



April 22, 2016

VIA CERTIFIED MAIL

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

**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,<sup>1</sup> Medical Advocates for Healthy Air,<sup>2</sup> Physicians for Social Responsibility – Los Angeles,<sup>3</sup> WildEarth Guardians,<sup>4</sup> and Center for Biological Diversity<sup>5</sup> (collectively “Health Advocates”) to notify you, pursuant to section 304(b) of the Clean Air Act (“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 Los Angeles-South Coast Air Basin, CA (“South Coast”) nonattainment area. 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/m<sup>3</sup> annual standard and 65 µg/m<sup>3</sup> 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 the South Coast as a nonattainment area for these 1997 PM2.5 standards. 70 Fed. Reg. 944, 955 (Jan. 5, 2005); 40 C.F.R. § 81.305.

<sup>1</sup> Sierra Club, 85 Second Street, 2nd Floor, San Francisco, CA 94105.

<sup>2</sup> Medical Advocates for Healthy Air, 5919 E. Robinson Avenue, Fresno, CA 93727.

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

<sup>4</sup> WildEarth Guardians, 2590 Walnut St., Denver, CO 80205.

<sup>5</sup> Center for Biological Diversity, 1212 Broadway, Suite 800, Oakland, CA 94612.

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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, it is Health Advocates' position that the Los Angeles-South Coast Air Basin, CA was 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 area has attained the PM2.5 standards. 42 U.S.C. § 7513(b)(2). If EPA determines that the area has 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).

The South Coast did not attain the 1997 PM2.5 standards by December 31, 2011. Thus, it is Health Advocates' position that by June 30, 2012, EPA was required to publish notice in the Federal Register that the South Coast failed to come into attainment and was reclassified as a Serious Area.

EPA's position is that its November 9, 2011 action on California's plans to provide for attainment of the 1997 PM2.5 standards in the South Coast, which approved California's request for an extension of the deadline for attaining the 1997 PM2.5 standards under Subpart 1 of Part D, Title I of the Act, set the applicable attainment deadline at April 5, 2015. *See* 76 Fed. Reg. 69,928 (Nov. 9, 2011). The South Coast did not attain the 1997 PM2.5 standards by April 5, 2015. Thus, under EPA's view of the applicable attainment deadline, by October 5, 2015, EPA was required to publish notice in the Federal Register that the South Coast failed to come into attainment and was reclassified as a Serious Area.

Without conceding that April 5, 2015 was the applicable attainment date, Health Advocates allege that EPA has failed to complete its nondiscretionary duties under Clean Air Act section 188(b)(2) by failing to: (1) make a determination of whether the South Coast failed to attain the 1997 PM2.5 standard by April 5, 2015; and (2) publish notice in the Federal Register that the area has been reclassified by operation of law as a Serious Area. Unless this deficiency is promptly addressed, Health Advocates intend to amend the groups' complaint in *Sierra Club v. EPA*, 3:14-cv-04596-EMC, to include a claim that EPA failed to make a determination that the South Coast failed to attain the 1997 PM2.5 standard by April 5, 2015. 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,

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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

## PROOF OF SERVICE

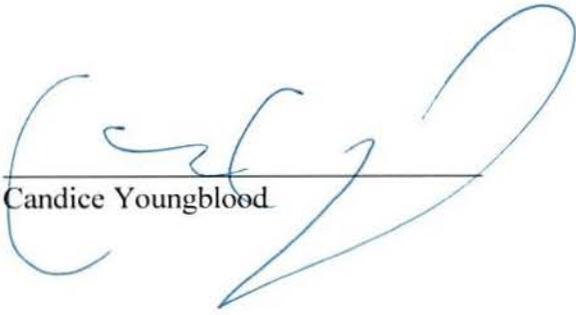
I am a citizen of the United States of America and a resident of the County of Los Angeles; I am over the age of 18 years and not a party to the within entitled action; my business address is 800 Wilshire Boulevard, Suite 1000, Los Angeles, California.

I hereby certify that on April 22, 2016, I served one true copy of the **60-Day Notice of Intent to File Clean Air Act Citizens Suit** via U.S. Certified Mail on the persons listed below:

Gina McCarthy  
Administrator  
U.S. EPA  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Jared Blumenfeld  
Regional Administrator  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

I certify under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2016 in Los Angeles, California.

  
Candice Youngblood