



OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

June 28, 2024

In Reply Refer to:

EPA Complaint No. 11R-23-R4

Rick Dolan
Director
Florida Department of Agriculture and Consumer Services
Florida Forest Service
3125 Conner Boulevard
Tallahassee, FL 32399-1650
FFSsupport@FDACS.gov

RE: Rejection Without Prejudice of Administrative Complaint

Dear Director Dolan:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice & External Civil Rights, Office of External Civil Rights Compliance (OECRC), is rejecting for investigation the administrative complaint (Complaint) involving the Florida Forest Service (FFS), which was received by the EPA on August 25, 2023.¹ The Complaint alleges that FFS discriminated against the predominantly Black Communities of Belle Glades, Pahokee, and South Bay, Florida (collectively the Glades Communities) on the basis of race in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.*, and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7. Specifically, the Complaint alleges that FFS maintains and implements a policy and practice of authorizing more requests for sugarcane field burns when the wind is blowing toward the predominantly Black Glades Communities and denying more burn requests when the wind is blowing toward the predominantly White communities of Wellington, Westlake, and Royal Palm Beach.

Pursuant to EPA's nondiscrimination regulation, EPA's OECRC conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. See 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 regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. See 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an

¹ The Complaint was filed simultaneously with the U.S. Department of Agriculture (USDA). Complainants also requested that the U.S. Department of Justice (DOJ) serve a coordinating role in an investigation of the Complaint.

applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

In general, OECRC will accept, reject, or refer a complaint after considering the four jurisdictional factors discussed above. However, if OECRC obtains information leading OECRC to conclude that an investigation is unjustified for prudential reasons, OECRC may reject the complaint.²

After careful consideration, OECRC is rejecting without prejudice EPA Complaint No. 11R-23-R4 for prudential reasons. The same allegations have been filed with the U.S. Department of Agriculture (USDA). The allegations in the Complaint involve pre-harvest sugarcane burning, an agricultural practice. It is our understanding that USDA uses a comparable resolution process for nondiscrimination complaints. To OECRC's knowledge, the Complaint is still pending with USDA. Accordingly, to avoid potential duplication of efforts, OECRC is closing this matter administratively as of the date of this letter.

This Complaint rejection is *without prejudice*. If USDA does not accept the Complaint for investigation, the Complaint may be re-filed with OECRC within 60 days of receiving notification of USDA's jurisdictional determination.³ If the complaint is re-filed, OECRC will conduct a new preliminary review to determine whether to accept, reject, or refer.⁴

EPA's nondiscrimination regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. See 40 C.F.R. § 7.100. Any individual alleging such retaliation or intimidation may file a complaint with OECRC.

If you have any questions, please contact me at (202) 564-3357, or by email at wilson.adam@epa.gov. You may also contact Nell Cormack, Case Manager, at (202) 565-2242, or by email at cormack.nell@epa.gov.

² See OECRC Case Resolution Manual, Section 1.8, pp. 10-12, available at: https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

³ See *id.*

⁴ *Id.* at 11.

Sincerely,

Adam Wilson
Acting Deputy Director
Office of External Civil Rights Compliance
Office of Environmental Justice & External Civil Rights

cc: Ariadne Goerke
Deputy Associate General Counsel
Civil Rights & Finance Law Office

César Zapata
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