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

JUN 23 2010

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail #7009-2820-0002-1759-3623

In Reply Refer To:
EPA File No: 12Rr-10-R10

[redacted]

Re: Rejection of Administrative Complaint

Dear [redacted]:

On May 20, 2010, the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) received your administrative complaint referred to us by the U.S. Department of Justice (DOJ). Your original complaint and your complaint amendment were received by DOJ on May 22, 2009, and November 16, 2009, respectively. The complaint alleges that the Oregon Land Use Board of Appeals, Jackson County, Oregon, and the City of Rogue River, Oregon have discriminated against you. After careful review, OCR is rejecting your complaint for investigation.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of 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, would violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, age, sex (gender), or disability). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, the complaint must be filed against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act.

Generally, you allege that these government entities discriminated and retaliated against you by not upholding the 14th Amendment of the U.S. Constitution and by

allowing unpermitted land development on adjacent creek front property. After careful review, OCR is rejecting your complaint because: i) the allegations you describe do not meet the requirements of being discriminatory acts that violate EPA's nondiscrimination regulations, and ii) EPA financial assistance status, as discussed below.

Alleged Discriminatory Acts

Your complaint states that the Oregon Land Use Board of Appeals (LUBA), Jackson County, Oregon, and the City of Rogue River, Oregon discriminated against you by not upholding the 14th Amendment of the U.S. Constitution. Specifically, you stated that these entities allowed a land developer to illegally grade, fill, and clear riparian habitat on an adjacent creek front property without the proper permitting, or engineering reports, which you state has placed your property at greater risk to flooding. You also mention that you worry about landslides and feel that the lack of County and State to apply land use standards and laws has devalued your property. In addition, you allege that during your land use appeal of the referenced property, LUBA waived your constitutional rights by giving preference to developers and treating you differently without a rational basis to do so.

EPA nondiscrimination regulations only bar discrimination on the basis of race, color, national origin, disability, age, or sex (gender). None of the allegations in your complaint describe a specific action that would violate EPA nondiscrimination regulations. Discriminations allegations based on the 14th Amendment are not covered by EPA's nondiscrimination regulations. Therefore, EPA OCR has no jurisdiction to investigate your allegations and must reject your complaint.

EPA Financial Assistance Status

You state in your complaint that the Oregon Land Use Board of Appeals, Jackson County, Oregon, and the City of Rogue River, Oregon have discriminated against you by not upholding the 14th Amendment of the U.S. Constitution.

As mentioned above, one of OCR's jurisdictional requirements to be accepted for investigation is that the complaint must be filed against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act(s). None of the entities listed in your complaint are recipients of or applicants for EPA financial assistance and therefore, are not within EPA OCR jurisdiction to investigate.

Alleged Retaliatory Acts

You state in your original complaint that Jackson County, Oregon, and the City of Rogue River, Oregon retaliated against you by failing to provide equal protection of the laws. EPA's nondiscrimination regulations provide, "No applicant, recipient, nor other person shall intimidate, threaten, coerce, or discriminate against any individual or group for the purpose of interfering with any right or privilege guaranteed by the Acts or this part". 40 C.F.R. § 7.100.

Accordingly, OCR has determined from the information you have provided in your complaint that § 7.100 of EPA's nondiscrimination regulations does not apply to your situation. Your complaint does not describe any activity that would be protected under 40 C.F.R. §7.100. The actions mentioned in your complaint (alleged failures of the County and City to provide equal protections of the laws) do not specifically describe a retaliatory act. Therefore, OCR is rejecting the complaint for investigation.

If you have any questions, please contact Thomas Walker, of OCR's External Compliance Program, by telephone at (202) 343-9680, via e-mail at walker.tom@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460-1000. Please note, your information that was forwarded to us by DOJ will be returned to you under a separate cover.

Sincerely,

Karen D. Higginbotham
Director

cc: Michael Holstun, Chairman
Oregon Land Use Board of Appeals
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Salem, Oregon 97301-2551

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Jackson County Courthouse
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