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

SEP 28 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail# 7004-2510-0004-2241-7050

In Reply Refer to:
EPA File No: 21R-10-R6

Adam Babich
Tulane Environmental Law Clinic Director & Professor of Law
Tulane Law School
6329 Freret Street
New Orleans, LA 70118

Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear Mr. Babich:

This letter concerns the administrative complaint received on September 26, 2010, which your client, [redacted] filed with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) alleging that the City of Baton Rouge has 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 found at 40 C.F.R Part 7. OCR dismissed without prejudice your administrative complaint on November 24, 2010, because of related pending litigation. On December 20, 2010, OCR was notified that the adjudicative process had concluded and you requested that OCR reopen your administrative complaint.

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

After careful consideration OCR has concluded that it cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations.

Allegation:

> **The City of Baton Rouge's failure to require the North Baton Rouge Sewage Plant to prevent or minimize offensive odors and filter flies has created a discriminatory impact on the African American community of University Place Subdivision of Baton Rouge, Louisiana.**

This allegation is rejected for investigation because it is not timely. To be accepted for investigation, a complaint must be filed no later than 180 days after the date of the alleged discriminatory act. The complaint failed to describe an alleged discriminatory act that occurred 180 days before the filing of this complaint. OCR repeatedly sought clarification of the specific acts and dates of your allegation from 2010 to 2011.[1] In response, your clients did not identify a specific act or date when the city failed to prevent or minimize offensive odors or filter flies.[2] OCR independently could not identify a specific date of an alleged discriminatory act. Therefore, after careful review, OCR was unable to determine that this complaint was timely.

If you have questions regarding this letter, please contact Helena Wooden-Aguilar, Assistant Director of the OCR External Compliance Program at (202) 564-0792, via electronic mail at wooden-aguilar.helena@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,

Rafael DeLeon

Rafael DeLeon
Director

Enclosure

cc: [redacted]

Mr. Pete Newkirk, Director
City of Baton Rouge
Department of Public Works
P.O. Box 1471
Baton Rouge, LA 70821

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[1] Telephone calls from Ms. Ericka Farrell, Case Manager, Office of Civil Rights, US EPA, to Complainant regarding EPA File No. 21R-10-R6. (January 19, 2011, February 2, 2011, and June 22, 2011)

[2] *Id.* Email from Mr. [redacted] to Ms. Ericka Farrell, Case Manager, Office of Civil Rights, US Environmental Protection Agency, re: 21R-10-R6. (October 15, 2010).

Julia Rhodes, Assistant General Counsel
Civil Rights Law and Finance Office (MC 2399A)

Manuela (Nellie) Roblez,
EEO Officer, EPA Region 6

Marcia Moncrieffe
Title VI Contact, Region 6

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