UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 29, 2017

Return Receipt Requested
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In Reply Refer to:
EPA File No. 16U-16-R9

Mr. Alberto Ayala
Air Pollution Control Officer/ Executive Director
Sacramento Metropolitan Air Quality Management District
777 12th Street, 3rd floor
Sacramento, CA 95814

Re: Rejection of Administrative Correspondence

Dear Executive Director Ayala:

On March 8, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) notified you of a complaint alleging corruption within the Sacramento Metropolitan Air Quality Management District. After careful review, ECRCO has concluded that it will not accept the administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations found at 40 CFR Part 7. Therefore, ECRCO is closing this case as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

The original correspondence did not provide ECRCO with sufficient information to determine ECRCO's authority to investigate the complaint under EPA's nondiscrimination regulation. That is, there was no indication about how, when, and on what basis(es), (race, color, national origin, sex, age, or disability), the Sacramento Metropolitan Air Quality Management District discriminated against the Complainant.

ECRCO sought clarification about the complaint in a telephone call with the Complainant. During the interview, ECRCO requested information regarding the date of the alleged harm. The Complainant indicated that on October 22, 2015, and February 25, 2016, he was denied or limited in the amount of time to speak before a meeting of the Board of the Sacramento Metropolitan Air Quality Management District. However, he also stated that the actual discrimination took place when the District applied a penalty at the close of a lawsuit with that agency. That penalty was ordered in February of 2008 per documentation provided by the Complainant. As the complaint was filed on March 6, 2016, that is well beyond the 180 days of the alleged discriminatory act. Accordingly, the information provided by the Complainant does not support that a timely alleged discriminatory act occurred.

In addition, the Complainant did not provide any additional information about why he believed he was discriminated against, and on what basis. Therefore, ECRCO lacks jurisdiction over this complaint and cannot accept it for investigation. This matter is closed as of the date of this letter.

If you have any questions about this letter, please contact Case Manager Katsumi Keeler at (202) 564-2347 or via email at Keeler.Katsumi@epa.gov.

Sincerely,

Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 9