



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

MAY 24 2011

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

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

In Reply Refer to:

EPA File No. 25Sr-10-R3

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

Manheim, PA 17545

Re: Rejection of Administrative Complaint

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

This letter is in response to your administrative complaint filed with the White House on September 30, 2010, and subsequently referred to the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) by the U.S. Department of Justice (DOJ) on December 20, 2010. Your complaint alleges that the Rapho Township of Pennsylvania (Rapho), Lancaster County Conservation District (LCCD) and the U.S. Department of Agriculture's Natural Resources and Conservation Service (NRCS), discriminated against you based on your sex and subjected you to unlawful retaliation, in violation of Section 13 of the Federal Water Pollution Control Act Amendments of 1972 and EPA's implementing regulations.

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

After careful consideration, for the reasons explained below, OCR cannot accept your complaint for investigation because it does not meet all of the jurisdictional requirements described in EPA's nondiscrimination regulations.

Your complaint states that the government entities named in your complaint (Rapho, LCCD, and NRCS) discriminated against you based on your sex. Specifically, that as a female land owner, the government officials treated you differently and you were subjected to a different set of rules and standards than the adjoining land owners. You also allege that the government officials intimidated and retaliated against you.

LCCD and Rapho Township do not receive EPA financial assistance and therefore, are not EPA recipients. In addition, you did not allege any discriminatory acts by these entities within the 180 day period of filing this complaint. This is the time period in which the alleged discriminatory act would have had to occur to make your complaint timely. Moreover, while you assert that LCCD retaliated against you for filing a grievance with PDEP, OCR has determined that the filing of the grievance was not protected activity for purposes of EPA's implementing regulations because the grievance did not allege any discriminatory act.

Your complaint also names NRCS as an alleged discriminator. NRCS is a component of the U.S. Department of Agriculture. As stated above, a complaint must be filed against a recipient of EPA financial assistance that allegedly committed the discriminatory act. Title VI does not apply to the Federal government. Therefore, NRCS cannot be considered a "recipient" within the meaning of Title VI and its implementing regulations.

If you have any questions about this dismissal, please contact Anthony Napoli of the OCR External Compliance and Complaints Program via Federal Relay Service 866-377-8642, and provide the relay operator his telephone number 202-564-0728. 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,

A handwritten signature in black ink that reads "Rafael DeLeon". The signature is fluid and cursive, with the first name "Rafael" and last name "DeLeon" clearly distinguishable.

Rafael DeLeon
Director

Enclosure

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

Cynthia Burrows, EEO Officer
Region 3

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