



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

DEC 18 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

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In Reply Refer to:

EPA File No.: 10R-12-R9

Seyed Sadredin
Executive Director
San Joaquin Valley Unified Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, CA 93726-0244

Re: Rejection of Administrative Complaint without Prejudice

Dear Mr. Sadredin:

This letter is in response to the administrative complaint filed with the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) on June 21, 2012. The complaint alleges that the San Joaquin Valley Unified Air Pollution Control District (SJV) violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.*, and EPA's implementing regulations, found at 40 C.F.R. Part 7, which prohibit discrimination on the basis of race, color or national origin in federally assisted programs or activities. This is to notify you that after careful consideration, OCR is rejecting this administrative complaint without prejudice in light of pending litigation.

The complaint alleges that SJV's approval of Rule 3170, which assesses a \$12 fee on each motor vehicle registered in the San Joaquin Valley, will have a disparate economic impact on motor vehicle owners who are "largely low-income and people of color" in violation of Title VI of the Civil Rights Act and EPA's implementing regulations.

Since the filing of the complaint, OCR has learned that on October 19, 2012, Earthjustice filed a Petition for Review with the United States Court of Appeals for the Ninth Circuit challenging EPA's approval of Rule 3170. In situations where the allegations raised in the complaint involve the same facts that are also the subject of litigation in Federal court, such that the result of those proceedings could affect the outcome of the Title VI investigation, it is OCR's general practice to reject the complaint without prejudice. The petition filed by Earthjustice involves the same SJV rule that is the subject of the allegations in the Title VI complaint. Therefore, OCR is rejecting this complaint without prejudice.

If you believe that the discrimination alleged in this complaint is still occurring after conclusion of the litigation, you must refile this complaint within 60 calendar days following termination or conclusion of the litigation. In the event that you do resubmit your complaint, please include the file number 10R-12-R9. Please note that if your complaint is refiled, it will be subject to the standard jurisdictional requirements found in EPA's nondiscrimination regulations,¹ and OCR may choose not to proceed with a complaint investigation if issues relevant to the complaint are substantively decided by the Federal court or are otherwise resolved.

Regarding your allegation that SJV discriminated against motor vehicle owners who are "low-income", OCR cannot accept this allegation for investigation because neither Title VI nor EPA's nondiscrimination regulations prohibit discrimination based on income.

If you have any questions about the status of this complaint, please contact Jerett Yan of the OCR External Civil Rights Program at (202) 564-3113, via e-mail at yan.jerett@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,



Rafael DeLeon
Director

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

Joann Asami, Title VI Coordinator
U.S. EPA Region 9
Mail Code: ORC-2

¹ 40 C.F.R. §§ 7.15 and 7.120.