

**U.S. DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

LOUISIANA ENVIRONMENTAL )  
ACTION NETWORK and SIERRA )  
CLUB, )

Civil Action No.: 3:15-CV-00858-JJB-RLB

Plaintiffs, )

v. )

GINA MCCARTHY, in her official )  
capacity as Administrator of the U.S. )  
Environmental Protection Agency, )

Defendant. )

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**SECOND AMENDED COMPLAINT**

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Plaintiffs Louisiana Environmental Action Network and Sierra Club file this Second Amended Complaint in accordance with Rule 15(a)(2) of the Federal Rules of Civil Procedure upon receiving written consent from the Defendant Gina McCarthy.

**INTRODUCTION**

1. The Administrator of the U.S. Environmental Protection Agency (“EPA”) has failed to perform her nondiscretionary duty under the Clean Air Act. Specifically, the Act requires EPA to grant or deny a timely petition for an EPA objection to a major source operating permit within 60 days. 42 U.S.C. § 7661d(b)(2). Plaintiffs Louisiana Environmental Action Network (“LEAN”) and Sierra Club filed such a petition on May 19, 2015 (“the Petition”). The Petition seeks EPA’s objection to a permit that the Louisiana Department of Environmental Quality (“LDEQ”) issued to Yuhuang Chemical Inc., i.e., Permit No. 2560-00295-V0 (“the

Permit”). The Permit is for the operation of a new methanol manufacturing plant (“Yuhuang Methanol Plant”) in St. James, Louisiana. More than 60 days has passed since Plaintiffs filed their Petition, but EPA has failed to grant or deny the Petition.

2. The Clean Air Act empowers “any person” to sue to enforce any EPA “act or duty under [the Clean Air Act] that is not discretionary.” 42 U.S.C. § 7604(a)(2).

#### JURISDICTION AND VENUE

3. This action arises under the Clean Air Act, 42 U.S.C. § 7661d(b). This Court has jurisdiction over Plaintiffs’ claims pursuant to 42 U.S.C. § 7604(a) (granting district courts jurisdiction to order EPA to perform a nondiscretionary duty). This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction). The relief that Plaintiffs request is authorized pursuant to 42 U.S.C. § 7604 and 28 U.S.C. § 2201 (declaratory judgment).

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(C) because plaintiff LEAN resides within the Middle District of Louisiana and no real property is involved in the action.

#### PARTIES

5. Gina McCarthy is the EPA Administrator and is responsible for directing the activities of the agency and implementing the requirements of the Clean Air Act. Plaintiffs sue Gina McCarthy in her official capacity.

6. LEAN is a non-profit corporation organized under the laws of the State of Louisiana with its domicile in Baton Rouge, Louisiana.

7. LEAN’s purpose is to preserve and protect the state’s land, air, water, and other natural resources, and to protect its members and other residents of the state from threats of

pollution. One way LEAN works to protect the environment and the health of state residents is to comment on and challenge air permits issued by LDEQ that do not conform to the law.

8. LEAN is a “person” within the meaning of 42 U.S.C. §§ 7604, 7661d(b)(2).

9. Sierra Club is a non-profit corporation organized under the laws of the State of California, and has an office in New Orleans, Louisiana.

10. Sierra Club is the oldest and largest grassroots environmental group in the United States, with more than 621,000 members throughout the United States, including Louisiana.

Sierra Club’s mission is to protect and enhance the quality of the natural and human environment. Its activities include public education, advocacy, and litigation to enforce environmental laws. Sierra Club and its members are concerned about the effects of air pollution on human health and the environment and have a long history of involvement in activities related to air quality. One way Sierra Club works to protect the environment and human health is to comment on and challenge air permits that do not conform to the law.

11. Sierra Club is a “person” within the meaning of 42 U.S.C. §§ 7604, 7661d(b)(2).

12. Members of LEAN and Sierra Club live, work, and recreate in areas in which air quality will be adversely affected by EPA’s failure to grant or deny the Petition. These members live, work, and recreate in areas where they will be exposed to dangerous pollutants allowed by the Permit. Emissions of air pollutants allowed by the Permit will injure the members by causing them reasonable concern and anxiety about the pollutants’ health, economic, and environmental effects.

13. EPA’s failure to grant or deny the Petition injures LEAN and Sierra Club members because it allows construction of the Yuhuang Methanol Plant to proceed and ultimately operate without a permit that meets the requirements of the Clean Air Act, including

Prevention of Significant Deterioration (PSD) requirements under the Act and Louisiana's State Implementation Plan, La. Admin. Code, tit. 33, pt. III § 509. The Permit does not include limits or other conditions that will ensure that the plant will not contribute to the violation of federal health protection standards (known as "National Ambient Air Quality Standards.") The Permit also fails to incorporate Best Available Control Technology pollution control standards mandated by the Clean Air Act and La. Admin. Code, tit. 33, pt. III § 509 to protect public health and welfare. Instead, the Permit incorporates less stringent pollution control requirements and consequently allows the Yuhuang Methanol Plant to emit excessive amounts of dangerous air pollutants, including: particulate matter (both PM<sub>10</sub> and PM<sub>2.5</sub>), sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds, and greenhouse gases (including carbon dioxide, nitrous oxide, and methane) from various emission sources at the plant. These pollutants are associated with a variety of adverse effects on human health and the environment. Members of LEAN and Sierra Club are reasonably concerned that exposure to the excessive pollutants allowed by the Permit will impair their health and air quality. The Permit injures members of LEAN and Sierra Club because it denies these members health and welfare protections that the Clean Air Act guarantees them. These injuries are irreparable.

14. EPA's failure to grant or deny the Petition harms LEAN's and Sierra Club's interests and their members' interests. EPA's failure results in doubt and concern for LEAN and Sierra Club members about whether EPA will object to the Permit and require changes to the Permit so that it will comply with the requirements of the Clean Air Act and protect them from exposure to pollutants to the extent required by law. This uncertainty and resulting fear is an actual, concrete, and irreparable injury. Monetary damages cannot adequately remedy these injuries.

15. EPA's failure to grant or deny the Petition further deprives Plaintiffs and their members of procedural rights and protections to which they are entitled to under the Clean Air Act. If EPA grants the Petition, the Plaintiffs and their members will be entitled to reform of the Permit. If EPA denies the Petition, the Plaintiffs will have an opportunity to seek judicial review of that denial. EPA's failure to grant or deny the Petition prevents Plaintiffs and their members from exercising either of these statutory rights.

16. An order by this Court requiring EPA to grant or deny Plaintiffs' petition will redress injuries to LEAN and Sierra Club members.

17. Plaintiffs submit sworn declarations with this Second Amended Complaint as Exhibits A-E to establish LEAN and Sierra Club's organizational standing and the individual standing of Plaintiffs' members.

#### NOTICE

18. On August 17, 2015, EPA received notice of Plaintiffs' intent to file this lawsuit via certified mail. Plaintiffs have attached an accurate copy of their notice letter as Exhibit F and a copy of their certified mail receipt as Exhibit G. The notice complies with 42 U.S.C. § 7604(b)(2), and 40 C.F.R. pt. 54.

19. More than 60 days has passed since Plaintiffs served their notice of intent to file this suit on EPA.

#### LEGAL BACKGROUND

20. The Clean Air Act aims "to protect and enhance the quality of the Nation's air resources." 42 U.S.C. § 7401(b)(1). To help meet this goal, Title V of the Act creates an operating permit program that applies to all major sources of air pollution. *See* 42 U.S.C. § 7661-7661f.

21. Major sources of air pollution must obtain a valid Title V operating permit that includes emission limitations and such other conditions as are necessary to assure compliance with applicable requirements of the Clean Air Act, including the requirements of the applicable State Implementation Plan (“SIP”). *See* 42 U.S.C. §§ 7661a(a) and 7661c(a).

22. The Clean Air Act allows EPA to approve state programs that meet the requirements of the Act so that states can administer the Title V permitting program within their states. 42 U.S.C. § 7661a(d). EPA’s full approval of Louisiana’s Title V permitting program became effective on October 12, 1995. *See* 40 C.F.R. § pt. 70, App. A. Louisiana’s Title V permitting program is codified at La. Admin. Code, tit. 33, pt. III § 507; *cf. id.* at § 507.B.2. (Permits issued for a major source under Louisiana’s Title V permitting program “shall include the elements required by 40 C.F.R. 70.6.”).

23. EPA maintains oversight of state-run Title V programs. Prior to the issuance of a Title V permit, the state must submit the proposed permit to EPA for review. 42 U.S.C. § 7661d(a); 40 C.F.R. § 70.8(a). Upon receipt of a proposed permit, EPA has 45 days to object to final issuance of the permit if EPA determines that it is not in compliance with applicable requirements of the Clean Air Act or the requirements under 40 C.F.R. pt. 70. 40 C.F.R. § 70.8(c).

24. If EPA does not object to a Title V permit on its own initiative, any person may petition EPA, within 60 days of expiration of EPA’s 45-day review period, to object to the permit. 42 U.S.C. § 7661d(b)(2); *see also* 40 C.F.R. § 70.8(d).

25. The petition must “be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to EPA that it was impracticable to raise such

objections within such period or unless the grounds for such objection arose after such period).”  
42 U.S.C. § 7661d(b)(2).

26. In response to such a petition, the Clean Air Act requires EPA to issue an objection if the petitioner demonstrates that a permit is not in compliance with the requirements of the Act, including requirements of the applicable SIP. 42 U.S.C. § 7661d(b)(2). *See also* 40 C.F.R. § 70.8(c)(1); *N.Y. Public Interest Research Group v. Whitman*, 321 F.3d 316, 333 n.11 (2d Cir. 2003).

27. EPA “shall grant or deny such petition within 60 days after the petition is filed.”  
42 U.S.C. § 7661d(b)(2).

28. If, in responding to a petition, EPA objects to a permit that has already been issued, EPA or the permitting authority will modify, terminate, or revoke and reissue the permit consistent with the procedures set forth in 40 C.F.R. §§ 70.7(g)(4) and (5)(i)(ii), and 40 C.F.R. § 70.8(d).

29. “[A]ny person may commence a civil action on his own behalf . . . against the Administrator . . . to perform any act or duty under this Act which is not discretionary with the Administrator.” 42 U.S.C § 7604(a)(2).

#### FACTS

30. On February 4, 2015, LDEQ issued a proposed version of the Permit for the Yuhuang Methanol Plant.

31. LDEQ submitted the proposed Permit for the Yuhuang Methanol Plant to EPA in accordance with Title V of the Clean Air Act. EPA’s 45-day review period for the proposed Permit began on February 4, 2015 and ended on March 20, 2015. EPA did not raise any objections during this period.

32. On May 5, 2015, LDEQ finalized the Permit as a permit under Louisiana's Title V operating permit program.

33. On May 19, 2015, Plaintiffs filed the Petition requesting that the Administrator object to the Permit because, among other reasons, LDEQ did not require PSD review or a PSD permit for the plant, making the Permit illegal because it fails to include emission limitations and standards and other conditions necessary to assure compliance with the applicable requirements of the Clean Air Act and with Louisiana's SIP.

34. Plaintiffs based their Petition on objections raised with reasonable specificity during the public comment period provided by LDEQ on the proposed Permit in accordance with 42 U.S.C. § 7661d(b)(2).

35. Plaintiffs filed their Petition timely within 60 days following the conclusion of EPA's review period. 42 U.S.C. § 7661d(b)(2).

36. Plaintiffs provided copies of their Petition to LDEQ and Yuhuang Chemical, Inc.

37. The Act required EPA to grant or deny Plaintiffs' Petition within 60 days, i.e., by July 20, 2015. 42 U.S.C. § 7661d(b)(2).

CAUSE OF ACTION:  
*(Failure to Perform a Nondiscretionary Duty)*

38. EPA's duty to grant or deny Plaintiffs' Petition within 60 days of its filing is not discretionary. 42 U.S.C. § 7661d(b)(2).

39. It has been more than 60 days since EPA received the Petition.

40. EPA has not granted or denied the Petition.

41. EPA has violated and continues to violate the Clean Air Act, 42 U.S.C. § 7661d(b)(2).

42. This Clean Air Act violation constitutes a “failure of the Administrator to perform any act or duty under [the Clean Air Act] which is not discretionary with the Administrator” within the meaning of the Clean Air Act’s citizen suit provision. 42 U.S.C. § 7604(a).

43. EPA’s failure to perform its nondiscretionary duty to grant or deny Plaintiffs’ Petition is ongoing and will continue unless remedied by this Court.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

A. Declare that EPA’s failure to perform its duty to grant or deny Plaintiffs’ Petition to object to the Permit within 60 days of its filing is a violation of the Clean Air Act under 42 U.S.C. §7661d(b);

B. Order EPA to grant or deny Plaintiffs’ Petition within 60 calendar days of this Court’s ruling;

C. Award Plaintiffs the costs of this litigation, including reasonable attorney fees, as allowed under §304(d) of the Act, 42 U.S.C. § 7604(d);

E. Grant such other relief as the Court deems just and proper.

Respectfully submitted on April 14, 2016 by:

/s/ Corinne Van Dalen

Corinne Van Dalen, La. Bar No. 2117 Supervising  
Attorney

Tulane Environmental Law Clinic

6329 Freret Street

New Orleans, Louisiana 70118

Phone: (504) 862-8818

Fax: (504) 862-8721

Email: cvandale@tulane.edu

*Counsel for Plaintiffs LEAN and Sierra Club, and  
Supervising Attorney for Catherine Simon*

/s/ Catherine Simon

Catherine Simon, Student Attorney

Tulane Environmental Law Clinic

6329 Freret Street

New Orleans, Louisiana 70118

Phone: (504) 862-8818

Fax: (504) 862-8721

Email: cvandale@tulane.edu

*Counsel for Plaintiffs LEAN and Sierra Club*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2016, I caused a copy of the foregoing to be served through the Court's CM/ECF system to all parties.

/s/ Corinne Van Dalen

Corinne Van Dalen

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA ENVIRONMENTAL	)	
ACTION NETWORK & SIERRA CLUB,	)	
	)	Civil Action No.: 3:15-cv-00858
<i>Plaintiffs,</i>	)	
	)	Judge: Brady
v.	)	
	)	Magistrate: Bourgeois
GINA MCCARTHY, in her official capacity	)	
as Administrator, U.S. Environmental	)	
Protection Agency,	)	
	)	
<i>Defendant.</i>	)	

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**DECLARATION OF MARYLEE ORR**

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1. My name is Marylee Orr. I am more than 18 years of age and competent to make this declaration. All matters in this declaration are based on my personal knowledge.

2. I am the Executive Director of the Louisiana Environmental Action Network (“LEAN”). I am a founding member of LEAN and have served as the organization’s Executive Director since its inception in 1989. In my capacity as LEAN’s Executive Director, I am familiar with its policies, organizational structure, and practices.

3. LEAN is a community-based, non-profit corporation organized and operating under the laws of the State of Louisiana with its principal place of business in Baton Rouge, Louisiana.

4. LEAN formed in 1989 and is an umbrella organization for environmental and citizen groups. LEAN has approximately 106 member groups and has more than 2,000 individual members

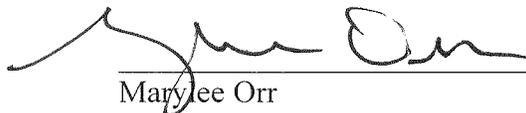
5. LEAN's purpose is to preserve and protect the state's land, air, water, and other natural resources for its members and other residents of the state. LEAN is committed to preserving Louisiana's natural resources through educational initiatives, legal advocacy, and legislative campaigns involving Louisiana's citizens and grassroots organizations. One way LEAN works to protect the environment and human health is to comment on and challenge air permits that do not meet Clean Air Act requirements

6. LEAN has members statewide, including members who live, work, or recreate in St. James, Louisiana.

7. The public health and ecological, recreational, aesthetic, and other interests that LEAN seeks to protect with this lawsuit are directly related to its purpose to preserve and protect the state's land, air, water, and other natural resources. Advocating for a stricter permit for the Yuhuang Chemical Methanol Plant in St. James, Louisiana is directly related to LEAN's mission to protect the environment and to promote healthier communities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 30, 2016 in Louisiana



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Marylee Orr  
Executive Director  
Louisiana Environmental Action Network

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA ENVIRONMENTAL	)	Civil Action No. 3:15-cv-
ACTION NETWORK and SIERRA	)	00858
CLUB,	)	
	)	Judge: Brady
Plaintiffs,	)	
	)	Magistrate: Bourgeois
v.	)	
	)	
GINA MCCARTHY, in her official	)	
capacity as Administrator of the U.S.	)	
Environmental Protection Agency,	)	
	)	
Defendant.	)	

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DECLARATION OF DARRYL MALEK-WILEY

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1. My name is Darryl Malek-Wiley. I am more than 18 years of age and competent to make this declaration. All matters in this declaration are based on my personal knowledge.
2. I am the Senior Organizing Representative, Environmental Justice and Community Partnerships, of the Sierra Club, and I have been employed in this role since 2004. Before then, I was active as a volunteer with the Sierra Club in Louisiana starting in 1982. In my capacity as a representative of the Sierra Club, I am familiar with its policies, organizational structure, and practices.
3. Sierra Club is a non-profit corporation organized under the laws of the State of California, with an office in New Orleans, Louisiana.

4. Sierra Club is the oldest and largest environmental group in the United States, with more than 2.4 Million members and supporters throughout the United States, including Louisiana. Its mission is to protect and enhance the quality of the natural and human environment. Sierra Club's activities include public education, advocacy, and litigation to enforce environmental laws.

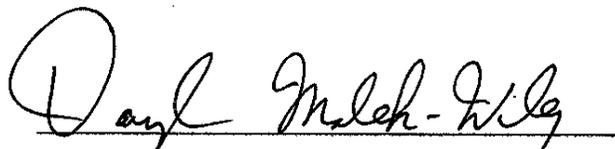
5. Sierra Club and its members are greatly concerned about the effects of air pollution on human health and the environment and have a long history of involvement in activities related to air quality. One way Sierra Club works to protect the environment and human health is to comment on and challenge air permits that do not meet Clean Air Act requirements.

6. Sierra Club has members statewide, including members who live, work, or recreate in St. James, Louisiana.

7. The public health and ecological, recreational, aesthetic, and other interests that Sierra Club seeks to protect with this lawsuit are directly related to its purpose to protect the public health and to preserve the environment. Advocating for a stricter permit for the Yuhuang Chemical Methanol Plant in St. James, Louisiana is directly related to Sierra Club's mission to protect the environment and to promote healthier communities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 15, 2016 in Louisiana.

A handwritten signature in black ink, reading "Darryl Malek-Wiley", written over a horizontal line.

Darryl Malek-Wiley

Senior Organizing Representative, Environmental

Justice and Community Partnerships

Sierra Club

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA ENVIRONMENTAL	)	Civil Action No. 3:15-cv-00858
ACTION NETWORK and SIERRA	)	
CLUB,	)	Judge: Brady
	)	
Plaintiffs,	)	Magistrate: Bourgeois
	)	
v.	)	
	)	
GINA MCCARTHY, in her official	)	
capacity as Administrator of the U.S.	)	
Environmental Protection Agency,	)	
	)	
Defendant.	)	

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DECLARATION OF [REDACTED]

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1. My name is [REDACTED] I am more than 18 years of age and competent to make this declaration. All matters in this declaration are based on my personal knowledge.
2. I am a member of the Louisiana Environmental Action Network (“LEAN”) and have been since June 2015. I joined LEAN because I am concerned about pollution from the existing and planned heavy industrial plants in my community.
3. I am also a member of Sierra Club and have been since December 16, 2015. I joined Sierra Club because I am concerned about pollution from the existing and planned heavy industrial plants in my community.

4. I live at [REDACTED] St. James, Louisiana. I have lived at my current address since 2008. I was born and raised in St. James and have family who live near me in St. James. My mother has lived in St. James since 1940. Our home used to be the neighborhood house where other members of the community would gather.

5. St. James is a predominantly African-American community that was once quiet and rural. St. James used to be home to many fruit trees and sugarcane fields with one to two industrial tanks in the area. But over the years, St. James has become increasingly industrialized, with fewer sugarcane fields and more heavy industrial plants. In fact, my home sits within 300 hundred yards of Ergon St. James, a petroleum and chemical terminal and storage facility. There are at least another five petroleum terminal, storage, and pipeline facilities within about two miles of my house, including those owned by NuStar, Shell, Marathon, Plains Marketing, and Locap. Across the Mississippi River, within two miles of my home is a large chemical plant owned by Occidental Chemical, a large fertilizer plant owned by Mosaic known as the Uncle Sam plant, and an iron manufacturing plant owned by Nucor Steel along with more petroleum pipelines and terminals. Within four miles of my house there is another fertilizer plant owned by Mosaic known as the Faustina plant and another chemical plant owned by American Styrenics. I understand that South Louisiana Methanol has an air permit and is planning to build a large methanol plant in St. James on a site that is within 1,000 feet of my home.

6. The industrialization of my community has changed its landscape and dynamics.

The fruit trees no longer produce new fruit and instead of ripened fruit, a dark sludge-like residue lies around the bottom of the trees. The once quiet area is now full of noise from trains rumbling nearby that transport items to and from the neighboring facilities. There used to be many butterflies, robins, blue jays, cardinals, and hummingbirds, but now I rarely see them. The once abundant toads, frogs, and crickets are also scarce. Recently, the Parish zoned my community and most of St. James as industrial for the first time.

7. The pollutants from the plants in the area overwhelm my community with odors.

Particularly, in the mornings, there is often an odor I cannot identify emanating from the plants and facilities in the area. Sometimes the smell is so strong that I can smell it in my home despite the doors and windows being closed. No one will tell us what the source of the smell is. I used to picnic outside, but now I try to limit my time outdoors to avoid the smells coming from the plants.

8. The emissions from these plants cause me to worry about the effect pollutants

have on my health. I suffer from allergies, sensitive skin, and headaches, and I believe that the pollutants in the air from these plants cause or contribute to these health problems. Smelling a bad odor can spark one of my headaches. I have to wash my face after having gone outside, and I often break out in rashes due to the emissions. I am worried about the health of my mother and

sister who live in my home with me. Because the pollution in the area has gotten so bad, I encouraged my children to leave St. James. Additionally, many people in the area I know have died from cancer. I am concerned about the long-term effect the pollution is having on my health. St. James is not a good environment to live in because of the industrial pollution.

9. After Hurricane Gustave in 2010, my home was destroyed. It has since been professionally rebuilt. But activities from the nearby industrial facilities shake my house, which has caused structural damage to my newly rebuilt home.

10. As I travel from St. James to Gonzales for work, I pass by several fertilizer plants along the Sunshine Bridge. When it is dark, at night or in the early morning, emissions from the plants in my area create a haze that makes it difficult to drive because I cannot see well. Sometimes the haze is so thick that I have to pull over and wait for it to clear. The pollution also leaves a film on my car.

11. In addition to my health and that of my family members, I am worried about what will happen to the family I leave behind in the morning in the event of an emergency. I cannot come back to get my family out, and they will not be able to get out. There is only one exit out of the community, but this one escape route, Louisiana Highway 18, is usually blocked off when there are industrial accidents and other emergencies. One time there was a fire on Burton Lane in

my community, and we were not told about the fire or its source. Thus, there is a real concern for safety.

12. I understand Yuhuang Chemical, Inc. is planning to build a large methanol plant in St. James. This plant would be approximately 3.14 miles from my home.

13. I understand that the Louisiana Department of Environmental Quality has issued an air permit for the Yuhuang Methanol Plant that will allow Yuhuang Chemical to emit pollutants into the air that will contribute to the pollution that already overwhelms my community and causes me to worry about my health.

14. I understand that Yuhuang's air permit allows it to emit pollutants that can cause respiratory problems, headaches, and skin reactions. I worry that the added pollutants allowed by Yuhuang's permit would make my allergies, sensitive skin, and headaches worse. The added pollutants Yuhuang's current permit allows cause me concern and anxiety about the potential effect these pollutants may have on my health—especially when combined with the other pollutants that already inundate my community.

15. I also understand that Yuhuang's air permit allows it to emit pollutants that can cause haze and smog, which will contribute to and exacerbate the haze and smog that already exists in my community. I am concerned that the added emissions allowed under Yuhuang's

permit will further reduce my enjoyment of my community due to increased pollutants in the air and limited visibility.

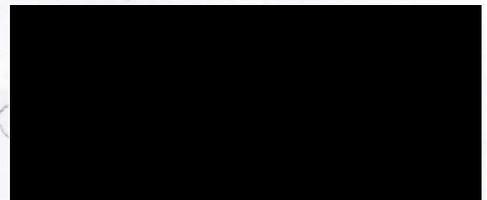
16. The Yuhuang Plant will only worsen the existing problems plaguing the community. The combined noise level from the activity at the plants and the traffic to and from the facilities will only get louder and more disruptive when Yuhuang builds its plant.

17. I am aware that LEAN and Sierra Club filed a petition with EPA asking the agency to object to Yuhuang's air permit because it allows Yuhuang to emit more pollutants than the law allows.

18. I also know that EPA has not responded to LEAN and Sierra Club's petition and that LEAN and Sierra Club have filed a lawsuit against the EPA to force the agency to respond to their petition. I understand that if EPA grants the petition, Yuhuang's permit may be revised to meet stricter requirements and the plant will not be allowed to emit as much pollution into the air, which will benefit my community and me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 8, 2016 in St. James, Louisiana



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA ENVIRONMENTAL	)	Civil Action No. 3:15-cv-00858
ACTION NETWORK and SIERRA	)	
CLUB,	)	Judge: Brady
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Plaintiffs,	)	Magistrate: Bourgeois
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v.	)	
	)	
GINA MCCARTHY, in her official	)	
capacity as Administrator of the U.S.	)	
Environmental Protection Agency,	)	
	)	
Defendant.	)	

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DECLARATION OF [REDACTED]

---

1. My name is [REDACTED] I am more than 18 years of age and competent to make this declaration. All matters in this declaration are based on my personal knowledge.

2. I am a member of the Louisiana Environmental Action Network (“LEAN”) and have been since June 2015. I joined LEAN because I am concerned about pollution from existing and planned heavy industrial plants in my community.

3. I live at [REDACTED] St. James, Louisiana. My family has lived here for four generations. I was born and raised in St. James, and I have been living here for 78 years.

4. My home is within the Settlement of Freetown, which is a mostly African-American community within the town of St. James. There is a historical marker on the highway that recognizes the people who founded the Settlement of Freetown after the

Civil War as the first multi-ethnic settlement of property owners in St. James Parish. My father bought property in Freetown when I was six years old.

5. St. James used to be a quiet, rural community full of life. There were many fruit trees, including pecan trees, as well as rice and sugarcane fields. Grapevines used to thrive and twist throughout the landscape. Most people had gardens with their own wells for drinking in their yards. The streets were grass and unpaved. It was not until I was 12 years old that we had electricity for the first time.

6. Once the industrial plants and facilities started to be built in the area, the community changed. The once lush vegetation began to die, and the fruit trees stopped producing fruit. The air quality changed as odors and emissions from the facilities created foul smells and made it hard to breathe. The water that once used to drain to the canals after a heavy storm now flood our backyards because of the industrial development near my home. The floodwater will rise so high that it reaches the top of my back step, and this never happened before. The noises from the barges along the river and trains that service the nearby industrial facilities disturb the community's way of life.

7. I typically smell odors in the evening and early morning. Some odors smell like rotten eggs. Due to these odors, I limit my time outdoors. Sometimes when I am walking down the street, the odors are so overpowering that I must retreat back into my home.

8. Prior to the industrialization of the community, I did not have any sinus problems. Now I suffer from congestion and other sinus-related issues. I am concerned about the poor air quality and the effect it is having on me and other people who live here. There have been a lot of deaths due to cancer, many of which have been of young

people. I am very concerned that there is a correlation between these deaths and the high amount of pollution from the industrial facilities in the area.

9. There are often health advisories that warn against drinking water from the faucet. When I was younger, people in the area could drink from their private wells or even from the river if the well had gone dry. This is no longer possible due to the contamination that is present in the river.

10. The air pollution from the industrial facilities in the area impairs my ability to drive. These facilities create a haze that can be so thick that I cannot see the lines on the road. Particularly, when it is raining, it is like being in a cloud that I cannot see through due to the air pollution.

11. I am also concerned about industrial accidents. I fear that I will not be able to escape in the event of an emergency. I used to be able to leave along the levy, but now the levy is blocked off with a no trespassing sign. So now there is only one way out of the community. I worry that if there is an accident, many people will not be able to make it out in time because there is only one road (Highway 18), which is often closed off during industrial accidents. There are already enough industrial plants in my community. Adding more threatens the livelihoods of those still living here.

12. I understand that Yuhuang Chemical, Inc. is planning to build a large methanol plant in St. James. This plant would be approximately 3.14 miles from my home.

13. I understand that the Louisiana Department of Environmental Quality has issued an air permit for the Yuhuang methanol plant that will allow Yuhuang Chemical to

emit pollutants into the air that will contribute to the pollution that already overwhelms my community and causes me to worry about my health.

14. Introducing another plant into the area will only worsen the well-being of the community because it will increase the volume of traffic along the roads and river and the noises associated with this transportation to and from facilities. The increased pollutants in the air from the Yuhuang Plant will threaten my health and that of others even more. Additionally, Yuhuang's presence will heighten the chance of an industrial fire, explosion, or other emergency in the area.

15. I also understand that Yuhuang's air permit allows it to emit pollutants that can cause haze and smog, which will contribute to and exacerbate the haze and smog that already exists in my community. I am concerned that the added pollutants allowed under Yuhuang's permit would further reduce my enjoyment of the air and visibility in my community.

16. I am aware that LEAN and Sierra Club filed a petition with EPA asking the agency to object to Yuhuang's air permit because it allows Yuhuang to emit more pollutants than the law allows.

17. I also know that EPA has not responded to LEAN and Sierra Club's petition and that LEAN and Sierra Club have filed a lawsuit against the EPA to force the agency to respond to their petition. I understand that if EPA grants the petition, Yuhuang's permit may be revised to meet stricter requirements, and the plant will not be allowed to emit as much pollution into the air, which will benefit my community and me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 8, 2016 in St. James, Louisiana



**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

LOUISIANA ENVIRONMENTAL )  
ACTION NETWORK and SIERRA )  
CLUB, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GINA MCCARTHY, in her official )  
capacity as Administrator of the U.S. )  
Environmental Protection Agency, )  
 )  
Defendant. )

Civil Action No. 3:15-cv-00858  
Judge: Brady  
Magistrate: Bourgeois

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**DECLARATION OF** [REDACTED]

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1. My name is [REDACTED] I am more than 18 years of age and competent to make this declaration. All matters in this declaration are based on my personal knowledge.

2. I am a member of the Louisiana Environmental Action Network (“LEAN”) and have been since June 2015. I joined LEAN because I am concerned about pollution from existing and planned heavy industrial plants in my community.

3. I live at [REDACTED] St. James, Louisiana. My family has lived here for four generations. I was born and raised in St. James, and I have been living here for 53 years.

4. St. James used to be a nice community before the NuStar Energy Terminal Port Facility located in the area. Since the facility’s opening, multiple industrial plants have been built in St. James, inundating the community with air pollution. I live within 0.2 miles of NuStar and in close proximity to several other plants.

5. I can smell odors that emanate from the neighboring facilities. The trains that service these facilities emit odors as they travel throughout the community. The odors can be so intense that I can smell them in my home.

6. I cannot sleep at night or in the early mornings due to the noise from the trains. This noise occurs every day, and it is a serious disruption to the enjoyment of my property.

7. The existence of multiple facilities in the area also impairs my enjoyment of my community because the air pollution keep me from going outdoors. The facilities also interfere with my enjoyment of my home because my home shakes due to industrial activity.

8. I also suffer from skin irritation, headaches, and sinus problems. I worry that air pollution from the nearby industrial facilities is the cause of my health problems.

9. I understand that Yuhuang Chemical, Inc. is planning to build a large methanol plant in St. James. This plant would be approximately 1.95 miles from my house.

10. I understand that the Louisiana Department of Environmental Quality has issued an air permit for the Yuhuang Methanol Plant that will allow Yuhuang Chemical to emit pollutants into the air that will contribute to the pollution that *already overwhelms* my community and causes me to worry about my health.

11. Yuhuang's presence in the community will worsen the existing pollution problem. In addition, the train traffic and noise will only increase and get louder, further reducing my ability to properly enjoy my house and my community. Because of the

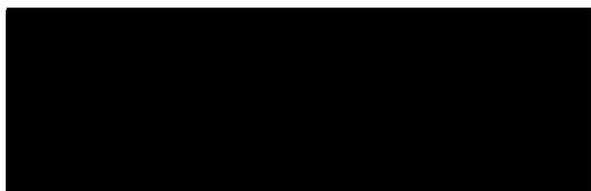
pollution and other problems associated with the facilities, I would leave the place I have called my home for more than half a century if I could.

12. I am aware that LEAN and Sierra Club filed a petition with EPA asking the agency to object to Yuhuang's air permit because it allows Yuhuang to emit more pollutants than the law allows.

13. I also know that EPA has not responded to LEAN and Sierra Club's petition and that LEAN and Sierra Club have filed a lawsuit against the EPA to force the agency to respond to their petition. I understand that if EPA grants the petition, Yuhuang's permit may be revised to meet stricter requirements, and the plant will not be allowed to emit as much pollution into the air, which will benefit my community and me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 20, 2016 in St. James, Louisiana





Tulane Environmental Law Clinic

August 12, 2015

Ref: 126-024.2

Via U.S. Certified Mail No. 7013 0600 0001 9892 1948

Administrator Gina McCarthy  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: Notice of Intent to File Citizen Enforcement Suit Pursuant to Clean Air Act § 304(b)(2), 42 U.S.C. § 7604(b)(2)

Dear Administrator McCarthy:

This letter provides notice under Clean Air Act § 304(b)(2), 42 U.S.C. § 7604, and 40 C.F.R. § 54.3(a) that Sierra Club and Louisiana Environmental Action Network (“LEAN”) intend to file a citizen suit against EPA under 42 U.S.C. § 7604(a)(2) for failure to grant or deny a petition they submitted requesting that you object to the initial Title V air permit no. 2560-00295-V0 issued to Yuhuang Chemical Inc. for the construction and operation of a new methanol manufacturing plant in St. James, Louisiana.

Sierra Club and LEAN submitted the petition to you under 42 U.S.C. § 7661d(b)(2), which allows anyone to petition the Administrator of EPA to object to an air permit issued pursuant to Title V of the Clean Air Act if EPA has not already objected to the permit within its 45-day period to review such permits. This provision also requires the person to file the petition within 60 days after the expiration of EPA’s review period. 42 U.S.C. § 7661d(b)(2).

EPA’s 45-day period to review the Yuhuang permit ended on March 20, 2015. EPA did not object to permit. Sierra Club and LEAN filed their petition on May 19, 2015, which is after EPA’s 45-day review period and within 60 days after the expiration of that review period. Their petition, therefore, is timely.

The Clean Air Act states: “The Administrator shall grant or deny such petition within 60 days after the petition is filed.” 42 U.S.C. § 7661d(b)(2). Since Sierra Club and LEAN filed their petition on May 19, 2015, EPA had until July 20, 2015 to grant or deny the petition. EPA’s failure to grant or deny the petition within the 60-day period that 42 U.S.C. § 7661d(b)(2) provides constitutes a failure to perform a non-discretionary act, which is actionable under the Clean Air Act citizen suit provision. *See* 42 U.S.C. § 7604(a)(2) (“any person may commence a civil action on his own behalf ... (2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary”).

Tulane Environmental Law Clinic

Administrator Gina McCarthy

August 12, 2015

Page 2 of 2

Sierra Club and LEAN intend to file a suit in the U.S. District Court for the Eastern District of Louisiana 60 days from the postmark date on this notice letter to enforce EPA's duty to respond to their petition. *See* 40 C.F.R. § 54.2(d) ("Notice served in accordance with the provisions of this part shall be deemed given on the postmark date, if served by mail.").

The full name and address of the party giving this notice are as follows:

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

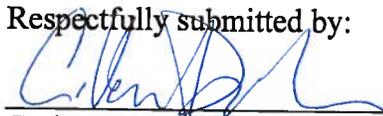
Louisiana Environmental Action Network  
162 Croydon Avenue  
Baton Rouge, LA 70806-4501  
Phone: (225) 928-1315

All communications, however, should be through counsel:

Corinne Van Dalen  
Tulane Environmental Law Clinic  
6329 Freret Street  
New Orleans, La. 70118  
Phone: (504) 862-8818  
Fax: (504) 862-8721  
cvandale@tulane.edu

If you believe that any portion of this notice is in error or if you wish to discuss any portion of this notice, please contact Corinne Van Dalen at the address and phone number listed below.

Respectfully submitted by:



Corinne Van Dalen, La. Bar No. 21175  
Tulane Environmental Law Clinic  
6329 Freret Street  
New Orleans, Louisiana 70118  
Phone: (504) 865-8814  
Fax: (504) 862-8721  
Email: cvandale@tulane.edu  
*Counsel for Sierra Club and Louisiana  
Environmental Action Network*

**SENDER: COMPLETE THIS SECTION**

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT

VERY

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.  
 Print your name and address on the reverse so that we can return the card to you.  
 Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Administrator Gina McKeith  
 U.S. EPA  
 1200 Pennsylvania Ave, NE  
 Washington, DC 20460

A. Signature *Gina McKeith*  Agent  Addressee  
 B. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery **AUG 17 2015**  
 D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
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 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. AI  
 (M) 7013 0600 0001 9892 1948

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540