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WASHINGTON, D.C. 20460

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CIVIL RIGHTS

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In Reply Refer to:
EPA OCR File No. 04R-09-R9 and
EPA OCR File No. 06R-09-R9

Mr. Stephen M. Brittle
President
Don't Waste Arizona, Inc.
6205 South 12th Street
Phoenix, AZ 85042

Re: Dismissal of Administrative Complaints

Dear Mr. Brittle:

This is to notify you and Don't Waste Arizona that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is dismissing the above numbered administrative complaints. The complaints were filed on behalf of Hispanic residents living near Fisher Sand and Gravel, located on South 28th St. in Phoenix, AZ. The complaints allege 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 found at 40 C.F.R. Part 7.

Complaint number 04R-09-R9 alleged that MCAQD intentionally discriminated against Hispanic residents living near the Fisher Sand and Gravel facility by failing to impose penalties when it issued numerous Notices of Violations. It also claimed that this action created an adverse impact on the nearby Hispanic residents. These allegations specifically concerned the hot mix asphalt plant's activities at the facility, which also conducts sand and gravel operations.

Complaint number 06R-09-R9 alleged that MCAQD's failure to enforce a request for asphalt production records from the Fisher Sand and Gravel facility resulted in a discriminatory impact on the local Hispanic residents who reside adjacent to the facility. Specifically, the complaint stated that in June 2009, MCAQD requested production records for the asphalt

operations of the Fisher Sand and Gravel facility (hereinafter "facility"). The facility, however, did not provide the requested documents, despite being required to under its permit. MCAQD failed to enforce its request for these documents, resulting in an adverse disparate impact on the nearby Hispanic residents.

Status of Asphalt Operations at the Fisher Sand and Gravel Facility

In February 2010, OCR learned that Fisher Sand and Gravel, had ceased its asphalt operations at the 28th Street facility. This has been confirmed by staff in EPA's Region 9 office. While the sand and gravel production activities at the facilities remain ongoing, these were not the subject of these complaints.

Decision

OCR has completed its review of the allegations in your complaint. Because your allegations concern the Fisher Sand and Gravel asphalt activities, which are no longer operating, OCR has determined that your allegations are moot and are being dismissed.

If you have any questions, please contact Helena Wooden-Aguilar, Acting Assistant Director of OCR's External Compliance Program by telephone at (202) 343-9681, 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 Ave., N.W., Washington, D.C. 20460-1000.

Sincerely,

Karen D. Higginbotham
Director

cc: Max Porter, Acting Director
Maricopa County Air Quality Department
1001 N Central Ave., Suite 400
Phoenix, AZ 85004

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