



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

JAN 10 2013

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

Certified Mail# (b)(6) Privacy, (b)(7)(C) Enf. Privacy

In Reply Refer to:

EPA File No.: 11R-12-R6

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

Director
Family Area Ministry & Education
(b)(6) Privacy, (b)(7)(C) Enf. Privacy
De Berry, TX 75639 (b)(6) Privacy, (b)(7)(C) Enf. Privacy

Re: Partial Rejection of Administrative Complaint and Request for Clarification

Dear (b)(6) Privacy, (b)(7)(C) Enf. Privacy

This letter is in response to your administrative complaint filed with the U.S. Department of Housing and Urban Development on June 24, 2011, and subsequently referred to the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) on July 13, 2012. Your complaint alleges that the Texas Railroad Commission discriminated against the African American community of Panola County, Texas. Specifically, you allege that your community has suffered discrimination because: (1) the Texas Railroad Commission permitted EXCO Resources, Inc., to operate a commercial Saltwater Waste Disposal site in Panola County; and, (2) the Texas Railroad Commission has been negligent in enforcing regulatory standards at disposal sites in your community. OCR understands your letter to allege a violation of 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.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of complaints 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. Second, it must describe an alleged discriminatory act that, if true, would violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, age, sex, or disability). Third, the complaint must be filed against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. Finally, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120(b).

After careful review, OCR is rejecting your first allegation concerning the Texas Railroad Commission's permitting decision due to issues relating to timeliness. You allege that the Texas Railroad Commission discriminated against the African American community in Panola County, Texas, by approving a permit to EXCO Resources, Inc. for a commercial Saltwater Waste Disposal site. Allegations under Title VI are considered timely, if filed within 180 days of the alleged discriminatory act. The latest date the 180-day timeframe could start for your complaint occurred on October 12, 2010, the date that the Texas Railroad Commission denied the Complainant's Motion for Rehearing of the Commission's granting of an Application for an Amended Commercial Permit to Dispose of Oil and Gas Waste by Injection. As mentioned above, your complaint was filed on June 24, 2011, which is outside of the 180-day filing requirement. Since you did not describe any discriminatory act relating to the permitting decision that occurred within 180 days of the filing of your complaint, OCR must reject the allegation for investigation.

OCR is not able to find sufficient information in your complaint, or the accompanying affidavit, to conduct a preliminary review of your second allegation that the Texas Railroad Commission discriminated against African Americans in Panola County by failing to enforce regulatory standards at disposal sites in your community. If you provide OCR with information on specific actions and dates relating to the alleged failure to enforce, OCR will conduct a preliminary review of your complaint to determine whether it may be accepted for investigation. If OCR does not receive this information within 15 days of receipt of this letter, OCR will reject this allegation. It appears that the allegation as written in your complaint may be addressed by EPA enforcement personnel in Region 6. Therefore, if OCR does not receive information from you on specific actions and dates relating to the alleged failure to enforce, OCR will refer this complaint to EPA Region 6 enforcement officers for review and action.

If you have any questions, please contact Samuel Peterson of OCR's External Compliance Program by telephone at (202) 564-5393, via e-mail at peterson.samuel@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, DC, 20460-1000.

Sincerely,


Rafael DeLeon
Director

cc: Barry Smitherman
Chairman
Railroad Commission of Texas
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