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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 19, 2017

In Reply Refer to:
EPA File No: 49X-16-R5

(b) (6) - Privacy

Re: Rejection and Referral of Administrative Correspondence

Dear (b) (6) - Privacy

On February 25, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) received your comment in response to the Notice of Proposed Rulemaking to Amend EPA's Nondiscrimination Regulation. At that time, you attached to your comments a document alleging that an Indiana Department of Transportation (INDOT) project is not in compliance with Title VI of the Civil Rights Act of 1964. ECRCO cannot accept your complaint for investigation because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation. As a result, this case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of each administrative complaint for acceptance, rejection, or referral. To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that, if true, would violate EPA's nondiscrimination regulation (*i.e.,* an alleged discriminatory act based on race, color, national origin, age, sex, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

On September 28, 2016, Brittany Martinez, ECRCO Case Manager, contacted you to clarify whether you intended to file a complaint concerning the issue you raised with your comment. Based on your email response to her that same day, we understand that you do wish to file a complaint. Specifically, your email response states that it was your "understanding that the forms [you] filed would facilitate the Title VI complaint to be initiated" and that "INDOT continues with their administrative policies putting others at disadvantages for the same reasons identified with no champion for Title VI impacted citizens." After careful review, ECRCO is rejecting your complaint for investigation because it is against INDOT, which is not a recipient of EPA assistance.

However, it is ECRCO's understanding that the U.S. Department of Transportation, Federal Highway Administration (FHWA) may have jurisdiction over the matter you complained about in your comment. Accordingly, this matter is being referred to FHWA for appropriate action. A copy of the letter of referral to FHWA is enclosed. The contact person at the FHWA is Ms. Nichole McWhorter, Federal Highway Administration, U.S. Department of Transportation, Office of Civil Rights, 1200 New Jersey Avenue, S.E., 8th Floor E81-105, Washington, D.C. 20590.

If you have any questions regarding this letter, please contact Brittany Martinez at (202) 564-0727 or by mail at the U.S. EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460-1000.

Sincerely,

Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 5

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EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 19, 2017

Return Receipt Requested
Certified Mail No.:7015 3010 0001 1267 5638

In Reply Refer to:
EPA File No: 49X-16-R5

Nichole McWhorter
Coordination & Compliance Program Manager
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Eighth Floor E81 – 105
Washington, D.C. 20590

Re: Referral of Administrative Correspondence

Dear Ms. McWhorter:

On February 25, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) received a comment in response to the Notice of Proposed Rulemaking to Amend EPA's Nondiscrimination Regulation. The commenter, (b) (6) - Privacy included a document alleging that an Indiana Department of Transportation (INDOT) project is not in compliance with Title VI of the Civil Rights Act of 1964. As INDOT is not a recipient of EPA financial assistance, ECRCO lacks jurisdiction over this matter and has closed this complaint as of the date of this letter.

Based on correspondence on April 7, 2017, between Brittany Martinez, ECRCO Case Manager, and Kevin Ressler, National Title VI Coordinator for the U.S. Department of Transportation Federal Highway Administration (FHWA), it is ECRCO's understanding that FHWA may have jurisdiction over the matters alleged by (b) (6) - Privacy Accordingly, we are referring this matter to your office for appropriate action. A copy of ECRCO's closure letter to (b) (6) - Privacy and a copy of her original comment and email exchange with EPA are enclosed. We have notified (b) (6) - Privacy that her complaint has been forwarded to FHWA for appropriate action and have provided her your contact information.

If you have any questions regarding this letter, please contact Brittany Martinez at (202) 564-0727 or by mail at the U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460-1000.

Sincerely,

Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
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