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

DEC 07 2012

OFFICE OF
CIVIL RIGHTS

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In Reply Refer to:
EPA File No.: 13R-12-R4

Herschel T. Vinyard Jr.
Secretary
Florida Department of Environmental Protection
3900 Commonwealth Boulevard M.S. 49
Tallahassee, Florida 32399-6575

Re: Rejection of Administrative Complaint

Dear Secretary Vinyard:

This letter is in response to the administrative complaint filed with the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), against the Florida Department of Environmental Protection on July 24, 2012. The complaint alleges that the Florida Department of Environmental Protection (FDEP) 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 implementing Title VI found at 40 C.F.R. Part 7 by compelling the Charlotte County Public Works Department to replace a drain sheet with a culvert, which has resulted in a disparate impact on the residents living at the end of Little Farm Road.

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 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 an applicant for, or a recipient of, EPA assistance that committed the alleged discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

To be accepted for investigation, a complaint must meet the jurisdictional criteria described above. The allegations in the complaint fail to meet these criteria and, the complaint must therefore be rejected for investigation. First, to be accepted for investigation, a complaint must be filed within 180 days of the alleged discriminatory act. The complaint alleges that the

action occurred on or about September 2002, which is outside of the 180 day limitation and is therefore untimely. Second, the complaint alleges that the replacing of the drain sheet with a culvert had a disparate impact on the residents of Little Farm Road by making the road impassable during periods of heavy rain. However, it does not allege that the action resulted in a disparate impact based on race, color, national origin or other protected basis. Thus the complaint does not allege a violation of EPA nondiscrimination regulations and OCR must reject this allegation for investigation.

If you have any questions, please contact Helena Wooden-Aguilar, Assistant Director, External Civil Rights 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
Director

Enclosure

cc: Ms. Naima Halim-Chestnut
US EPA REGION 4
61 Forsyth Street, S.W.
Mail Code: 9T25
Atlanta, GA 30303-8960

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