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

APR 25 2013

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail#: 7004-1160-0002-3622-7212

In Reply Refer to:
EPA File No.: 06R-11-R9

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

Return Receipt Requested
Certified Mail#: 7004-1160-0002-3622-7229

Mr. Michael L. Pops, Sr., President
Concerned Residents of South Phoenix
4203 South 19th Place
Phoenix, Arizona 85040

Re: Rejection of Administrative Complaint of Discrimination

Dear Mr. Brittle and Mr. Pops:

This letter is in response to your administrative complaint filed with the U.S Environmental Protection Agency (EPA), Office of Civil Rights (OCR), on July 11, 2011 and the amendment filed June 4, 2012. Your complaint alleges that the administration of the Del Rio Area Brownfields Project grant by the City of Phoenix (COP) 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.[1] Specifically, your complaint states that COP intentionally discriminated against the Hispanic community near Del Rio based on their administration of the Del Rio Area Brownfields Project grant and this action is having a discriminatory impact on the Hispanic community.

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

[1] Note: Your original complaint, dated July 11, 2011, alleged that the City of Phoenix, Maricopa County Air Quality District, and the Arizona Department of Environmental Quality violated Title VI. On December 8, 2012, OCR sought clarification. You responded on December 19, 2012, requesting that OCR remove MCAQD and ADEQ from the complaint as they "were inadvertently included in the complaint[] of July 2011." (See Letter from Don't Waste Arizona, December 19, 2012).

jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience).

After careful review, OCR is rejecting your complaint because it does not meet all of the jurisdictional requirements described in EPA's nondiscrimination regulations. As stated in the jurisdictional requirements, allegations of discrimination will only be accepted for investigation if the complaint is filed against a recipient of EPA financial assistance. As of this date, the City of Phoenix does not receive financial assistance from the EPA. The last project undertaken by COP that was funded by EPA ended December 31, 2012. Since the allegation submitted does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations, OCR must reject your complaint for investigation.

Because the allegation raised in your complaint concerns performance of an EPA grant, OCR consulted with EPA's Office of Brownfields & Land Revitalization (OBLR) concerning your complaint. OCR learned that OBLR has previously seen the complaint you filed with OCR on July 11, 2011, and accordingly worked with the City of Phoenix to improve project outreach to the community, including holding additional informational and visioning workshops, for the Del Rio Area Brownfields Project and address other concerns you raised. OCR has also shared a copy of the June 4, 2012 amended complaint with OBLR.

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

Sincerely,

Vicki Simons
Acting Director

Enclosure

cc: Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (Mail Code 2399A)

Gina Edwards, EEO Officer
U.S. EPA Region 9

Gail Cooper, Deputy Director
Office of Brownfields & Land Revitalization (Mail Code 5105T)