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Via Certified Mail,
Return Receipt Requested

March 13, 2013

Bob Perciasepe
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington D.C. 20460

Re: Notice of Intent to Sue Pursuant to 42 U.S.C. § 7604(b)(2) for Failure to Grant or Deny a Title V Petition as Required Under 42 U.S.C. § 7661d(b)(2)

Dear Administrator Perciasepe,

Pursuant to 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Part 54, Sierra Club is providing notice that it intends to file suit against you for a "failure of the Administrator [of the United States Environmental Protection Agency ("EPA")] to perform an[] act or duty under this chapter which is not discretionary with the Administrator" within the meaning of the Clean Air Act. 42 U.S.C. § 7604(a)(2). Specifically, EPA was required to grant or deny Sierra Club's petition requesting EPA to object to the issuance of the revised proposed Title V Operating Permit for Georgia Power's coal-fired McIntosh Steam-Electric Generating Plant in Rincon, Georgia, 4911-103-0003-V-03-0 ("Petition"), within 60 days after Sierra Club filed the Petition. 42 U.S.C. § 7661d(b)(2). As described below, EPA has violated this mandatory duty.

Sierra Club submitted the Petition on November 13, 2012, requesting that EPA object to the McIntosh Permit. The Petition raised three issues:

1) The Permit lacks sufficient monitoring to assure compliance for particulate matter emissions because once-every-five-year stack testing is insufficient to meet the minimum requirements under Title V;

2) The Permit contains inadequate provisions addressing hazardous air pollutants under recently promulgated regulations; and

3) The Permit contains inadequate provisions addressing fugitive dust from the coal handling system because it fails to provide specifically enforceable best management practices.

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Pursuant to 42 U.S.C. § 7661d(b)(2), "[t]he Administrator shall grant or deny such petition within 60 days after the petition is filed." Accordingly, EPA was required to grant or deny the petition by no later than January 14, 2013. It is after January 14, 2013 and EPA has not responded by granting or denying the petition, and is therefore in violation of its mandatory duty.

As required by 40 C.F.R. § 54.3, the person providing this notice is:

Sierra Club
85 Second St. 2nd Floor
San Francisco, CA 94105
Phone: (415) 977-5500

While EPA regulations require this information, please direct all correspondences and communications regarding this matter to the undersigned counsel.

Sierra Club and its counsel would prefer to resolve this matter without the need for litigation. Quickly and fairly resolving this matter would also be a clear indication that you do indeed intend to respect the rule of law which you committed to upon taking office. Therefore, we look forward to EPA responding to the Petition within 60 days. If we do not hear from EPA in 60 days, however, we will have to assume that you are not willing to resolve this matter and file a complaint.

Sincerely,

Ashten Bailey
Counsel for Sierra Club