



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

JAN 27 2009

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #7004-1160-0002-3622-5539

**In Reply Refer to:**

EPA File No. 06R-08-R9

Steven M. Brittle  
President  
Don't Waste Arizona, Inc.  
6205 South 12<sup>th</sup> Street  
Phoenix, Arizona 85042

**Re: Rejection of Administrative Complaint**

Dear Mr. Brittle:

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR). Your complaint was received by EPA on August 15, 2008. The complaint alleges that the Maricopa County Air Quality Department (MCAQD) 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 implementing Title VI found at 40 C.F.R. Part 7.

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


Your complaint alleges that MCAQD discriminated against the "ethnic minority" community of west and south Phoenix by not allowing Don't Waste Arizona and Concerned Residents of South Phoenix to participate in the interviewing process of candidates to fill the MCAQD's director's position. Your complaint states that MCAQD invited other stakeholders to be involved in the interview process that do not have the same interests as Don't Waste Arizona.

As stated in the jurisdictional requirements above, a complaint must describe a discriminatory act that would violate EPA's nondiscrimination regulations. Your complaint does not describe such an act. MCAQD held interviews for a new director. The decision by MCAQD to involve certain parties in assisting with interviewing does not constitute a discriminatory act. Your complaint does not state any disparate impacts experienced by the residents of south and west Phoenix as a result of your organization not participating in the interview process for a new MCAQD director. Therefore, a discriminatory act has not been described as required by EPA's nondiscrimination regulations.

Since the allegation submitted does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations, OCR must reject your complaint for investigation.

If you have any questions, please contact Brittany Martinez at (202) 343-9678, via e-mail at [Martinez.Brittany@epa.gov](mailto:Martinez.Brittany@epa.gov) or via mail at U.S. EPA, Office of Civil Rights, Washington, D.C., 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

  
Karen D. Higginbotham  
Director

Enclosure

cc: Katherin E. Hall, Associate General Counsel  
Civil Rights & Finance Law Office (MC 2399A)

Jo Ann Asami, Title VI Coordinator  
EPA Region 9