UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SETTLEMENT AGREEMENT FOR
ADMINISTRATIVE COMPLAINT NO.
13R-10-R5

I. PURPOSE

A. This Agreement is entered into by the Illinois Environmental Protection Agency (IEPA) and the United States Environmental Protection Agency (USEPA) Office of Civil Rights (OCR) to resolve administrative complaint number 13R-10-R5, which was filed with USEPA on May 5, 2010, by Keith Harley on behalf of South Suburban Citizens Opposed to Polluting our Environment (SS-COPE) pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d et seq. and USEPA's implementing regulations at 40 C.F.R. Part 7. By letter dated July 23, 2010, OCR accepted the complaint for investigation.

B. The parties to this Agreement, IEPA and USEPA, are entering into a settlement, to resolve the identified issues and avoid the burdens and expense of further investigation and possible litigation. The parties' signatures on this document are evidence of their agreement to this settlement.

C. The IEPA is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and USEPA regulations at 40 C.F.R. Part 7. The activities detailed in Paragraphs III.A.1.(a)-(i) of this Agreement, which IEPA has voluntarily agreed to undertake and implement, are in furtherance of this commitment. The Director, in her capacity as an official of IEPA, has the authority to enter into this Agreement for purposes of carrying out the activities listed in the following paragraphs.

II. JURISDICTION

A. Title VI prohibits recipients of Federal financial assistance from conducting their programs or activities in a manner that discriminates on the basis of race, color, or national origin. IEPA is a recipient of financial assistance from USEPA and is subject to the provisions of Title VI and USEPA's implementing regulations.

B. This Agreement is entered into by USEPA pursuant to the authority granted to it under Title VI and its implementing regulations to investigate administrative complaints alleging discrimination by recipients of USEPA financial assistance and to resolve such complaints using voluntary, non-adversarial means.

III. SPECIFIC COMMITMENTS

A. IEPA voluntarily agrees to undertake the following specific commitments with respect to permitting, public participation, and environmental justice.

1. IEPA will expand the scope of its Environmental Justice Public Participation Policy (EJ PPP), as well as the activities conducted pursuant to the EJ PPP as follows:

   a) Within (180) days of the effective date of this settlement, IEPA will revise its EJ PPP so that permitting activities in areas identified as potential EJ communities will be given an appropriate level of outreach as described below. IEPA will identify potential EJ communities using best available screening methods, which includes IEPA demographic criteria prior to any permitting activity as described in paragraph b). The Illinois EPA will implement the revised EJ PPP within (30) days of said revision.

   b) The revised EJ PPP shall provide for notice to the public (e.g., posting to the IEPA website, letter to community and EJ leaders, etc.) for proposed construction or operating permits that are non-administrative in nature and where the source has been issued a Violation Notice by the IEPA for any violation classified as a "High Priority Violation" under USEPA's guidance within the two years immediately preceding the proposed permit. If there is specific public interest in response to the aforementioned notice to the public, the IEPA will conduct appropriate public outreach as necessary to assure nondiscriminatory public participation in review and comment on the proposed permit, such as – but not limited to – providing a public hearing, public availability session or public meeting.

   c) Within (180) days of the effective date of this agreement, IEPA will post information on its website concerning grievances received pursuant to IEPA's EJ Grievance Procedure and the IEPA's response.

   d) Within 1 year of the effective date of this settlement, IEPA will complete the redesign of its online permit tracking system webpage to further facilitate the implementation of the EJ PPP. IEPA shall create a system that will identify all projects in potential EJ communities and notify IEPA's EJ Officer who will determine the appropriate outreach activities.

   e) By September 1, 2013, IEPA shall submit to USEPA and USEPA Region 5, an Interim Status Report that includes its progress relative to each term included within this settlement. The Interim Status Report shall state with specificity all actions/steps that IEPA has taken to address section III.A.1. of this agreement, associated dates, and all relevant supplemental materials

and references indicating the status with this agreement (e.g., examples of public notice and public hearings, revised EJ PPP, etc).

f) Within (60) days of USEPA's receipt of the Interim Report, the USEPA will review the Interim Report and provide any recommendations to IEPA.

g) Within (90) days of IEPA's receipt of any USEPA recommendations, IEPA shall implement USEPA recommendations, or present to USEPA IEPA's alternative options for complying with the agreement, or provide a written explanation for why USEPA's recommendations are not necessary for IEPA to comply with the settlement agreement.

h) On or before the date which is 1 year from the signing of this agreement by both parties, IEPA shall submit to USEPA and USEPA Region 5 its Final Report. The Final Report shall include IEPA's progress in meeting each term set forth in this settlement. The Final Report shall state with specificity all actions/steps that IEPA has taken to address section III.A.1. of this agreement, associated dates, and all relevant supplemental materials and references indicating the status with this agreement. IEPA may have one extension to submit this report if necessary to accomplish the tasks set forth in this settlement agreement, but such extension shall not exceed (60) days from the Final Report deadline.

i) Once IEPA believes it has satisfied all terms and conditions of this Agreement and has submitted all necessary documentation, it shall submit a letter to the Director of OCR so stating. USEPA shall provide, within (60) days of receipt of IEPA's letter, written notice to IEPA of whether IEPA has or has not satisfied all terms and conditions of this Agreement. This Agreement shall be considered complete upon USEPA's written notice to IEPA that all terms and conditions of this Agreement have been satisfied or, if USEPA fails to respond to the letter, (90) days after USEPA received the letter.

IV. EFFECT OF AGREEMENT

A. This Agreement does not constitute an admission by IEPA or a finding by USEPA of any violations of 40 C.F.R. Part 7 with regard to the complainants' allegations. The effect of this Agreement is to memorialize IEPA's commitment to resolve the issues raised in administrative complaint number 13R-10-R5.

B. In consideration of IEPA's implementation of, and adherence to, the provisions of this Agreement, USEPA will close administrative complaint number 13R-10-R5. USEPA retains the right to accept and investigate any future Title VI complaints alleging discriminatory acts not contained in administrative complaint number 13R-10-R5 with respect to IEPA's programs or activities.

C. If either IEPA or USEPA desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to IEPA's or USEPA'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 IEPA and the Director of OCR at USEPA.

D. This Agreement constitutes the entire Agreement between IEPA and USEPA 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 IEPA and the USEPA. Additionally, this Agreement is a public document. A copy of this Agreement and any information contained in it may be made available to any person by IEPA or USEPA on request under the Freedom of Information Act or otherwise.

E. If USEPA determines that IEPA has not satisfied a term or condition of this Agreement, or if a submission provided by IEPA under this Agreement lacks sufficient detail for USEPA to make the determination, USEPA shall promptly notify IEPA of that determination in writing. If the parties are unable to reach a mutually agreeable resolution regarding USEPA's determination, USEPA may reinstitute its administrative process consistent with 40 C.F.R. Part 7.

F. This Agreement does not affect IEPA's continuing responsibility to comply with Title VI of the Civil Rights Act of 1964 and USEPA's implementing regulations, nor does it affect USEPA's responsibility to investigate any allegations in Title VI complaints against IEPA other than those addressed herein. Furthermore, this Agreement does not address any matter not specifically covered by the terms of this Agreement, nor does it constitute a finding that the actions to be taken herein by themselves will absolve IEPA from further actions to ensure compliance with Title VI or 40 C.F.R. Part 7.

The effective date of this Agreement is the date on which the parties affix their signatures below. This Agreement may be signed in counterparts. The Director of IEPA and the Director of OCR at USEPA have the authority to enter into this Agreement on behalf of their agencies.

V. CONTACTS

For purposes of this settlement the points of contact for IEPA and USEPA are listed as follows:

IEPA

Chris Pressnall
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
chris.pressnall@illinois.gov

USEPA

Helena Wooden-Aguilar
Assistant Director
USEPA-OCR (External Civil Rights)
(Mail Code 1201A), 1200 Pennsylvania Avenue N.W.,
Washington D.C. 20460
(202) 564-0792
wooden-aguilar.helena@epa.gov

VI. NOTICE

Where notice is required by this Settlement, by certified mail, each signatory to this settlement should use the following address for:

IEPA

Director Lisa Bonnett
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217)782-3397

FOR EPA

Acting Director, USEPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460

And

Director, USEPA Region 5 Office of Enforcement and Compliance Assurance (OECA)(Mail Code E-19J), 77 West Jackson Boulevard, Chicago, Ill. 60604

SIGNATURES

On behalf of the Illinois Environmental Protection Agency,

Lisa Bonnett 4/4/13

Lisa Bonnett Date

On behalf of the U.S. Environmental Protection Agency,

4/18/13

Vicki Simons, Acting Director Date
Office of Civil Rights