



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

September 9, 2016

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 3141

**In Reply Refer to:**

EPA File No.: TA16-R4-003

Mr. Michael Scott  
Director  
North Carolina Department of Environmental Quality  
Division of Waste Management  
1646 Mail Service Center  
Raleigh, NC 27699-1646

Re: Sutton Duke Energy Complex Study

Dear Mr. Scott:

The U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), received your request to review the Sutton Duke Energy Complex study dated June 17, 2016. OCR is responsible for enforcing several civil rights laws which, together, prohibit discrimination on the basis of race, color, or national origin (including on the basis of limited-English proficiency); sex; disability; and age by applicants for and recipients of federal financial assistance from EPA.<sup>1</sup> OCR is also responsible for enforcing Section 13 of the Federal Water Pollution Control Act Amendments of 1972 which prohibits discrimination based on sex under programs or activities receiving financial assistance under the Clean Water Act.

We appreciate your reaching out to OCR as you develop your protocol and guidance for reviewing facilities of this nature consistent with your civil rights responsibilities as recipients of financial assistance from EPA. OCR is pleased to offer technical assistance to NC DEQ regarding further development of your civil rights non-discrimination program, especially as it relates to the development of the foundational procedural elements required under EPA's non-discrimination regulation (non-discrimination grievance procedure, coordinator, notice, etc.), and other critical requirements necessary to ensure meaningful access to all of your programs and activities for persons with limited English proficiency and persons with disabilities. However, outside the context of an open civil rights complaint or compliance review investigation, OCR does not provide review and/or comment on any civil rights or environmental justice impact statements, studies, or other evaluations, such as the review and/or comment you request per your June 17, 2016, letter.

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<sup>1</sup>Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, respectively.

A robust and meaningful public engagement process for this project and others, along with a non-discrimination program that provides avenues for the public to raise concerns or allegations of discrimination directly to NC DEQ will provide your department the ability to work with communities to resolve issues and concerns as the project moves forward. Hopefully, NC DEQ's work to identify and address community concerns will obviate the need for communities to file complaints with OCR. Should the Sutton project go forward and a discrimination complaint that meets EPA's jurisdictional criteria be filed with EPA, OCR will look into the specific facts and circumstances of that case at that time in accordance with OCR's Interim Case Resolution Manual.<sup>2</sup>

EPA's Office of Environmental Justice and the EPA Region 4 Office of Environmental Justice and Sustainability (OEJS) acknowledge NC DEQ's extensive use of our environmental justice screening tool, EJSCREEN. In addition to our offer of technical assistance regarding your civil rights program, we are pleased to also offer assistance in furthering NC DEQ's deeper understanding and use of this tool. Additionally, the OEJS has worked with other Region 4 states to develop state-wide environmental justice programs. They are available to consult with NC DEQ about furthering consideration and implementation of environmental justice in the state environmental programs. NC DEQ's participation in the bi-monthly Region 4 State Environmental Justice Coordinator teleconferences will continue to provide opportunities to share information between the region and the states.

OCR would be happy to convene a meeting with you and our other EPA colleagues to discuss any questions you might have. At your convenience, please contact OCR so that we may be able to coordinate our partners and schedule a meeting to discuss this meeting. If you have any questions, please feel free to contact Kurt Temple, Senior Advisor, at (202) 564-7299, or by e-mail at [temple.kurt@epa.gov](mailto:temple.kurt@epa.gov), or me at (202) 564-9649, or by e-mail at [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov).

Sincerely,



Lilian S. Dorka  
Acting Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

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<sup>2</sup>Interim Case Resolution Manual (December 1, 2015), Chapter 2, Section 2.4 – 2.6.  
[https://www.epa.gov/sites/production/files/2015-12/documents/ocr\\_crm\\_final.pdf](https://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf)

Matthew Tejada  
Director  
U.S. EPA Office of Environmental Justice

Kenneth Lapierre  
Assistant Regional Administrator  
Deputy Civil Rights Official  
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