



U.S. Department
of Transportation
**Federal Highway
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

APR 29 2011

In Reply Refer To: HCR-40
DOT #2011-0189

Ms. Bernice Williams-Kimbrough
Director
U.S. Equal Employment Opportunity Commission
Atlanta District Office
Sam Nunn Atlanta Federal Center
100 Alabama Street, SW., Suite 4R30
Atlanta, Georgia 30303

Dear Ms. Williams-Kimbrough:

The enclosed complaint of discrimination is being forwarded to your office for appropriate action. The issues raised in the complaint involve the complainant's employment. The complainant has been advised of this referral (copy enclosed).

Sincerely yours,

Brenda F. Armstead
Director, Investigations and Adjudications

2 Enclosures

cc:

Mr. Robert J. St. Onge, Jr., Secretary of Transportation, SCDOT, P.O. Box 191, Columbia, SC 29202-0191

Mr. Alex Nelson, Title VI Coordinator, SCDOT, P.O. Box 191, Columbia, SC 29202-0191

Mr. Robert L. Lee, Division Administrator, FHWA, HDA-SC

Ms. Pamela Foster, Civil Rights Program Manager, FHWA, HDA-SC





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of Transportation
**Federal Highway
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1200 New Jersey Avenue, SE
Washington, D.C. 20590

In Reply Refer To: HCR-40
DOT #2011-0189

(b) (6)

Dear (b) (6)

This is in reference to your formal complaint, dated March 2, 2011, that you filed with the South Carolina Department of Transportation (SCDOT). The SCDOT received your complaint on March 3, 2011, and forwarded it to the Federal Highway Administration (FHWA) South Carolina Division Office on March 10, 2011. On March 22, 2011, the FHWA South Carolina Division Office forwarded your complaint to the FHWA Office of Civil Rights for appropriate handling. In your complaint, you alleged that you were employed by Sepi Engineering and you were suddenly and abruptly removed from the project by the SCDOT without cause.

After reviewing the information provided in your complaint, we have determined that your allegation is related to your employment. The U.S. Equal Employment Opportunity Commission (EEOC) is the Federal agency authorized to investigate complaints of employment discrimination. Therefore, your complaint has been sent to the EEOC for appropriate action at the address listed below:

U.S. Equal Employment Opportunity Commission
Atlanta District Office
Sam Nunn Atlanta Federal Center
100 Alabama Street, SW., Suite 4R30
Atlanta, Georgia 30303

This concludes the FHWA Office of Civil Rights' processing of your complaint and no further action will be taken.

Sincerely yours,

Brenda F. Armstead
Director, Investigations and Adjudications



Armstead, Brenda (FHWA)

3/22/11

From: Foster, Pamela (FHWA)
Sent: Tuesday, March 22, 2011 9:57 AM
To: Armstead, Brenda (FHWA)
Cc: Lee, Bob (FHWA)
Attachments: img-322094958-0001

New COMPLAINT

Good Morning Brenda,

We reviewed the attached complaint as received from SCDOT and are forwarding a copy to you for guidance as to whether we should respond as we believe that this complaint is not covered under Title VI as filed. Please let us know if you would like for the Division Office to proceed by advising the complainant in this manner or if your office will handle this complaint. Thank you

TITLE

COMPLAINT

DOT #
2011-0189

RECEIVED
Federal Highway Administration

March 10, 2011

MAR 14 2011

DIVISION OFFICE
COLUMBIA S.C.

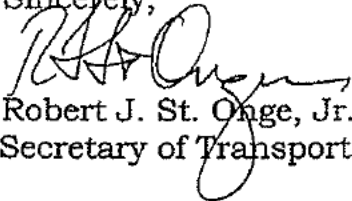
(b) (6)

Dear **(b) (6)**:

This letter acknowledges receipt of your complaint under Title VI of the Civil Rights Act of 1964. Your complaint alleging race-based discrimination against the South Carolina Department of Transportation (SCDOT) was received on March 3, 2011. Since your complaint is against the SCDOT, it will be forwarded to the Federal Highway Administration (FHWA) Office of Civil Rights (OCR) for processing.

If you need additional assistance in this matter, please contact Mr. Alex Nelson, SCDOT's Title VI Coordinator. He may be reached at (803) 737-1664. You may also reach Mr. Nelson via email at NelsonA@scdot.org.

Sincerely,


Robert J. St. Onge, Jr.
Secretary of Transportation

RJS/an

CC: ✓ Robert L. Lee, FHWA
John Walsh, SCDOT
Angela Feaster, SCDOT
Thad Brunson, SCDOT
Arlene Prince, SCDOT
Linda McDonald, SCDOT





South Carolina
Department of Transportation

March 10, 2011

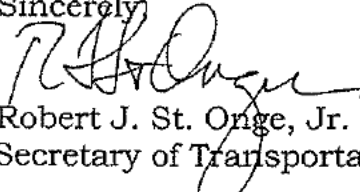
Mr. Robert L. Lee
Division Administrator
Federal Highway Administration
South Carolina Division
1835 Assembly Street, Suite 1270
Columbia, South Carolina 29201

Dear Mr. Lee:

The South Carolina Department of Transportation (SCDOT) received a letter, dated March 3, 2011, from (b) (6). In his letter, (b) (6) (b) (6) alleged race-based discrimination, which is a violation of Title VI of the Civil Rights Act of 1964. Since (b) (6) complaint is against the SCDOT, and pursuant to our complaint procedures, we are forwarding the matter to the Federal Highway Administration (FHWA) Office of Civil Rights (OCR) for processing.

If you require additional information in this matter, please contact Mr. Alex Nelson, SCDOT's Title VI Coordinator. He may be reached at (803) 737-1664. You may also reach Mr. Nelson via email at NelsonA@scdot.org.

Sincerely,



Robert J. St. Onge, Jr.
Secretary of Transportation

RJS/an

CC: Robert L. Lee, FHWA
John Walsh, SCDOT
Angela Feaster, SCDOT
Thad Brunson, SCDOT
Arlene Prince, SCDOT
Linda McDonald, SCDOT



**South Carolina Department of Transportation
DISCRIMINATION COMPLAINT FORM**

Last Name (b) (6)		First Name (b) (6)
Mailing Address (b) (6)		City/State (b) (6)
Home Telephone (b) (6)		Other Telephone (b) (6)
E-mail Address (b) (6)		
Type of Discrimination <input checked="" type="checkbox"/> Race <input checked="" type="checkbox"/> Color <input type="checkbox"/> National Origin <input type="checkbox"/> Age <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Sex/Gender		
Race of Complainant <input checked="" type="checkbox"/> Black <input type="checkbox"/> White <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian American <input type="checkbox"/> American Indian <input type="checkbox"/> Alaska Native <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other _____		
How were you discriminated against? Please explain your complaint as clearly as possible. Include how other persons were treated differently. Use additional sheet(s), if necessary. Attach supporting documents if available. <i>see attached sheet</i>		
Date and place of the alleged discriminatory action(s). Please include the earliest date of discrimination and the most recent date(s) of discrimination. <i>February 15, 2011</i>		
The law prohibits intimidation or retaliation against anyone because they have either taken action, or participated in action, to secure rights protected by the laws. If you feel that you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances below. Describe the action you took which you believe was the cause for the alleged retaliation.		

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**OFFICE OF DBE AND
SPECIAL PROGRAMS
SCDOT**

Name(s) of individual(s) responsible for the discriminatory action(s).

(b) (6)

Name(s) of person(s) who may be contacted for additional information to support or clarify your complaint. (Attach additional sheets, if necessary). *See Attached Sheet*

	<u>Name</u>	<u>Address</u>	<u>Telephone</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

What action(s) have you or your representative done to attempt to resolve this complaint? Please include filing dates or other dates as applicable.

<u>Action</u>	<u>Date</u>
<input type="checkbox"/> Filed with the Federal Highway Administration _____	
<input type="checkbox"/> Filed with the U.S. Department of Transportation _____	
<input type="checkbox"/> Filed with another Federal agency _____	
<input type="checkbox"/> Filed in Federal Court _____	
<input type="checkbox"/> Other action <i>sent letter to Dist. Engr. Administrator; see attached sheet</i>	

Please provide any additional information you feel would be helpful in investigating this matter.

Briefly explain what action you are seeking.

Resolution of this matter would involve me being reinstated to the US 601 Bridge replacement project.

(b) (6)

Complainant's Signature

3/2/11
Date

Mail Complaint Form To: South Carolina Department of Transportation
Office of Business Development & Special Programs
955 Park Street, Ste 117
Columbia, South Carolina 29202-0191

For Official Use Only

Date Complaint Received: _____

Referred to: _____

Date Referred: _____

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OFFICE OF BUSINESS DEVELOPMENT AND SPECIAL PROGRAMS

South Carolina Department of Transportation

Discrimination Complaint Form

How were you discriminated against? How were others treated differently?

I had been working on the US 601 bridge replacement project for about six weeks without incident. (b) (6) was the Construction Manager on the project and I was employed with (b) (6) to perform bridge inspection duties as a senior level inspector. I was suddenly and abruptly removed from the project by DOT without cause, rhyme or reason. My second week on the project, it was reported to me by another inspector, that the DOT bridge inspector, (b) (6) told (b) (6), the Resident Construction Manager for the project, that "(b) (6) yeah, you got to watch him". This statement in my opinion was malicious, inflammatory and unwarranted. (b) (6) does not know me, nor does he have a reason to make a statement like that to anyone. The last time I worked on a project with (b) (6) was in 1994-1995. I helped him check concrete trucks and perform concrete acceptance test. We have had very little to no contact other than crossing paths at certification classes. My third week on the project, it was reported to me by one of the other Sr. Inspectors on the project that (b) (6) the Assistant Resident Construction Engineer for the DOT on the project, had questioned him about my experience level. He responded that based on his conversations and experience working with me, he thought that I was more than experienced enough to perform my required job duties. At this point, if there was a question concerning my experience level, it could have been addressed and resolved then. Three weeks later I get the word that I am being removed from the project because my "performance level does not meet my level of compensation". (b) (6) my employer, and (b) (6) project construction manager, both spoke to the DOT on my behalf but to no avail. Someone at the DOT was obviously determined to carry out this malicious and personal vendetta against me. I was vetted by my employer, (b) (6) prior to being hired to perform Sr. Bridge Inspector duties. They both felt that I had the experience and track record to perform the prerequisite job duties. My performance was never in question on this or any other DOT project that I have previously worked on and to be released from this project based on someone's personal whim and agenda is unacceptable. Since I began working on DOT projects in 1991, I have never seen a white inspector treated with this level of disrespect and lack of consideration. My work experience and performance level are unimpeachable.

I was treated differently from others in that no other bridge inspectors were released from the project. We all did the same work and we all performed at a high level. I was also treated differently than (b) (6) (b) (6) the construction manager on the project. (b) (6) does not have experience working on projects of this size and nature. The District performed a preliminary QMT assessment on the project and found numerous indiscretions with paperwork, forms, filing irregularities and glaring oversights of contract work items. (b) (6) was given a lot of leeway and consideration by the DOT in light of these performance deficiencies and was not immediately removed from the project, but given the opportunity to correct any and all deficiencies. The bridge portion of the District's assessment was in good order. There was

also an issue with my compensation level. I am pretty sure I was not being compensated no more than anyone else performing their job duties. The two other bridge inspectors on this project were billing substantially more hours than I and they were not released based on their compensation level. When I performed inspection duties on the Old Cherokee Rd. project, there was another inspector from my company, (b) (6) who performed inspections duties in my absence and was billed out at four dollars an hour more than I and this was never an issue for the DOT.

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TRAVEL AND
PROGRAMS
SCDOT

(b) (6)

(b) (6)

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MAR 03 2011
OFFICE OF THE DIRECTOR
SPECIAL INVESTIGATIVE PROGRAMS
SCDOT

February 22, 2011

(b) (6)

District Engineering Administrator, Dist. 1
1400 Shop Rd.
Columbia, SC 29202

MAR 03 2011
SPECIAL PROGRAMS
SCDOT

Greetings (b) (6),

On February 15, 2011, I was released from the US 601 Project by the SCDOT for "performance not at the level of your compensation". This decision is both disturbing and gravely erroneous. By receipt of this correspondence, I am formally notifying you of my disagreement with the Department's decision to release me from this project. I began working on the US 601 project on January 3, 2011. I performed my duties on this project at a very high level up and until my release. In the six weeks that I served on this project there were no performance evaluations conducted by the Department to assess my performance level. Also, there were no indicators from (b) (6), the onsite Construction Manager, or the other Sr. Inspectors on the project that my performance was in anyway lacking or not up to the standards. I strongly believe that this matter can be resolved expeditiously and equitably by immediately reinstating me to this project so that I may continue to perform my duties at a high level and service the Department.

Over the past ten years, I have had the pleasure of serving both SC & NC DOTs on no less than ten continuous span girder bridge projects as a Senior Level Inspector. I performed my duties on these projects at a very high level. I have also worked on seven multistory commercial projects as both an Assistant Project Manager and a Field Engineer. These projects consisted of driven pile foundations, spread footers, grade beams, cast in place walls, mse walls, steel frames, and precast frames. The US 601 project is a continuous girder span bridge project that is well within my frame of experience. I strongly believe that my skill set and experience is more than adequate to perform inspection duties on this project.

I have received a somewhat vague indicator that the Department's decision to release me from the 601 project is based on the Old Cherokee Rd. Project. I was told by my previous employer that the DOT needed a Sr. level inspector for an on-call project. When I reported to the Old Cherokee Project, I was told by the DOT's lead inspector that he would handle all DWR's, Erosion Control, Traffic Control, Concrete reports, etc. The DOT's lead inspector on the project also indicated to me that my only responsibility was to perform compaction tests and to pass these tests reports, along with daily quantities to him. I was even told by the DOT's lead inspector on the project to not talk or communicate with the contractor. I informed my employer that the DOT did not need a Sr. Inspector on Old Cherokee, just a technician to run density tests. I was basically told to do whatever they wanted and to make them happy. Furthermore, I had the opportunity to speak with you on several different occasions

as you made periodic visits to the jobsite. On each of those visits, I was able to clearly and effectively communicate ongoing project activities, proposed and future work activities, any questions, concerns, and issues that needed resolution, or just general nuances of the project. As I see it, this is clearly indicative of a Senior Level Inspector. In fact these conversations with you on the jobsite, allowed me to retain some dignity as a seasoned professional due to our mutual respect for one another. It is in fact my contention that you cannot de-claw, de-fang and neuter a tiger and then judge him to be a pussycat.

As for the question of my "performance not being at the level of my compensation", I am willing and eager to listen to what the Department deems as equitable compensation for someone of my experience level.

For the past ten years, I have worked for consultants performing Sr. Level Inspection duties on heavy civil and transportation projects as well as worked for the contractor on large commercial projects. In every instance I have performed my duties at a very high level and always exceeding the standard. I strongly believe that this matter can be resolved equitably by reinstating me to the US 601 Bridge Project forthwith. It is my intention to also file a Title VI complaint with the Department. Thank you for your time, consideration and attention to this matter.

Sincerely,

(b) (6)

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MAR 03 2011

FOR DBE AND
MINORITY PROGRAMS