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

MAR 14 2008

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail #7004-1160-0002-3622-7168

In Reply Refer to:
EPA File No. 12R-06-R9

Re: Partial Acceptance of Administrative Complaint

Dear Complainant:

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) on August 14, 2006. Your complaint alleged that the Southern California Gas Company (SCGC) violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. OCR is partially rejecting and partially accepting your complaint for investigation.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that would violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, gender, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA assistance that committed the alleged discriminatory act. 40 C.F.R. § 7.15. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

For the reasons listed below, OCR is accepting the complaint in part, and rejecting it in part. Please note that OCR must reject any allegations concerning discrimination against low income populations because neither Title VI nor EPA's nondiscrimination regulations address such groups.

Complaint Allegations

1. SCSG committed discriminatory acts against Hispanic residents of South El Monte, California in August 2004 by dumping contaminated water in their neighborhood.

Your complaint alleges that SCGC committed a discriminatory act against the low income Hispanic residents of South Monte, California by dumping contaminated water in their neighborhood in mid-August 2004. A complaint must be filed no later than 180 days after the date of the alleged discriminatory act. The alleged discriminatory act described in this allegation occurred more than 180 days before the August 14, 2006, filing of this complaint.

Further, as stated earlier, a complaint must be filed against an applicant for, or a recipient of, EPA assistance to be accepted for investigation. SCGC does not receive EPA assistance.

Finally, EPA regulations state that a person who believes that he or she has been discriminated against may file a complaint. The complaint may also be filed by an authorized representative of a person who has experienced discrimination. Your complaint did not state that you experienced discrimination by the alleged dumping, nor did your complaint state that the Hispanic residents of South Monte, California authorized you to represent them in this matter.

Because this allegation does not meet the jurisdictional requirements in EPA's nondiscrimination regulations, OCR cannot accept this allegation for investigation.

2. SCGC retaliated against you during a February 2006 training.

Your complaint states that during an SCGC training held February 27 – 28, 2006, you were "glared at, spoken over, repressed" and "reprimanded" for raising concerns about the August 2004 incidents in South El Monte described in your complaint.

This allegation is accepted for investigation because it meets EPA's jurisdictional requirements. First, the complaint is in writing. Second, the complaint states an alleged discriminatory act that could violate EPA's nondiscrimination regulations (*e.g.*, intimidation and retaliation). Third, the alleged retaliation occurred within 180 days of the filing of this complaint. Finally, EPA's nondiscrimination regulations prohibit any applicant, recipient, <u>or other person</u> from intimidating, threatening, coercing, or discriminating against any individual or group. 40 C.F.R. § 7.100. Since retaliation complaints can be filed against a party who is neither an applicant for nor a recipient of EPA assistance, this allegation is accepted for investigation.

Pursuant to EPA's Title VI regulations, SCGC may either respond to the complaint in writing within 30 calendar days of receiving this notice, or wait until OCR notifies SCGC of any preliminary findings of noncompliance.

Additionally, EPA's nondiscrimination regulations provide that OCR must attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR may discuss, at any point during the process, offers to resolve the complaint informally, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders.

Finally, on August 14, 2007, OCR provided you with a consent/release form, via certified mail, that requested your permission to provide the recipient with an unredacted version of your complaint (which includes your name). As of the date of this letter, you have not returned the completed consent/release form. Since OCR will investigate whether SCGC retaliated against you based on statements you made during a February 2006 training, it may become necessary for OCR to reveal your identity to persons at the Southern California Gas Company to effectively investigate this allegation. OCR respects your confidentiality as a complainant, and if you should elect to remain anonymous, we will make every effort to conduct a thorough investigation without revealing your identity. However, please be mindful that should the investigation of your complaint be impeded due to the lack of your consent for us to discuss any aspect of this case which may identify you as the complainant, EPA may have to close the investigation.

Attached is another copy of the consent/release form. Please read the enclosed consent/release form, as well as the information about your rights and protections. Please complete the consent/release form and return it to the address below within ten (10) calendar days of your receipt of this letter.

If you have any questions, please contact Anthony Napoli of my staff via Federal Relay Service 800-877-8337, and provide the relay operator his telephone number 202-233-0652. He may also be reached via electronic mail at Napoli.Anthony@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460-1000.

Sincerely,

Karen D. Higginbotham
Director

Enclosures

cc: Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office
Office of General Counsel (2399A)

Jo Ann Asami, Title VI Coordinator
EPA Region 9

Debra L. Reed, President/CEO
Southern California Gas Company
555 West 5th Street
Suite 1400
Los Angeles, CA 90013