



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor

Leo M. Drozdoff, PE Director

Colleen Cripps, Ph.D., Administrator

February 18, 2015

Gina McCarthy, Administrator  
United States Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

2015 FEB 26 AM 11:57  
Colleen Cripps

**Re: Notice of Intent to Sue for Failure to Act on Nevada's 2008 Ozone NAAQS State Implementation Plan Submission as Required by 42 U.S.C. § 7410(k)(2)**

Dear Administrator McCarthy:

On April 10, 2013, the Nevada Division of Environmental Protection (NDEP) submitted Nevada's state implementation plan (SIP) to the U.S. Environmental Protection Agency (EPA) addressing the 2008 ozone national ambient air quality standard (NAAQS). The Clean Air Act (Act) requires the EPA to determine whether a SIP submittal is complete within six months of submission. 42 U.S.C. § 7410(k)(1)(B). The EPA failed to do so and, as a result, the plan became complete by operation of law on October 10, 2013. *Id.* The Act then required the EPA to take final action approving, partially approving, or disapproving, Nevada's SIP no later than 12 months from the date the plan was deemed complete by operation of law. 42 U.S.C. § 7410(k)(2). Accordingly, the EPA had a non-discretionary duty to take a final action on Nevada's SIP no later than October 10, 2014. To date, the EPA has not taken action.

As required by 42 U.S.C. § 7604(b)(2), the NDEP hereby notifies you of its intent to bring a civil action against you in your official capacity as Administrator of the EPA for failing to perform a non-discretionary duty under the Act. Specifically, you have failed to take action on Nevada's SIP for the 2008 ozone NAAQS within the timeframe prescribed by 42 U.S.C. § 7410(k)(2).

The NDEP intends to file suit sixty days from the date of postmark of this letter seeking declaratory and injunctive relief to enforce the non-discretionary duty described above, as well as an award of litigation costs. Please feel free to contact me if you have any questions regarding this communication.

Sincerely,

Colleen Cripps, Ph. D.  
Administrator

Gina McCarthy, Administrator  
February 18, 2015  
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cc: Deborah Jordan, Director, Air Division, USEPA Region IX, (AIR-1)  
Amy Zimpfer, Associate Director, Air Division, USEPA Region IX, (AIR-1)  
Matt Lakin, Chief, Planning Office, Air Division, USEPA Region IX, (AIR-2)

ec: Dave Emme, Deputy Director, NDEP  
Jasmine Mehta, Chief, Bureau of Air Quality Planning