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Title VI Civil Rights Complaint/Port Arthur, Texas, Petroleum Coke Production Facility: U.S. Environmental Protection Agency Acceptance of Administrative Complaint

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The United States Environmental Protection Agency (“EPA”) accepted pursuant to an October 15th letter an Administrative Complaint filed against the Texas Commission on Environmental Quality (“TCEQ”) by Lone Star Legal Aid (“Lone Star”) and the Environmental Integrity Project (collectively “EIP”).

The letter was transmitted by EPA’s External Civil Rights Compliance Office (“ECRCO”).

EIP had submitted an August 18th Title VI Civil Rights Act of 1964 (“Title VI”) Complaint to EPA on behalf of the Port Arthur Community Action Network. The Complaint addressed the Oxbow Calcining, LLC (“Oxbow”), anode/industrial calcined petroleum coke production facility in Port Arthur, Texas.

The focus of the Complaint of TCEQ’s issuance/renewal of a Title V Federal Operating Permit for the facility. EPA alleged that the permit was issued without an adequate Clean Air Act New Source Review.

EIP alleged that the facility is directly adjacent to the West Port Arthur neighborhood. The neighborhood was described as a low-income, minority neighborhood subject to high levels of air pollution from nearby major industrial facilities.

The issuance of the Title V Federal Operating Permit was alleged to violate Title VI causing disparate impacts to residents of the neighborhood based on race and the allowance of exceedances to the National Ambient Air Quality Standards for SO₂. EIP asked that EPA investigate whether TCEQ violated and/or continues to violate Title VI through its actions approving the renewal of the Oxbow federal operating permit.

EPA states that pursuant to its nondiscrimination regulation it conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate federal agency. To be accepted for investigation a complaint is stated by the agency to need to meet jurisdictional requirements which include:

- A complaint must be in writing
- An alleged discriminatory act must violate EPA’s nondiscrimination regulation
- The complaint must be filed within 180 days of the alleged discriminatory act

- The complaint must be filed against an applicant for, or recipient of EPA financial assistance that allegedly committed the discriminatory act

EPA identifies in the October 15th letter the various jurisdictional requirements and states that they have been met by the allegations in the Complaint. As a result, it states that ECRCO will investigate the following issues:

Whether TCEQ discriminated in violation of Title VI and EPA's regulation at 40 C.F.R. Part 7 by using methods of administering a program, with respect to its oversight of Oxbow Calcining, LLC, with the effect of subjecting individuals to discrimination or defeating or substantially impairing the objectives of the program or activity on the basis of race.

EPA notes that the initiation of an investigation is not a decision on the merits. It characterizes ECRCO as a neutral fact finder which will begin its process to:

- Gather the relevant information
- Discuss the matter with EIP and TCEQ
- Determine next steps utilizing ECRCO's internal procedures

A copy of the letter can be downloaded [here](#).