

## **CLASS ACTION NOTICE**

Date: August 29, 2008

From: Karen Higginbotham *Karen D. Higginbotham*  
Director  
Office of Civil Rights  
United States Environmental Protection Agency

Subject: Notice of Class Action: *Carol A. Clopton, et. al v. Stephen L. Johnson, Administrator, United States Environmental Protection Agency*, EEOC Case No. 280-A0-04324X

To: Potential Class Members

### **Introduction**

On January 9, 2007, the United States Equal Employment Opportunity Commission, Office of Federal Operations denied the United States Environmental Protection Agency's request for reconsideration of the decision in *Carol A. Clopton v. Environmental Protection Agency*, EEOC Appeal No. 01A62246 (October 12, 2006). EEOC Request No. 0520070139 (January 9, 2007). The decision denying the request for reconsideration requires the United States Environmental Protection Agency to notify potential class members of the United States Equal Employment Opportunity Commission's acceptance of the class complaint in accordance with 29 C.F.R. Section 1614.204(e).

### **Receipt Of This Notice**

You received this notice because you are a potential member of the class in the class complaint identified above which is now pending in the St. Louis District Office of the United States Equal Employment Opportunity Commission ("Commission") and which is captioned *Carol A. Clopton et. al v. Stephen L. Johnson, Administrator, United States Environmental Protection Agency*, EEOC Case No. 280-A0-04324X.

### **Description of the Class and Issues**

The class was certified by an Administrative Judge of the Commission as all current and former employees of Region 7 of the United States Environmental Protection Agency ("Agency") who were employed at any time during the period May 11, 1998 to August 31, 2007, and who were at least 40 years of age when so employed (including a subset of Agency Black employees who were at least 40 years of age when so employed). The Administrative Judge also found that the issues to be determined are whether the Agency discriminated against the class members (a) when they allegedly were not offered, because of their age (or race and age) rotational assignment opportunities provided to

newly-hired younger employees (which newly-hired younger employees were allegedly not required to backfill their positions while on assignments) and (b) when, allegedly as a result of not participating in these rotational assignments, the Agency provided an undue advantage to the newly-hired younger employees in such areas as promotions, accelerated leave accumulation, within-grade step increases “out of time” and placement in higher leave earning categories without having to meet tenure requirements. A copy of the Administrative Judge’s Order, dated February 11, 2008, is attached to this notice.

### **The Binding Nature of the Class Complaint**

Class members are not permitted by the Commission’s regulations to “opt out” of the defined class; therefore, these class proceedings are binding on you. You do not have to file a claim or do anything else at this time to remain eligible to receive monetary and/or other relief should there be a decision that discrimination did occur or if there is a settlement. Class members may, but do not have to, participate in the litigation. Class members will receive notice of any proposed settlement and will have the opportunity to object to any proposed settlement. If there is a finding that discrimination did occur, class members will have the opportunity to file claims for individual relief.

### **The Class Agents**

The Class Agents are Carol A. Clopton and Emajo Mayberry.

### **The Class Representative**

The attorney for the Class Agents and the Class is as follows:

Steven M. Spiegel, Esq.  
3917 Keller Avenue  
Alexandria, VA 22302-1817  
Tel: (703) 998-6780  
E-Mail: [sspiegel@spiegellaw.com](mailto:sspiegel@spiegellaw.com)

### **Where To Direct Questions**

Questions concerning this notice and/or the class complaint should be directed to the attorney for the Class Agents and Class at the addresses and/or telephone number listed above.

### **Retaliation Is Prohibited By Law**

The law prohibits the Agency from retaliating against any current or former employee who opposes any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended (“Title VII”) or the Age Discrimination in Employment Act, as amended (“ADEA”), or for participating in any stage of administrative or judicial proceeding under Title VII or ADEA including these class action proceedings.