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

JAN 14 2013

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
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In Reply Refer to:
EPA OCR File No.: 03R-12-R9

Patrick Matthews, Director
Salinas Valley Solid Waste Authority
128 Sun Street
Suite 101
Salinas, CA 93901-3751

Re: Partial Acceptance of Administrative Complaint

Dear Mr. Matthews:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) is partially accepting the administrative complaint filed on March 2, 2012, that alleges that the Salinas Valley Solid Waste Authority (SVSWA) has discriminated against members of the Gonzales, California Latino community in violation of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000(d) *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulations, a recipient of Federal financial assistance may not discriminate on the basis of race, color, national origin, sex, or disability. Under EPA's nondiscrimination regulations, OCR conducts a preliminary review of complaints to determine acceptance, rejection, or referral.[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 alleged discriminatory acts that 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 calendar days of the alleged discriminatory act.[2] Finally, it must be filed against a recipient of EPA assistance that committed the alleged discriminatory act.[3]

After careful consideration, OCR has made the following decisions regarding the allegations against SVSWA:

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[1] 40 C.F.R. § 7.120(d)(1).
[2] 40 C.F.R. § 7.120(b)(2).
[3] 40 C.F.R. § 7.15.

Allegation 1

SVSWA has discriminated against Latinos in Gonzales, CA, by limiting public notification and participation during the permitting process for the Plasco Project.

This allegation is accepted for investigation. The complaint is in writing and alleges discriminatory acts that may violate EPA's nondiscrimination regulations. Specifically, the complaint alleges SVSWA limited public participation during the scoping meeting held on February 22, 2012, to take public comment on the 'Initial Study' for the Environmental Impact Report planned for the Plasco project. The allegations against SVSWA include failing to translate key documents into Spanish, excluding Spanish speakers from the initial notice, refusing to provide adequate interpretation services to allow simultaneous English to Spanish interpretation, failing to record comments by Latino Spanish speakers, and knowingly scheduling the meeting on Ash Wednesday when it would conflict with religious observances attended by a majority of residents who are Catholic.[4] The complaint was timely because it was filed 6 days after the February 22, 2012 scoping meeting. Finally, SVSWA is a Recipient of EPA financial assistance.

The investigation of this allegation will also consider the additional related allegations raised by Complainants in the Addendum, received by OCR on October 15, 2012, regarding alleged discriminatory actions taken by SVSWA following the initial scoping meeting and through the summer of 2012.

Allegation 2

SVSWA's decision to select Gonzales, California, without adequate consultation with its residents, will have discriminatory and adverse impacts on Latinos because the Plasco project would emit hazardous and criteria air pollutants into the environment of Gonzales, a predominantly Latino community, as well as have other significant negative impacts.

This allegation is rejected without prejudice because the allegation is premature and not yet ripe for review. There is no final siting decision and no permit has been issued. Therefore, this allegation is speculative in nature and anticipates future events that may not occur as outlined in the complaint. The complainants may, however, submit a new complaint containing this allegation within 180 calendar days following the issuance of the permit if they believe the discrimination is still occurring. At such time, the allegation will be subject to the same jurisdictional requirements stated above.

In the interim, if you have any questions about the status of this complaint, please contact Jonathan Stein by telephone at (202) 564-2088, by email at Stein.Jonathan@epa.gov, or by mail

[4] Administrative Complaint from Asamblea de Poder Popular de Gonzales; (b) (6) Privacy (b) (6) Privacy to U.S. EPA OCR (February 28, 2012) (on file with U.S. EPA OCR).

at U.S. EPA, Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C., 20460.

Sincerely,

Rafael DeLeón
Director
Office of Civil Rights

Enclosures

cc: Mr. Stephen G. Pressman, Associate General Counsel
Civil Rights & Finance Law Office (MC 2399A)
U.S. EPA Office of General Counsel

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