



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

January 25, 2016

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED

Certified Mail #: 7015 0640 0006 0305 7114

In Reply Refer To:

EPA File No: 11R-12-R6

Mr. Lindil Fowler
Acting Executive Director
Texas Railroad Commission
1700 North Congress Avenue
Austin, Texas 78711-1496

Re: Rejection of Administrative Complaint

Dear Mr. Fowler:

Please be advised of the rejection of an 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. The complaint is rejected as of the date of this letter.

The subject complaint alleged discrimination on the basis of race (i.e., African American) by the Texas Railroad Commission due to its approval of an amended permit for a Salt Water Waste Disposal Well near the complainant's home. After careful consideration, the OCR rejected the complaint for investigation because the two allegations therein were untimely filed and did not meet the jurisdictional requirements described in EPA's nondiscrimination regulations. 40 Code of Federal Regulations (C.F.R.), Part 7.

Pursuant to the EPA's nondiscrimination regulations, the OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d) (1). For a complaint to be accepted for investigation, the complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b) (1). Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *See* 40 C.F.R. § 7.120(b) (1). Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b) (2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

The Allegations

The complaint alleged that the Texas Railroad Commission (TRRC) discriminated against the African American community of Panola County, Texas. Specifically, the complainant alleged that the African American community suffered discrimination because: (1) TRRC permitted EXCO Resources, Inc. to operate a commercial Saltwater Waste Disposal site in Panola County; and (2) TRRC had been negligent in enforcing regulatory standards at disposal sites in the African American community.

Allegation (1)

In a letter to the complainant dated January 10, 2013, the OCR rejected the first allegation concerning TRRC's permitting decision due to timeliness. The TRRC denied the complainant's motion for rehearing of the granting of the permit application on October 12, 2010. The complaint was not filed until June 24, 2011. Because the complaint did not describe a discriminatory act that occurred within 180 days of the filing of the complaint, OCR rejected the referenced allegation.

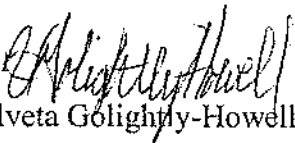
Allegation (2)

In the letter referenced above, the OCR also explained it was not able to identify sufficient information in the complaint, or the accompanying affidavit, to conduct a preliminary review of the second allegation that TRRC discriminated against African Americans in Panola County by failing to enforce regulatory standards at disposal sites in their community, and requested that the complainant submit additional information to support that allegation.

In response to the OCR's request, the complainant forwarded a letter that had been submitted to the EPA Regional Office in Dallas, Texas, on February 19, 2013. The forwarded letter alleged, as the second discriminatory act, that a faulty Superfund assessment was conducted on December 4, 2010. Allegations under Title VI are considered timely if filed within 180 days of the alleged discriminatory act. The complaint was filed on June 24, 2011, which is outside of the 180-day filing requirement for the alleged trigger event conducted on December 4, 2010. As the complainant did not provide any information relating to an alleged discriminatory action that occurred within 180 days of filing the complaint, the OCR also rejected the second allegation for investigation.

If you have any questions, please contact Samuel Peterson of the OCR's External Compliance Program by telephone at (202) 564-5393, or by e-mail at peterson.samuel@epa.gov.

Sincerely,


Velveta Golightly-Howell
Director
Office of General Council

cc: Elise Packard
Associate General Counsel
Civil Rights and Finance Law Office

Samuel Coleman
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 6