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

JUL 12 2012

OFFICE OF
CIVIL RIGHTS

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RETURN RECEIPT REQUESTED

In Reply Refer to:
EPA File No. 09R-12-R9

Ms. Mary Nichols, Chairman
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Rejection of Title VI Administrative Complaint

Dear Chairman Nichols:

The United States Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has reviewed a complaint filed against the California Air Resources Board (CARB) by the Center on Race, Poverty and the Environment, on behalf of the Coalition for a Safe Environment, the Association of Irritated Residents, California Communities Against Toxics, the Society for Positive Action, and the West County Toxics Coalition. OCR received the complaint on June 8, 2012. The complaint alleges that CARB has 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. OCR is responsible for conducting a preliminary review of complaints alleging discrimination by programs or activities that receive financial assistance from EPA for acceptance, rejection, or referral to another Federal agency.

CARB issued regulations implementing the Cap-and-Trade program on October 20, 2011, pursuant to AB 32, the California Global Warming Solutions Act. That Act established statewide 2020 greenhouse gas (GHG) emissions limits and directed CARB to develop a plan to reduce GHG emissions to the statewide limit of 1990 levels by 2020. Enforceable compliance obligations for GHG emissions from affected sources will begin on January 1, 2013.

OCR finds that this complaint is not ripe for review. The allegations in the complaint are speculative in nature and anticipate future events that may not occur. The actions to be taken in response to the new compliance obligations and the results of those actions are unknown and unpredictable. As a result, a meaningful review cannot be conducted at this time. Therefore, OCR rejects this complaint and its allegations.

While this decision does not reach the merits of the complaint, OCR notes that CARB took the proactive step of adopting an Adaptive Management Plan that requires CARB to take a range of actions to monitor co-pollutant emissions and address any unanticipated adverse impacts caused by the Cap-and-Trade regulation. The Plan states that such actions could include, for example, the adoption of additional regulatory requirements and using funds obtained from the sale of allowances to support local mitigation projects.

If you have any questions about this matter, please contact Helena Wooden-Aguilar, Assistant Director, Office of Civil Rights by telephone at 202-564-0792, by email at Wooden-Aguilar.Helena@epa.gov or by mail at U.S. EPA, 1200 Pennsylvania Ave., NW, Mail Code 1201A, Washington, D.C., 20460-0001.

Sincerely,

Rafael DeLeon

Rafael DeLeon
Director

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

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