



OFFICE OF CIVIL RIGHTS AND ADJUDICATION

WASHINGTON, D.C. 20460

August 14, 2026

Marc Thornsbury
Executive Director & Air Pollution Control Officer
Yakima Regional Clean Air Agency
186 Iron Horse Court, Suite 101
Yakima, WA 98901
via email: marc@yrcaa.org

Re: Dismissal of EPA Complaint No. 01NO-23-R10

Dear Director Thornsbury:

This letter is to notify you that, pursuant to 40 C.F.R. § 7.120(g), the U.S. Environmental Protection Agency (EPA), Office of Civil Rights and Adjudication (OCRA), External Civil Rights Division (ECD) is dismissing EPA Complaint No. 01NO-23-R10 involving Yakima Regional Clean Air Agency (YRCAA).¹ The complaint alleged that YRCAA discriminated against persons based on national origin and race in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C §§ 2000d to 2000d-7 (Title VI) and EPA's nondiscrimination regulation at 40 Code of Federal Regulations (C.F.R.) Part 7.

ECD accepted and investigated two claims.

ECD is responsible for enforcing federal civil rights laws that prohibit discrimination on the bases of race, color, national origin, disability, sex, and age in programs or activities that receive financial assistance from EPA. Pursuant to 40 C.F.R. § 7.120(d)(1), ECD determined that it had jurisdiction over the above-referenced complaint and accepted it for investigation.

I. Procedural Background

On June 11, 2016, ECD received a Title VI complaint (EPA Complaint No. 34RNO-16-R10) from the Friends of Toppenish Creek (Complainants) against YRCAA. The complaint alleged that

¹ In August 2025, EPA moved the Office of External Civil Rights Compliance (OECRC) from the Office of Environmental Justice and External Civil Rights (OEJECR) into OCRA. OECRC is now ECD.

YRCAA discriminated against South Yakima County residents based on race and national origin in the administration of its air pollution program.

On February 11, 2019, ECRD partially accepted the complaint. ECRD determined that ECRD did not have the jurisdiction to investigate most of the concerns. However, ECRD did review whether YRCAA provided meaningful access to information, programs and activities. ECRD also reviewed whether YRCAA had and was implementing procedural safeguards required under 40 C.F.R. Parts 5 and 7.

On August 9, 2019, YRCAA entered into an Informal Resolution Agreement (IRA) with ECRD to resolve the complaint. Pursuant to the IRA, YRCAA committed to the following actions:

- (1) translate all publicly available documents provided to its English-speaking residents into Spanish (and other languages as appropriate);
- (2) provide Spanish-speaking, limited English proficient (LEP) residents meaningful access to its process for filing environmental and public health complaints (online and via other mechanisms);
- (3) conduct public meetings and/or outreach regarding its permitting, air quality, and/or other environmental programs, services, or activities in a way that ensures meaningful participation for Spanish-speaking LEP residents; and
- (4) develop and implement a nondiscrimination program that contains procedural safeguards required by EPA regulation.

On August 19, 2020, ECRD determined that YRCAA complied with the terms of the IRA and sent a letter closing the complaint.

A few years later, on February 6, 2023, ECRD received a letter from the Complainants, who requested ECRD to re-open the complaint because YRCAA allegedly failed to comply with the terms in the IRA. On February 24, 2023, ECRD informed the Complainants that if the Complainants wanted to make new allegations against YRCAA, the Complainants would need to file a new complaint.

On March 6, 2023, the Complainants filed the current complaint, EPA Complaint No. 01NO-23-R10. This complaint alleged, in pertinent part, that YRCAA discriminated against residents based on race and national origin (LEP, Spanish-speaking) by failing to conduct air monitoring in South Yakima County, where a higher concentration of Spanish-speaking residents reside, comparable to air monitoring conducted in North Yakima County. The complaint also alleged YRCAA intentionally withheld information from the LEP community that would have enabled the nomination of a Spanish-speaking resident to the YRCAA Board of Directors (Board).

On July 30, 2024, ECRD accepted the complaint and initiated an investigation. Specifically, ECRD accepted for investigation whether YRCAA discriminated on the basis of race and national origin in violation of Title VI and 40 C.F.R. Part 7 in:

1. implementing its Clean Air Act (CAA) permit program, specifically its air emissions testing; and
2. selecting the Member-at-Large in its Board.^{2,3}

On August 26, 2024, YRCAA submitted an initial response (Response letter) to the acceptance of the Complaint. In the letter, YRCAA summarized the demographics of Yakima County and how services were allocated to their constituents. YRCAA also denied allegations of unequal treatment among segments of its constituency.

Over the ensuing months, ECRD gathered facts to support its investigation via evidence provided from the Complainants, individual discussions with the Complainants, and via responses to a Request for Information (RFI) from YRCAA. ECRD reviewed YRCAA's regulations, Washington state laws, publicly available information, and consulted EPA air quality specialists and tribal air coordinators in EPA's Air and Radiation Division (ARD), Air Planning State & Tribal Coordination Branch (APSTCB). ECRD issues the following conclusions pursuant to 40 C.F.R. § 7.120(g).

II. Legal Analysis

Federal civil rights laws and EPA's Title VI implementing regulation prohibit recipients from intentionally discriminating in their programs and activities based on race, color, national origin, disability, sex, or age. Pursuant to 40 C.F.R. §7.35(a), "a recipient shall not on the basis of race, color, or national origin provide a person any service, aid, or other benefit that is different, or is provided differently from that provided to others under the program or activity."

To establish a *prima facie* case of discrimination under Title VI, there must be evidence that "gives rise to an inference of unlawful discrimination."⁴ Evidence may be direct or circumstantial. *Id.* EPA must evaluate the "totality of the relevant facts" to determine whether intentional discrimination has occurred.⁵

² ECRD revised the statement of claims in this letter to clarify the scope of its investigation consistent with applicable Federal civil rights statutes, regulations, and executive orders.

³ Although the complaint alleges discrimination based on race, the scope of this analysis is limited to national origin because the complaint does not identify a specific racial group, does not allege facts showing that the recipient knew the race of the affected group, and does not provide allegations that the affected group was treated less favorably on the basis of race.

⁴ *Dalia Rashdan (Mohamed) v. Geissberger*, No. C 10-00634 SBA, 2012 U.S. Dist. LEXIS 75802 (N.D. Cal. May 30, 2012) (citing *Cordova v. State Farm Ins. Co.*, 124 F.3d 1145, 1148 (9th Cir. 1997)).

⁵ See *Washington v. Davis*, 426 U.S. 229, 242 (1976).

A claim of intentional discrimination, or disparate treatment, under Title VI alleges that a recipient intentionally treated individuals differently or otherwise knowingly caused them harm because of their race, color, or national origin. Intentional discrimination requires a showing that a “challenged action was motivated by an intent to discriminate.”⁶ Evidence of bad faith, ill will, or any evil motive on the part of the [recipient] is not necessary.⁷

Finally, to find disparate treatment, generally, the record must establish that recipient was aware of complainant’s protected status. In addition, generally, the record must demonstrate that recipient acted, at least in part, because of complainant’s protected status.⁸

Claim 1: Record Does not Establish Discrimination in Implementation of CAA Permit Program

A. Demographic Data

The complaint states YRCAA discriminated on the basis of race and national origin by providing better services to North Yakima County in comparison to South Yakima County, which allegedly has a higher percentage of persons who are LEP. To determine the populations that YRCAA serves, ECRD reviewed YRCAA’s jurisdictional authority under the CAA to enforce air quality regulations throughout the county.

Based on ECRD’s review, YRCAA’s authority does not extend to the Yakama Nation Reservation, which constitutes more than half of the land acreage in South Yakima County due to the Tribal Authority Rule of the CAA.⁹ YRCAA confirmed as much in its Response letter to ECRD.

According to YRCAA’s Response letter, 63.7 % of Yakima County residents live in North Yakima County and 36.3 % of residents live in South Yakima County. This does not include residents who live on the Yakama Nation Reservation. YRCAA’s Response letter also indicated that of all LEP residents in Yakima County, 47.8% live in North Yakima County and 52.1% live in South Yakima County. Based on the information provided, it appears that the LEP population is evenly distributed throughout both halves of Yakima County.

YRCAA also described how it provides services, such as translations, inspections, investigations, and compliance assistance across the county. For example, YRCAA stated that it offers notices in English and Spanish, free interpretation of public meetings, translation of Board documents, and contact information for bilingual staff. With regards to complaints, YRCAA alleged that between January 2022 and August 2024, YRCAA conducted investigations regarding 92.4 % of incidents in North Yakima County and 93.8% of incidents in South Yakima County.

⁶ *Elston v. Talladega Cty. Bd. of Educ.*, 997 F.2d 1394, 1406 (11th Cir. 1993).

⁷ *Williams v. City of Dothan*, 745 F.2d 1406, 14 14 (11th Cir. 1984).

⁸ *Doe ex rel. Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 548 (3d Cir. 2011).

⁹ Clean Air Act § 301(d), 42 U.S.C. § 7601(d) (2020).

Complainant has not provided additional information regarding YRCAA's unequal treatment of constituents based on race and national origin. Therefore, given these geographic and demographic factors, ECRD finds that there is insufficient evidence to support Complainants' allegation that YRCAA provides a higher level of services to North Yakima County and does not adequately engage the LEP population that lives in South Yakima County.

B. Air Emissions Testing

Complainants alleged that in 2022, YRCAA met with residents living near Caton Limited Purpose Landfill (Caton Landfill) and set up fenceline air emissions testing to evaluate the content and traveling distance of emissions. The complaint further alleged that YRCAA routinely ignored requests for air emissions testing from residents in South Yakima County where they claimed a large percentage of LEP residents live. Additionally, during a meeting with ECRD on September 10, 2024, Complainants alleged YRCAA spent more time addressing air quality concerns in North Yakima County, where constituents complained about Debris to Green Rocky Top Environmental Landfill (DTG Rocky Top Landfill).

ECRD learned that YRCAA's service area consists of four landfills: Terrace Heights Landfill, Cheyne Landfill, Caton Landfill, and DTG Rocky Top Landfill. Of the four, Cheyne Landfill is the only landfill located in South Yakima County.

The record does not demonstrate YRCAA discriminated regarding air emissions testing in South Yakima County.

Although the record fails to establish a *prima facie* case of discrimination, out of an abundance of caution, ECRD continued with its legal analysis. In its January 23, 2026 RFI response, YRCAA alleged that it had to contribute unexpected resources to respond to emergencies that occurred in the northern county landfills. Specifically, on December 22, 2022, air sampling sensors were placed throughout Caton Landfill. YRCAA explained that air sampling sensors were placed in response to a series of fires. More importantly, although YRCAA and others, including EPA, coordinated in the response, it was Yakima Health District (YHD), not YRCAA, who placed the sensors to try to prevent fires from reoccurring at the landfill. Thus, YRCAA has articulated a legitimate, nondiscriminatory reason for the placement of the air sampling sensors in Caton Landfill.

Likewise, ECRD reviewed YRCAA's involvement in air emissions testing at the DTG Rocky Top Landfill. As in Caton Landfill, DTG Rocky Top Landfill experienced a fire in January 2023.

In this case, Washington State Department of Ecology identified a subsurface fire, which resulted in YHD and YRCAA jointly addressing the fire. In February 2023, as in Caton Landfill, YHD directed the air emissions testing at DTG Rocky Top with YRCAA supporting YHD.

In contrast, the only landfill located in South Yakima County, Cheyne Landfill, has not experienced any landfill fires between January 2022 and August 2024, thus, it has not

warranted emergency air emissions testing. Therefore, the circumstances that prompted the coordinated efforts for air emissions testing at Caton Landfill and DTG Rocky Top Landfill were not present in South Yakima County. In sum, YRCAA has articulated a legitimate, nondiscriminatory reason for the placement of the air monitoring sensors in North Yakima County.

Next, ECRD can only conclude discrimination occurred if the evidence demonstrates YRCAA's reason is pretextual or not the true reason for its conduct. ECRD found no evidence to undermine YRCAA's explanation; for example, that there was a fire in its South Yakima County landfill where YRCAA failed to provide the same level of support as in the North Yakima County landfills.

Thus, accepting Complainants' allegation that YRCAA does not provide comparable air monitoring services to South Yakima County that it provides to North Yakima County, there is insufficient evidence to support Complainant's allegation that YRCAA discriminated in its involvement with air emissions testing in Yakima County.

Claim 2: Record Does not Establish Discrimination in Selection of YRCAA Board of Directors

Complainants allege YRCAA violated Title VI by appointing the Member-at-Large for the YRCAA Board without informing the LEP community of the opportunity to nominate a candidate. Specifically, Complainants allege YRCAA did not provide notice of the position through a public announcement in the Spanish media.

To make out a *prima facie* case of discrimination, the record must show that the alleged discriminator treated similarly situated individuals outside of a complainant's protected class more favorably than complainant.¹⁰ Here, a *prima facie* case is lacking because the YRCAA Board treated the public the same, in that, it did not provide notice regarding the Member-at-Large vacancy to anyone in the general public, in either English or Spanish.

Based on ECRD's review, the Board presumably does not consult the public regarding its Member-at-Large position because relevant state law does not require that the Board do so. Accordingly, YRCAA did not discriminate based on national origin when it allegedly failed to provide notice to LEP persons of an opportunity to nominate a Spanish-speaking candidate to the Board.¹¹

¹⁰ See *Campbell v. Hawaii Dep't of Educ.*, 892 F.3d 1005, 1012 (9th Cir. 2018).

¹¹ *Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252 (1977) (departures from the normal procedural sequence might afford evidence of discrimination).

III. Conclusion

For the reasons set forth above, ECRD concludes that there is insufficient evidence that YRCAA violated Title VI or EPA's nondiscrimination regulation in implementing its CAA permit program, selection of its Board, or its provision of programs and activities with respect to Complainant's allegations. Accordingly, ECRD is dismissing this complaint in accordance with 40 C.F.R. § 7.120(g).

This letter and its findings do not affect YRCAA's continuing responsibility to comply with Title VI or other federal nondiscrimination laws and EPA's regulations at 40 C.F.R. Parts 5 and 7. This letter has no precedential bearing on any EPA investigation of a federal civil rights complaint, and it is strictly limited to the matters and parties at issue in this complaint.

If you have any questions regarding this letter, please contact case manager Charity Johnson at (202) 564-4325 or at johnson.charity@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Juan Carlos Hunt". The signature is written in a cursive, flowing style.

JuanCarlos M. Hunt, Director
U.S. EPA, Office of Civil Rights and Adjudication

cc: Calvin Terada, Deputy Regional Administrator/Deputy Civil Rights Official
Beverly Li, Regional Counsel
U.S. EPA, Region 10