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

CERTIFIED MAIL # 7000 1530 0006 1714 1358
RETURN RECEIPT REQUESTED

In Reply Refer to:
EPA File No:3R-01-R4

[redacted]
P.O. Box 3
Meigs, Georgia 31765-0003

Re: Letter of Rejection

Dear [redacted]

On December 16, 2000, you filed a complaint with the U.S. Environmental Protection Agency, Region 4. Region 4 referred your complaint to EPA's Office of Civil Rights, on March 5, 2001. The complaint alleges violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 by the EPA, Georgia Department of Natural Resources Environmental Protection Division, Thomas County Board of Commissioners, and the Scruggs Asphalt Company. The purpose of this letter is to inform you that your complaint has been rejected by EPA.

Under Title VI, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). A complaint must meet the jurisdictional requirements described in EPA's Title VI regulations for investigations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120. EPA considers a complaint filed on the date it is received by EPA, or by another Federal agency. Fourth, because EPA's Title VI regulations only apply to applicants and recipients of EPA assistance, the complaint must identify an applicant or recipient of EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

Your complaint does not meet all of the jurisdictional requirements in 40 C.F.R. Part 7. Specifically, the alleged discriminatory act was not committed by a recipient of EPA funding. In addition, your complaint was not timely filed.

EPA has thoroughly searched its databases and has determined that neither the Scruggs Company nor the Thomas County Board of Commissioners are recipients of EPA funding. Based on these facts, your complaint is rejected as to those two entities.

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Even if the Scruggs Company and the Thomas County Board of Commissioners were recipients of EPA funding, your complaint would be rejected based on its untimely filing. As mentioned to you previously in a telephone conversation with Yasmin Yorker on March 12, 2001, your complaint was filed late. Your complaint was filed on December 16, 2000, with EPA's Region 4. The permit on which you premise your complaint was granted to the Scruggs Company on March 15, 2000. This date is more than 180 days from the date on which you filed your complaint. You argue in your Addendum to Original Complaint dated March 14, 2001, that the date on which the timeliness of the complaint should be based is November 1, 2000, the date on which Scruggs Company fire tested its stacks. However, the fire testing of the stacks is not an act of a recipient, so it cannot form the basis for a Title VI complaint. In addition, you also state that the use of the plant is an on-going violation. In order for a continuing violation to be timely, there has to be a discrete, documented act or omission by a recipient of federal funds within 180 days of the filing of a complaint. The on-going use of the plant does not qualify as a discrete act by a recipient. Therefore, your allegations against the Scruggs Company and Thomas County Board of Commissioners do not meet either the recipient or the timeliness requirement and, are rejected.

Your allegation against the GDNR is also rejected. Title VI and Part 7 only apply to the programs and activities of a recipient. The permit on which you premise your complaint is a conditional use permit which is not part of GDNR's programs or activities. Rather, this permit was issued by the Thomas County Board of Commissioners, Planing and Land Use Standards Commission. Thus, your complaint does not refer to any act by GDNR and is therefore rejected.

Lastly, your allegation against EPA is rejected. EPA is not subject to Title VI because Title VI only applies to recipients of federal financial assistance and not to federal agencies. EPA is a federal agency, not a recipient of federal financial assistance. Thus, your allegation against EPA is also rejected.

If you have any questions, please contact Eva Hahn by phone at (202) 564-8186, or by mail to the U.S. EPA, Office of Enforcement and Compliance Assurance (Mail Code 2201A), Title VI Task Force, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

Yasmin Yorker for

Karen Higginbotham
Acting Director, Office of Civil Rights

cc: Harold Reheis, Director
Georgia Department of Natural Resources
Environmental Protection Division
205 Butler Street, Suite 1152E
Atlanta, Georgia 30334

Rafael DeLeon, Associate General Counsel
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Title VI Task Force (MC2201A)