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

JUL 2 2012

OFFICE OF
CIVIL RIGHTS

**Return Receipt Requested**
Certified Mail#: 7004-2510-0004-2241-6725

**In Reply Refer to:**
EPA File No.: 10Nr-11-R6

(b) (6) Privacy [redacted]

**Re: Rejection of Administrative Complaint**

(b) (6) Privacy [redacted]

On September 6, 2011, you filed a complaint with the Equal Employment Opportunity Commission (EEOC) alleging that your employer, Southwest Research Institute (SWRI) had discriminated against you on the basis of your national origin (b) (6) [redacted] had harassed you, and had retaliated against you as an employee for opposing unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended. On October 11, 2011, you then filed a similar complaint with EPA alleging that your employer, the Southwest Research Institute had 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.

Pursuant to EPA's nondiscrimination regulations, the Office of Civil Rights (OCR) conducts a preliminary review of discrimination complaints 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 Part 7 regulations. First, it must be in writing. 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, or disability). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, the complaint must be filed against a recipient of EPA assistance that committed the alleged discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

After careful review OCR has concluded that OCR cannot accept your complaint for investigation.

You allege that Southwest Research Institute discriminated against you on the basis of your national origin. As mentioned above, one of OCR's jurisdictional requirements is that the complaint must be filed against a recipient of EPA assistance that allegedly committed the discriminatory act(s). OCR has concluded that the Southwest Research Institute is not a recipient of EPA assistance and therefore, cannot accept this allegation for investigation.

You also allege that Southwest Research Institute retaliated against you as an employee for opposing unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964. EPA's nondiscrimination regulations prohibit retaliation against anyone who has opposed any practice made unlawful by EPA's regulations implementing Title VI. 40 C.F.R. § 7.100 (b). However, you allege retaliation for complaining about conduct that may constitute employment discrimination in violation of Title VII of the Civil Rights Act. EPA's regulations implementing Title VI, in contrast, prohibit retaliation for complaining about conduct that would have violated Title VI. Therefore, the facts presented do not support an allegation of retaliation, and therefore OCR must reject the complaint for investigation.

Finally, OCR notes that it has been informed by the EEOC that the matter raised in your complaint, and the alleged retaliation against you as an employee of SWRI, are currently the subject of an ongoing Title VII investigation before that agency. EEOC enforces federal laws against discrimination in the workplace. Please contact Marie Minks, Equal Employment Investigator, if you have any questions about your claim before the EEOC by phone at (210) 281-7655 or via mail at U.S. Equal Employment Opportunity Commission (EEOC), 5410 Fredericksburg Road Suite 200, San Antonio, TX, 78229.

If you have any questions regarding this letter, please contact Samuel Peterson at (202) 564-5393, via email at peterson.samuel@epa.gov, or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,

Rafael Deleon
Director

cc: Marie Minks, Equal Employment Investigator
U.S. Equal Employment Opportunity Commission (EEOC)
5410 Fredericksburg Road Suite 200
San Antonio, TX 78229-3550

Katherin E. Hall
Office of General Counsel

Dorothy Whaley, EEO Officer
EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2750

Nellie Roblez, EEO Officer
EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2750