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

AUG 25 2008

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail #7004-1160-0002-3622-5263

In Reply Refer to:
EPA OCR File No. 15R-07-R9

Mary J. Moore, President
Lindon Park Neighborhood Association
4839 East Brill Street
Phoenix, AZ 85008

Re: Rejection of Administrative Complaint

Dear Ms. Moore:

This is to notify you that after careful consideration, the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is rejecting your administrative complaint received on December 11, 2007. Your complaint was filed against the Maricopa County Air Quality Department (MCAQD). The complaint alleges that 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 regulations implementing Title VI, found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review 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 nondiscrimination regulations. First, the complaint must be in writing. 40 C.F.R. §7.120(b)(1). Second, it must describe alleged discriminatory acts that may violate EPA's nondiscrimination regulations (*e.g.* an alleged discriminatory act based on race, color, national origin). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. §7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. 40 C.F.R. § 7.15. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

Your complaint alleges that MCAQD violated Title VI and EPA's nondiscrimination regulations when MCAQD: (1) limited your testimony during the May 31, 2007, public hearing for the Honeywell Engines, Systems and Services Facility - Title V Permit, and (2) failed to publish notice for the May 31, 2007, public hearing in a Spanish language newspaper.

After careful review, OCR has determined that it cannot accept your complaint for investigation. As stated above, a complaint must be filed within 180 calendar days of the alleged discriminatory act. Both of the allegations listed in your complaint are untimely. The public hearing incident described above occurred on May 31, 2007. EPA received your complaint on December 11, 2007. This exceeds the 180-day filing limit required by EPA's nondiscrimination regulations.

Even though a date was not provided concerning the failure to publish notice for the May 31, 2007, public hearing in a Spanish language newspaper, the publication of any notice (or failure to publish) would have occurred prior to the public hearing. Therefore, if there had been a discriminatory act, it would have occurred prior to May 31, 2007 – the date of the hearing. This incident, then, exceeds the 180-day filing limit required by EPA's nondiscrimination regulations.

If you have any questions, please contact Thomas Walker of the OCR External Compliance Program, by telephone at (202) 343-9680, by e-mail at walker.tom@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave. NW., Washington, D.C. 20460.

Sincerely,

for Gina Schulz

Karen D. Higginbotham
Director

Enclosure

cc: Robert J. Kard, Director
Maricopa County Air Quality Department
1001 North Central Avenue, Suite 400
Phoenix, AZ 85004

Jo Ann Asami, Title VI Coordinator
EPA Region 9

Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (MC 2311)