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

DEC 11 2001

OFFICE OF CIVIL RIGHTS

CERTIFIED MAIL # 7000 1670 0002 9182 9525
RETURN RECEIPT REQUESTED

In Reply Refer to:
EPA File No: 11R-98-R9

Mr. Sanford Lewis
P.O. Box 79225
Waverley, Massachusetts 02179

Re: Acceptance of Administrative Complaint

Dear Mr. Lewis:

On October 13, 1998, you filed a complaint with the U.S. Environmental Protection Agency, Region 9 on behalf of United Paperworkers International Union and (b) (6) - Privacy. Region 9 referred your complaint to the EPA's Office of Civil Rights. The complaint alleges violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 by the Arizona Department of Environmental Quality. The purpose of this letter is to inform you that your complaint has been accepted for investigation by EPA.

In your complaint you allege that the ADEQ discriminated against people of color that reside in both Rillito, Arizona and Marana, Arizona by issuing permit revision M191365P1-99 to the Arizona Portland Cement Company. More specifically, you state that the expansion of the Arizona Portland Cement facility will result in "a disproportionate risk of harm to human health among people of color...living nearby." You also allege that ADEQ's process in issuing the permit revision to the Arizona Portland Cement Company was conducted in a manner that did not allow for adequate participation by interested parties and which will lead the affected community to face a disparate impact. Both of these allegations are accepted for investigation.

Under Title VI, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). Your complaint meets the jurisdictional requirements described in EPA's Title VI regulations for investigations. First, your complaint is in writing. 40 C.F.R. § 7.120(b)(1). Second, you allege that the issuance of permit revision M191365P1-99 to Arizona Portland Cement Company Inc. by ADEQ has a discriminatory effect against people of color residing in Rillito, Arizona and Marana, Arizona in violation of Part 7. 40 C.F.R. § 7.120(b)(1). Third, the alleged discriminatory act occurred on August 7, 1998, which is within 180 days of October 13, 1998, when you filed your complaint with EPA. 40 C.F.R. § 7.120(b)(2). Fourth, ADEQ was a recipient of EPA financial assistance at the time of the alleged discriminatory act.

40 C.F.R. § 7.15. Based on these facts, the allegations described in the second paragraph of this letter are accepted for investigation.

EPA's Title VI regulations provide that OCR must attempt to resolve complaints informally whenever possible (40 C.F.R. § 7.120(d)(2)). Accordingly, OCR will discuss, at any point during the process, offers to informally resolve the complaint, and will, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders. At this time, your complaint is already undergoing an informal resolution process with Mr. Enrique Manzanilla. Please contact Mr. Manzanilla at (415) 972-3744 if you have any questions regarding this process.

If you have any questions, please contact Eva Hahn by phone at (202) 564-8186, or by mail to the U.S. EPA, Office of Enforcement and Compliance Assurance (Mail Code 2201A), Title VI Task Force, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

Karen D. Higginbotham

Karen D. Higginbotham
Acting Director

cc: Jacqueline E. Schafer, Director
Arizona Department of Environmental Quality
3033 N. Central Avenue
Phoenix, Arizona 85012

Rafael DeLeon, Associate General Counsel
Civil Rights Law Office
Office of General Counsel (MC 2399A)

Sylvia Lowrance, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance (MC 2201A)

Barry Hill, Director
Office of Environmental Justice (MC 2201A)
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Wayne Nastri, Regional Administrator
EPA Region 9

Gail Ginsberg, Chair
Title VI Task Force (MC 2201A)

Joann Asami, Title VI Coordinator
EPA Region 9