

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-666

HEAL UTAH;
NATIONAL PARKS CONSERVATION ASSOCIATION; and
SIERRA CLUB

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;
GINA McCARTHY, in her official capacity as Administrator, United States Environmental
Protection Agency; and
SHAUN McGRATH, in his official capacity as Regional Administrator, United States
Environmental Protection Agency, Region 8,

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This case challenges the failure of the U.S. Environmental Protection Agency (“EPA”) to develop a plan for reducing regional haze pollution from certain sources in Utah by EPA’s statutory deadline.

2. Decades of delay in finalizing a plan to reduce emissions of haze-causing nitrogen oxides (“NOx”) and particulate matter from coal-fired power plants that constitute Utah’s major sources of these pollutants have deprived visitors to the state’s spectacular national parks—including Arches, Canyonlands, Zion, Capitol Reef, and others—of full enjoyment of these precious resources and caused Utah residents and visitors to be exposed to unnecessarily high levels of these pollutants that harm human health.

3. HEAL Utah, National Parks Conservation Association, and Sierra Club (collectively, “Conservation Organizations”) seek to bring an end to this delay by requesting an order from this Court requiring EPA to perform its nondiscretionary duty of promulgating a regional haze plan for Utah as required by the Clean Air Act.

JURISDICTION

4. This Court has jurisdiction over this action to compel the performance of nondiscretionary duties by EPA pursuant to 42 U.S.C. § 7604(a) (citizen suit provision of the federal Clean Air Act) and 28 U.S.C. § 1331 (federal question jurisdiction).

5. The declaratory and injunctive relief the Conservation Organizations request are authorized by 28 U.S.C. §§ 2201(a) and 2202, and 42 U.S.C. § 7604.

6. The Conservation Organizations have exhausted all administrative remedies and have no adequate remedy at law. Specifically, the Conservation Organizations provided EPA with written notice of the claims stated in this action at least sixty days before commencing this action as required by 42 U.S.C. § 7604(b)(2). See Exhibit A (Letter from Jenny Harbine, counsel for Plaintiffs, to Gina McCarthy, EPA Administrator, dated January 29, 2015).

VENUE

7. Venue lies in this judicial district pursuant to 28 U.S.C. § 1391(e). Venue in this district is proper under 28 U.S.C. § 1391(e)(1) because Defendant Shaun McGrath, Administrator for EPA’s Region 8 Office, is located in Denver, Colorado. Venue in this judicial district also is proper under 28 U.S.C. § 1391(e)(2) because EPA’s alleged inactions relate to the duties of the Regional Administrator in Denver, and thus, a “substantial part of the events or omissions giving rise to the claim occurred” in this district.

PARTIES

8. Plaintiff HEAL Utah is a grassroots non-profit organization based in Salt Lake City, Utah, with approximately 9,000 members and supporters. HEAL Utah is dedicated to promoting clean energy, protecting our health and the environment from toxic risks, and involving citizens in the decisions affecting our health and environment. Since its founding, HEAL Utah has been a watchdog on behalf of Utah's citizens on a range of nuclear, toxic and dirty energy threats, as well as an advocate for cleaner, more sustainable solutions. HEAL Utah has actively advocated for adequate implementation of the Clean Air Act's regional haze requirements in Utah.

9. Plaintiff National Parks Conservation Association ("NPCA") is a nonpartisan, not-for-profit organization dedicated to the protection and preservation of national parks. NPCA's mission encompasses the restoration of clean air and corresponding benefits to park resources, neighboring communities and park visitors. NPCA has approximately 6,000 members and supporters in Utah and approximately 900,000 members and supporters nationwide.

10. Plaintiff Sierra Club is America's oldest and largest grassroots environmental organization. Sierra Club has more than 600,000 members nationwide, and over 3,400 members in the state of Utah. Founded in 1892, the Sierra Club has been working for more than a century to protect communities, wild places, and the planet itself. The Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the Earth; to practicing and promoting the responsible use of the Earth's resources and ecosystems; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club's concerns encompass the exploration,

enjoyment and protection of the lands and waters of America's national parks and wilderness areas.

11. The Clean Air Act violations alleged in this Complaint have injured and continue to injure the interests of Plaintiffs' members. Plaintiffs' members use Class I areas in Utah, including Arches, Canyonlands, and Capitol Reef national parks. Their enjoyment of these areas is impaired by regional haze pollution from the Hunter and Huntington coal-fired power plants, which reduces visibility and interferes with the otherwise spectacular vistas that these parks offer. Granting the relief requested in this lawsuit would redress Plaintiffs' injuries by compelling EPA to take actions mandated by Congress in the Clean Air Act's statutory scheme for reducing regional haze pollution from the Hunter and Huntington plants.

12. Defendant U.S. Environmental Protection Agency is an agency of the federal government responsible for implementing the Clean Air Act, including the requirements alleged in this Complaint to have been violated.

13. Defendant Gina McCarthy is sued in her official capacity as the Administrator of the EPA. She is responsible for taking various actions to implement and enforce the Clean Air Act, including the actions sought in this Complaint.

14. Defendant Shaun McGrath is sued in his official capacity as EPA Regional Administrator for Region 8. He is responsible for implementing and enforcing the Clean Air Act in EPA Region 8, which includes Utah.

STATUTORY FRAMEWORK

15. Congress enacted the Clean Air Act's regional haze provisions to protect the "intrinsic beauty and historical and archaeological treasures" of our national parks and

wildernesses by eliminating human-caused haze pollution that mars vistas in these “Class I areas.” H.R. Rep. No. 95-294, at 203-04 (1977), reprinted in 1977 U.S.C.C.A.N. 1077, 1282; see also 42 U.S.C. § 7472(a) (defining Class I areas to encompass most national parks and wilderness areas); id. § 7491(a)(1) (establishing national visibility goal). Haze pollution reduces the clarity, color, and visible distance in some of our nation’s most prized federal public lands. In the western United States, human-caused haze has reduced the visual range in many Class I areas to only 100-150 kilometers—about one-half to two-thirds the range that otherwise would exist. Final Rule, Regional Haze Regulations, 64 Fed. Reg. 35,714, 35,715 (July 1, 1999). Haze pollution results from a multitude of sources that emit fine particulate matter (“PM”) and its precursors, which include sulfur dioxide and nitrogen oxides (“NO_x”). Id. This same pollution causes “serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.” Id.

16. To meet the national visibility goal, each state is required to design an implementation plan to reduce, and ultimately eliminate, haze from air pollution sources within its borders that cause or contribute to visibility impairment in national parks and wilderness areas. 42 U.S.C. § 7491(b). These state implementation plans, or “SIPs,” must prescribe “emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal.” Id. § 7491(b)(2).

17. Each state’s SIP must require installation of the “best available retrofit technology,” or “BART,” for controlling haze-forming pollution from certain major stationary sources that began operating between 1962 and 1977 and cause or contribute to visibility impairment in Class I areas. 42 U.S.C. § 7491(b)(2)(A). A “major stationary source” falls

within one of twenty-six enumerated industrial categories and has the potential to emit at least 250 tons of air pollution annually. 42 U.S.C. § 7491(g)(7).

18. To determine what technology constitutes BART for a particular source, the state must evaluate five factors:

the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

Id. § 7491(g)(2); accord 40 C.F.R. § 51.308(e)(1)(ii)(A).

19. Because of their age and scale, the sources subject to BART requirements make an outsized contribution to the regional haze problem; the need to remedy haze-forming pollution from these sources was “a major concern motivating the adoption of the [Clean Air Act’s] visibility provisions.” Final Rule, Regional Haze Regulations, 64 Fed. Reg. at 35,737 (quoting H.R. Rep. No. 564, 95th Cong., 1st Sess. at 155 (1977)). Thus, adequate emission controls on sources subject to BART are an essential component of meeting the Clean Air Act’s visibility mandate.

20. While it is the State’s responsibility to develop a SIP, if it fails to do so or the State’s plan does not satisfy statutory and regulatory requirements, EPA must disapprove it and prepare a federal implementation plan, or “FIP.” 42 U.S.C. § 7410(c)(1)(B).

21. The Clean Air Act requires the EPA Administrator to promulgate a FIP within two years of a finding that a state has failed to make a legally adequate SIP submittal. 42 U.S.C. § 7410(c). Specifically:

(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A).

Id.

22. If EPA's Administrator fails to take a non-discretionary action, such as promulgating an implementation plan to address regional haze in any state, the Clean Air Act empowers citizens to seek a court order compelling EPA to perform its non-discretionary duty. 42 U.S.C. § 7604(a)(2).

FACTUAL BACKGROUND

23. Adequate plans to reduce regional haze are important for all states, but compliance with the haze program is especially crucial for Utah. Utah's national parks, which host millions of visitors each year, were established specifically to protect the scenic landscapes and spectacular views afforded by the unique red rock country. For example, Congress established Canyonlands National Park "to preserve an area in the State of Utah possessing superlative scenic, scientific, and archeologic features for the inspiration, benefit, and use of the public." 16 U.S.C. § 271. These same "inspiration[al]" attributes are those marred by regional haze.

24. In Utah, Units 1 and 2 at the Hunter and Huntington coal-fired power plants are subject to BART. These units are relatively large, each having a net generating capacity of 430 megawatts. The Hunter and Huntington plants are only 10 miles apart from each other and less than 100 miles from three Class I areas: Arches, Canyonlands, and Capitol Reef national parks.

Emissions from the Hunter and Huntington plants contribute significantly to visibility impairment at these and national parks in Utah as well as Utah's Bryce Canyon and Zion National Parks; Colorado's Mesa Verde and Black Canyon of the Gunnison National Parks and Flat Tops Wilderness Area; and one of the crown jewels of the national park system, the Grand Canyon.

25. Although Clean Air Act regulations required states to submit SIPs addressing regional haze no later than December 17, 2007, 40 C.F.R. § 51.308(b), Utah for the first time submitted a regional haze SIP that included BART determinations for Hunter and Huntington's NO_x and particulate matter emissions on May 26, 2011. While EPA approved portions of Utah's SIP on December 14, 2012, EPA properly rejected Utah's 2011 BART determinations for Hunter and Huntington Units 1 and 2 because they were not based on a valid five-factor BART analysis as required by EPA regulations, 40 C.F.R. § 51.308(e)(1). Final Rule, Utah Regional Haze, 77 Fed. Reg. 74,355, 74,357 (Dec. 14, 2012).

26. More than two years later, Utah still has not proposed an adequate SIP and EPA has not promulgated a FIP to govern in the absence of a legitimate state planning effort.

27. EPA's December 14, 2012 rejection of the NO_x and particulate matter BART elements of Utah's SIP triggered EPA's nondiscretionary duty under 42 U.S.C. §7410(c)(1)(A) to promulgate a regional haze FIP for Utah addressing these elements no later than January 14, 2015—two years after the effective date of EPA's rejection of the Utah SIP. Because EPA failed to meet the January 14, 2015 deadline, EPA is in violation of its nondiscretionary duty.

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CLAIM FOR RELIEF

28. Plaintiffs hereby reallege and incorporate Paragraphs 1 through 27.

29. EPA violated its non-discretionary duty under 42 U.S.C. § 7410(c) to promulgate a timely regional haze FIP addressing the Clean Air Act's BART requirements for Units 1 and 2 of the Hunter and Huntington coal-fired power plants in Utah. EPA found these elements of Utah's regional haze SIP legally inadequate on December 14, 2012. Accordingly, the Clean Air Act required EPA to promulgate a FIP no later than January 14, 2015—two years after the effective date of its December 14, 2012 finding. EPA failed to do so.

30. As provided by 42 U.S.C. § 7604(a)(2), this Court should order EPA to expeditiously promulgate a regional haze FIP for Utah.

PRAYER FOR RELIEF

THEREFORE, Plaintiffs respectfully request that the Court:

1. Declare that EPA is in violation of the Clean Air Act for failing to promulgate a regional haze FIP for Utah on or before January 14, 2015;

2. Order EPA to expeditiously promulgate a regional haze FIP to comply with the Clean Air Act's BART requirements for Units 1 and 2 of the Hunter and Huntington coal-fired power plants in Utah;

3. Retain jurisdiction over this matter until such time as EPA has complied with its non-discretionary duty under the Clean Air Act as described in this Complaint;

4. Award plaintiffs their reasonable fees, costs, and expenses, including attorneys fees, associated with this litigation; and

5. Grant plaintiffs such further and additional relief as the Court may deem just and proper.

Respectfully submitted this 31st day of March, 2015.

/s/Jenny K. Harbine
Jenny K. Harbine
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Counsel for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 HEAL Utah, National Parks Conservation Association, Sierra Club

(b) County of Residence of First Listed Plaintiff Salt Lake County, Utah
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Jenny Harbine, Earthjustice, 313 E. Main St, Bozeman, MT 59715,
 406-586-9699
 John Barth, P.O. Box 409, Hygiene, CO 80533, 303-774-8868

DEFENDANTS
 U. S. ENVIRONMENTAL PROTECTION AGENCY; GINA MCCARTHY, U.S. EPA Administrator; SHAUN McGRATH, Regional Administrator of EPA Region 8

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
 Attorney General Eric H. Holder, Jr., United States Department of Justice,
 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	TAX SUITS	<input checked="" type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	IMMIGRATION	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities Employment			
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities Other			
	<input type="checkbox"/> 448 Education			
		PRISONER PETITIONS		
		Habeas Corpus:		
		<input type="checkbox"/> 463 Alien Detainee		
		<input type="checkbox"/> 510 Motions to Vacate Sentence		
		<input type="checkbox"/> 530 General		
		<input type="checkbox"/> 535 Death Penalty		
		Other:		
		<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Judge from Appeal to District Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 U.S.C. § 7604(a) (citizen suit provision of the federal Clean Air Act); 42 U.S.C. § 7410(c) (Clean Air Act deadline for federal plan)

Brief description of cause: AP Docket
 This case challenges EPA's failure to promulgate a plan to implement the Clean Air Act's regional haze provisions for Utah by its non-discretionary deadline of January 14, 2015.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ Declaration, Injunction

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

DATE: March 31, 2015

SIGNATURE OF ATTORNEY OF RECORD: s/ Jenny K. Harbine

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Colorado

HEAL Utah, Nat'l Parks Conservation Ass'n, Sierra Club

Plaintiff

v.

U.S. Environmental Protection Agency; Gina McCarthy, and Shaun McGrath

Defendant

Civil Action No. 15-666

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) U.S Environmental Protection Agency
United States Environmental Protection Agency
1200 Pennsylvania Avenue N.W
Washington, D.C. 20004

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jenny K. Harbine
EARTHJUSTICE
313 East Main Street
Bozeman, Montana 59715

John Barth
Attorney at Law
P.O. Box 406
Hygiene, CO 80533

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

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HEAL Utah, Nat'l Parks Conservation Ass'n, Sierra Club

Plaintiff

v.

U.S. Environmental Protection Agency; Gina McCarthy,
and Shaun McGrath

Defendant

Civil Action No. 15-666

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Gina McCarthy, Administrator
U.S Environmental Protection Agency
United States Environmental Protection Agency
1200 Pennsylvania Avenue N.W
Washington, D.C. 20004

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jenny K. Harbine
EARTHJUSTICE
313 East Main Street
Bozeman, Montana 59715

John Barth
Attorney at Law
P.O. Box 406
Hygiene, CO 80533

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CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-666

HEAL UTAH;
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Plaintiffs,

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;
GINA McCARTHY, in her official capacity as Administrator, United States Environmental
Protection Agency; and
SHAUN McGRATH, in his official capacity as Regional Administrator, United States
Environmental Protection Agency, Region 8,

Defendants.

NOTICE OF RELATED CASE

Pursuant to Local Civil Rule 3.2, notice is hereby given that WildEarth Guardians v. McCarthy, No. 15-CV-00630 (D. Colo., filed Mar. 27, 2015) is related to the above-captioned matter because both challenge the U.S. Environmental Protection Agency's failure to promulgate a timely implementation plan addressing Utah sources of regional haze as required under the Clean Air Act, 42 U.S.C. §§ 7410, 7491. Gina McCarthy, in her official capacity as Administrator of the U.S. Environmental Protection Agency is a defendant in both cases.

Respectfully submitted this 31st day of March, 2015.

/s/Jenny K. Harbine
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