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

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OFFICE OF
CIVIL RIGHTS

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In Reply Refer to:
EPA File No.: 03R-13-R4

Mark Williams
Commissioner
Department of Natural Resources
2 Martin Luther King, Jr. Drive, S.E., Suite 1252
East Tower
Atlanta, GA 30334-9000

Re: Rejection of Administrative Complaint

Dear Commissioner Williams:

This letter is in response to the administrative complaint filed with the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), on January 10, 2013. The complaint generally alleges that the State of Georgia; Georgia Department of Natural Resources (GDNR); Environmental Protection Division of Georgia Department of Natural Resources (EPD); Waste Management of Georgia Inc.; McIntosh County, Georgia Board of Commissioners (BOC); McIntosh County, Georgia Building, Zoning and Ordinance (BZO); Georgia Senate Natural Resources Committee; and, Georgia Senate Committee on State Institutions and Property have violated 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. Specifically, the complaint states that, because of a "collaborative scheme of discrimination based on the race, color and national origin of the Gullah Geechee People on Sapelo Island, McIntosh County, GA,"; (1) Resource Conservation and Recovery Act (RCRA) funds have never been properly appropriated to Sapelo Island; (2) GDNR refused a request to run a septic tank line in August 2009; and, (3) minimum water quality standards are not being met on and around Sapelo Island.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for 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. 40 C.F.R. §7.120(b)(1). 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, sex, age, or disability). *Id.*

Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. §7.120(b)(2). Finally, it 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.

After careful review, OCR is rejecting the complaint because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations. The complaint first alleged that Sapelo Island has "never received the proper appropriated [RCRA] funding." As the GDNR and specifically EPD are the entities to which EPA delegated RCRA authority, EPA interprets this allegation to target them. The only grant that the Complainant specifically mentioned was a Community Engagement Initiative grant that expired in 2011. Because this allegation does not involve an act committed within the last 180 days OCR lacks jurisdiction over this matter and must reject the allegation. OCR has forwarded a copy of the complaint to the EPA Office of Grants and Disbarment, which has subject matter expertise over the administration of grants. Please contact them at (202) 564-5295 or ogdweb.gad@epa.gov if you have further concerns about this matter.

Second, the complaint alleges that GDNR denied a 2009 request for a septic tank. This allegation does not meet EPA's jurisdictional requirements. As the alleged discriminatory act took place in 2009, the complaint was not filed within 180 days of the alleged discriminatory act. Therefore OCR lacks jurisdiction over this matter and must reject this allegation.

Third, the complaint alleges that water protection on and around Sapelo Island has "been below the minimum quality of life standard." As BOC, BZO, GDNR and DEP all have duties related to water quality, EPA interprets this allegation to target them. This allegation does not meet EPA's jurisdictional requirement as it does not allege a discriminatory act based on a protected class committed within the last 180 days. Therefore OCR lacks jurisdiction over this matter and must reject this allegation.

The complaint did not allege that any specific discriminatory act has been committed within the last 180 days by the State of Georgia; Waste Management of Georgia Inc.; Georgia Senate Natural Resources Committee; or Georgia Senate Committee on State Institutions and Property. As a result, EPA has no basis upon which to initiate an investigation against these entities and must reject the complaint.

If you have questions regarding this letter, please contact Jerett Yan of the OCR External Compliance Program at (202) 564-3113, via electronic mail at

yan.jerett@epa.gov, or by mail at U.S. EPA, Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC, 20460-1000.

Sincerely,

Vicki Simons
Acting Director

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

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