that reduce odor. As part of any proposed maintenance or changes at the facility's wastewater treatment system, DEQ will require the Georgia-Pacific Crossett LLC to submit an Odor Management Plan to address odor that could result from that work. DEQ will make that plan available to the public through DEQ's website and provide an opportunity for the community to participate in an informational meeting about the plan.
- G. DEQ will work with the Settling Defendants to implement the May 18, 2020 Amended Consent Decree's injunctive relief and SEPs. DEQ will post the semi-annual progress report on its website within 30 days of receipt.
- H. DEQ will provide periodic updates to the public about (1) the SEPs described in the May 18, 2020 ACD that was entered into by the United States of America, DEQ, and Settling Defendants; (2) the Settling Defendants' compliance status, and (3) any information provided to DEQ by ADH that identifies health concerns for Crossett citizens. DEQ will continue to evaluate, according to their EPA-approved Compliance Monitoring Strategy, the Georgia-Pacific, LLC Crossett, AR facility's industrial processes, management of waste streams, and compliance of permitted operations, conduct appropriate multi-media inspections, and provide updates to the community regarding the facility's environmental performance. DEQ's first update will include information about how the changes at the facility have eliminated many of the sources that could contribute to the odor and air quality concerns expressed by the residents of Crossett. DEQ will submit this first update within 180 days of the signing of this Agreement, and DEQ will present this first update to the community at

the next meeting of the Arkansas Pollution Control and Ecology Commission that occurs after the update has been submitted.

- I. To further promote public engagement during permitting processes, within 180 days of the signing of this Agreement, DEQ will develop an Email List Subscription (hyperlink sign-up function or radio button) for notices related to Georgia-Pacific Crossett LLC to ensure the interested party receives notification in advance of public meetings, and the interested party receives same day notice of the opening of a public comment period and a minimum of 30-days advance notice of any public hearing on any proposed permitting action.
- J. Within 180 days of the signing of this Agreement, DEQ will develop online tutorials on how to access permitting information and monitoring data through its website and on the utilization of the DEQ reporting application for mobile devices.
- K. Within 180 days of signing the Agreement, DEQ will request that the Arkansas Department of Emergency Management (ADEM) facilitate community training and public safety awareness for the City of Crossett, AR. DEQ will request ADEM to coordinate with the City of Crossett to promote the utilization of the Integrated Public Alert & Warning System (IPAWS) [components of IPAWS: Emergency Alert System (EAS), Wireless Emergency Alerts (WEA), and National Oceanic and Atmospheric Administration (NOAA)]. DEQ will provide periodic updates on its activities related to its communication with ADEM.
- L. Within 180 days of the signing of this Agreement, DEQ will request that ADEM help Ashley County to bolster its local emergency planning committee (LEPC). DEQ will provide technical assistance and guidance to Ashley County, as appropriate. DEQ will provide periodic updates on its activities related to its communication with ADEM.
- M. To enhance protections in the community, within 180 days of the signing of this Agreement, DEQ will encourage Georgia-Pacific to work with ADEM and Ashley County through its public/private partnership program to assist with the planning and preparedness for, or mitigate damages resulting from man-made or natural disasters.

#### **IV. GENERAL**

- A. In consideration of DEQ's implementation of commitments and actions described in Section III of this Agreement, EPA will end its investigation of the complaint in EPA Complaint No. 27R-16-R6 and not issue a decision containing findings on the merits of this complaint.
- B. EPA will, upon request, provide technical assistance to DEQ regarding any of the civil rights obligations previously referenced.

- C. Within 60 days of completion, DEQ will document to EPA the completion status of each commitment identified under Section III A-L consistent with the timeframes in Section III A-L by certified mail to the Director, EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
- D. Within 60 days of receipt, ECRCO will review and provide feedback about any documentation submitted by DEQ demonstrating completion of each commitment (*e.g.*, evidence of the development of a notice of non-discrimination designation of the non-discrimination coordinator, development of grievance procedures and LEP plan, etc.) and will provide an assessment as to whether the documentation satisfies the commitment.

## **V. COMPUTATION OF TIME AND NOTICE**

- A. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- B. Service of any documents required by this Agreement will be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
- C. Electronic documents submitted by DEQ to EPA via email will be sent to the following email address: [Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov). Documents submitted by DEQ to EPA shall be sent to the Director, U.S. EPA External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
- D. Documents submitted by EPA to DEQ will be sent to the Director of the Arkansas Department of Environmental Quality at 5301 Northshore Drive; North Little Rock, AR 72118-5317.

## **VI. EFFECT OF THE AGREEMENT**

- A. DEQ understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, DEQ understands that during the monitoring of this Agreement, if necessary, EPA may visit DEQ, interview staff, and request such additional reports or data as are necessary for EPA to determine whether DEQ is fulfilling the terms of this Agreement.
- B. DEQ understands that EPA will continue to monitor this Agreement until EPA determines that DEQ has fully implemented this Agreement, and that a failure to

satisfy any term in this Agreement may result in the EPA re-opening the investigation.

- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to DEQ's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement by the Director of DEQ and the EPA's Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between DEQ and EPA's ECRCO regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by DEQ and EPA's ECRCO in accordance with the provisions of Section VI. Paragraph C above.
- E. This Agreement does not affect DEQ's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's nondiscrimination regulation at 40 C.F.R. Parts 5 and 7, including § 7.85, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Director, in her capacity as an official of DEQ, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The EPA's Director of ECRCO has the authority to enter into this Agreement.

On behalf of the Division of Environmental Quality:

  
\_\_\_\_\_  
Becky W. Keogh, Director  
Division of Environmental Quality

1/05/2021  
(Date)

On behalf of the External Civil Rights Compliance Office, Office of General Counsel, U.S. Environmental Protection Agency:

  
\_\_\_\_\_  
Lilian S. Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel

12/18/2020  
(Date)