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EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

July 30, 2014

VIA CERTIFIED MAIL

Ms. Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Bldg.
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

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OFFICE OF THE
EXECUTIVE SECRETARIAT

Re: 60-Day Notice of Intent to File Clean Air Act Citizen Suit

Dear Administrator McCarthy,

This letter is submitted on behalf of Sierra Club,¹ Medical Advocates for Healthy Air,² Physicians for Social Responsibility – Los Angeles,³ WildEarth Guardians,⁴ and Center for Biological Diversity⁵ to notify you, pursuant to section 304(b) of the Clean Air Act (“CAA” or “Act”) (42 U.S.C. § 7604(b)), that these organizations intend to sue the U.S. Environmental Protection Agency (“EPA”) for its failure to perform non-discretionary duties related to the implementation of the 1997 National Ambient Air Quality Standards (“NAAQS”) for particulate matter less than 2.5 microns in diameter (“PM2.5”) in the San Joaquin Valley, CA and Los Angeles-South Coast Air Basin, CA nonattainment areas. These organizations ask that you direct your staff to take the immediate actions described below as required under the Act.

According to EPA, exposure to PM2.5 has been linked to premature death, heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms. *See* 78 Fed. Reg. 3,086, 3,086 (Jan. 15, 2013). Many of these impacts are suffered most acutely by our most vulnerable, including people with heart or lung disease, children, and the elderly. *Id.* at 3,104.

In 1997, EPA revised the NAAQS for particulate matter, setting a 15.0 µg/m³ annual standard and 65 µg/m³ 24-hour standard for PM2.5. 62 Fed. Reg. 38,652 (July 18, 1997); 40 C.F.R. § 50.7. Effective April 5, 2005, EPA designated Los Angeles-South Coast Air Basin, CA and San Joaquin Valley, CA as nonattainment areas for these 1997 PM2.5 standards. 70 Fed. Reg. 944, 955 (Jan. 5, 2005); 40 C.F.R. § 81.305.

¹ Sierra Club, 85 Second Street, 2nd Floor, San Francisco, CA 94105.

² Medical Advocates for Healthy Air, 5919 E. Robinson Avenue, Fresno, CA 93727.

³ Physicians for Social Responsibility – Los Angeles, 617 S. Olive Street, Suite 200, Los Angeles, CA 90014-1629.

⁴ WildEarth Guardians, 1536 Wynkoop Street, Suite 310, Denver, CO 80202.

⁵ Center for Biological Diversity, 351 California Street, Suite 600, San Francisco, CA 94104.

Section 188(c)(1) of the Act requires that areas designated as nonattainment for particulate matter come into attainment with EPA's standards within six years of a nonattainment designation. 42 U.S.C. § 7513(c)(1). Thus, Los Angeles-South Coast Air Basin, CA and San Joaquin Valley, CA were required to come into attainment with EPA's 1997 PM2.5 standards by December 31, 2011. *Id.*

Section 188(b)(2) requires that within six months of the attainment date, EPA must make a determination whether the areas had attained the PM2.5 standards. 42 U.S.C. § 7513(b)(2). If EPA determines that the areas have not attained the PM2.5 standards, "the area shall be reclassified by operation of law as a Serious Area" and EPA must publish notice in the Federal Register that the area has been reclassified. 42 U.S.C. § 7513(b)(2)(A), (B).

Neither Los Angeles-South Coast Air Basin, CA nor San Joaquin Valley, CA attained the 1997 PM2.5 standards by December 31, 2011. Thus, by June 30, 2012, EPA was required to publish notice in the Federal Register that Los Angeles-South Coast Air Basin, CA and San Joaquin Valley, CA failed to come into attainment and were reclassified as Serious Areas.

EPA has failed to complete its nondiscretionary duties to: (1) make a determination that Los Angeles-South Coast Air Basin, CA and San Joaquin Valley, CA failed to attain EPA's 1997 PM2.5 standards by the attainment date; and (2) publish notice in the Federal Register that these areas have been reclassified by operation of law as Serious Areas. Unless this deficiency is promptly addressed, Sierra Club, Medical Advocates for Healthy Air, Physicians for Social Responsibility – Los Angeles, WildEarth Guardians, and Center for Biological Diversity intend to file suit in U.S. District Court sixty days after your receipt of this letter. Please feel free to contact me at (415) 217-2000 to further discuss the basis for this claim, or to explore possible options for resolving this claim short of litigation.

Sincerely,



Elizabeth Forsyth
Paul Cort
Counsel for Sierra Club,
Medical Advocates for Healthy Air,
Physicians for Social Responsibility – Los Angeles,
WildEarth Guardians,
and Center for Biological Diversity

cc: Jared Blumenfeld, Regional Administrator, EPA Region 9