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

JAN 14 2013

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail#: 7004-1160-0002-3622-6253

In Reply Refer to:
EPA File No.: 12R-12-R4

[redacted]

Re: **Rejection and Referral of Administrative Complaint**

Dear Mr. [redacted]

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) on August 14, 2012 and amended September 24, 2012. Your complaint alleges that Easterling Correctional Facility, which is operated by the Alabama Department of Corrections and Barbour County, the municipal entity responsible for drinking water supply and wastewater treatment at the Easterling Correctional Facility, have caused you and the inmates of the Easterling Correctional Facility to be at risk due to dangerous environmental conditions. OCR investigates allegations of violations of 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. Title VI prohibits discrimination on the basis of race, color, or national origin in all programs or activities receiving federal financial assistance.

Pursuant to EPA's nondiscrimination regulations, 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 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 review, OCR is rejecting your complaint because it does not meet all of the jurisdictional requirements described in EPA's nondiscrimination regulations. You allege that Easterling Correctional Facility, which is operated by the Alabama Department of Corrections

and Barbour County, the municipal entity responsible for drinking water supply and wastewater treatment at the Easterling Correctional Facility, have subjected you and your fellow inmates to a series of dangerous environmental conditions. Allegations of discrimination will only be accepted for investigation if the complaint is filed against a recipient of EPA financial assistance. The Easterling Correctional Facility, the Alabama Department of Corrections, and Barbour County's water system are not recipients of EPA financial assistance. Additionally, allegations must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations. Your allegations do not raise claims on the basis of your race, color, national origin, sex, age, or disability. Therefore, your complaint is not within EPA OCR jurisdiction to investigate and OCR must reject the complaint for investigation.

It appears that the allegations raised in your complaint against Easterling Correctional Facility may be addressed by the Department of Justice (DOJ), Office of Civil Rights of the Office of Justice Programs. Therefore, EPA is referring this complaint to that office for review and action. A copy of the letter to DOJ is enclosed with this correspondence. The contact person at DOJ for the referral of this allegation is: Mr. Michael Alston, U.S. Department of Justice, Office of Justice Programs, Office of Civil Rights, 810 Seventh Street, N.W., Washington, DC, 20531 at (202) 307-2027.

If you have any questions, please contact Helena Wooden-Aguilar, Assistant Director at (202) 564-0792, via email at wooden-aguilar.helena@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

Rafael DeLeon
Director

Enclosures

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

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