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

APR 25 2012

OFFICE OF
CIVIL RIGHTS

**Return Receipt Requested**
Certified Mail#: 7004-2510-0004-2241-5391

**In Reply Refer to:**
EPA File No. 08R-11-R4

(b) (6) Privacy [redacted]
Brooksville, FL 34601 (b) (6) - Privacy

**Re: Rejection/Referral of Title VI Administrative Complaint**

Dear (b) (6) Privacy:

This is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) has rejected one of your allegations for investigation and will refer the remaining allegation to the U.S. Department of Health and Human Services (HHS). On July 21, 2011, EPA received your administrative complaint on behalf of the Citizens of South Brooksville. Your administrative complaint alleged that the City of Brooksville, Hernando County, the Florida Department of Environmental Protection (FDEP), and the Florida Department of Health (FDEH) have violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C.§§ 2000d *et seq.*, and EPA's regulations implementing Title VI, found at 40 C.F.R. Part 7. On September 26, 2011, OCR requested clarification of when the alleged discriminatory act(s) occurred, clarification of the names of who committed the alleged discriminatory act, and a description of the alleged discriminatory acts. On October 12, 2011, you sent a response with further clarification to OCR.

Pursuant to EPA's nondiscrimination administrative 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 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. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against a recipient of EPA assistance that committed the alleged discriminatory act. 40 C.F.R. § 7.15.

**Complaint Allegation**

The complaint alleged that the City of Brooksville, Hernando County, the FDEP, and the FDEH ("entities") intentionally discriminated against you by denying the citizens of South Brooksville a safe and healthy community. Specifically, you state that the entities allowed ten

(10) contaminated sites in the City of Brooksville, a residential community, to spew chemicals from 1948 to the date of your clarification letter.

OCR is not accepting this allegation for investigation because it did not meet all four of EPA's jurisdictional requirements as outlined above. First, the complaint is in writing. Second, the complaint does not describe an alleged disparate act that may violate Title VI of the Civil Rights Act of 1964, and more specifically in this instance, EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. Third, the complaint was not filed within 180 days of the date of the alleged discriminatory act. You have not identified a decision by either The City of Brooksville, Hernando County, or FDEP within 180 days preceding the filing of your complaint (July 21, 2011), therefore OCR is unable to determine that your allegation is timely and must reject it. Fourth, EPA's implementing regulations require that the complaint must be filed against a recipient of EPA assistance that committed the alleged discriminatory act. OCR has concluded that the City of Brooksville and Hernando County are not recipients of EPA financial assistance. Therefore, for the reasons stated OCR cannot accept these allegations against the City of Brooksville, Hernando County, and FDEP.

Regarding FDEH, the complaint also alleged that the entities named have limited the opportunity of minorities to gain equal access to services and programs by denying them access to information and opportunities for public participation in the development of the Hernando County Health Needs Report 2007. This allegation may fall under the subject matter expertise of HHS and, thus, EPA is referring this to their office for review and action. A copy of the letter to HHS is enclosed with this correspondence. The contact office at HHS for the referral of this allegation is Mr. Leon Rodriguez, Office of Civil Rights, U.S. Department of Health and Human Services.

If you have any questions, please contact Ms. Helena Wooden-Aguilar, Assistant Director, of my staff by telephone at (202) 564-0792, by e-mail at wooden-aguilar.helena@epa.gov, or by mail to U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,

Rafael DeLeon

Rafael DeLeon
Director

Enclosures

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

Manuela Roblez, EEO Officer
EPA Region IV (w/out enclosures)

Katherin E. Hall, Assistant General Counsel
Civil Rights and Finance Law Office (MC 2399A)(w/out enclosures)

Leon Rodriguez, Director
Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201-0004

Jennifer C. Rey, SPHR, Esq.
Certified Circuit & County Mediator
City Attorney, City of Brooksville, Florida
Post Office Box 485
Brooksville, Florida 34605-0485