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

FEB 11 2002

RETURN RECEIPT REQUESTED
CERTIFIED MAIL #7000 1670 0002 9182 9709

In Reply Refer to:
EPA File No. 05R-01-R6

[redacted]
P.O. Box 663
Okmulgee, Oklahoma 74447

Re: Letter of Rejection

Dear [redacted]:

On April 25, 2001, you filed a complaint with the U.S. Environmental Protection Agency's Office of Civil Rights. The complaint states that you are filing a Title VI complaint against the EPA, the City of Henryetta, Oklahoma, and the Oklahoma Department of Environmental Quality with respect to the Eagle-Picher Superfund site in Henryetta, Oklahoma. The purpose of this letter is to inform you that your complaint has been rejected by EPA.

On October 18, 2001, EPA sent you a letter rejecting all allegations against EPA and the City of Henryetta, and one allegation against OKDEQ concerning the suspected presence of contaminated soil on your property. EPA's letter also requested clarification on the remaining three allegations in your complaint against OKDEQ: (1) the lack of public hearings in Indian communities, (2) the lack of technical outreach, and (3) inadequate air monitoring in Indian communities. Subsequently, you spoke with Patrick Chang of EPA's Title VI Task Force on December 13 and 17, 2001, and January 15 and 30, 2002, to discuss questions you had about the request for clarification. During the December 13, 2001 conversation, you indicated that your representative in this matter, Mr. Phil Givens, had relocated without providing forwarding information. As a result, this letter is addressed to you, rather than to Mr. Givens.

EPA has carefully reviewed your January 31, 2002, response to our request for clarification. In your response, you state that the OKDEQ failed to conduct any public hearings, provide technical outreach and conduct any air monitoring of the area "on every day of the 180 days preceding the filing of the complaint." However, in order for your complaint to be considered timely, you must identify a discrete act or omission by OKDEQ, (*e.g.*, failure of OKDEQ to respond to a request for a hearing) and the date of such an act or omission, that occurred within 180 days of your filing of the complaint. Given these facts, EPA has no recourse but to reject your complaint.

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If you have any questions, please contact Patrick Chang by telephone at 202-564-5614, or by mail at U.S. EPA (Mail Code 2399A), 1200 Pennsylvania Ave., N.W., Washington, D.C., 20460.

Sincerely,

Karen Higginbotham
Acting Director

cc: Rafael DeLeon, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Sylvia Lowrance, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance (MC 2201A)

Gail Ginsberg, Director
Title VI Task Force (MC 2201A)

Barry E. Hill, Director
Office of Environmental Justice (MC 2201A)

Sherry Brown-Wilson, Title VI Contact
EPA Region 6