



1206 San Antonio Street  
Austin, TX 78701  
Phone: (512) 637-9478  
[www.environmentalintegrity.org](http://www.environmentalintegrity.org)

February 10, 2017

Acting Administrator Catherine McCabe  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Fax number (202) 501-1450

*Via Certified Mail*

**RE:** Notice of Intent to Sue for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. O1229 Issued to the ExxonMobil Corporation for the Baytown Refinery in Harris County, Texas

Dear Administrator McCabe:

With this letter, the Environmental Integrity Project, Sierra Club, and Air Alliance Houston (“Plaintiffs”) are giving you notice of our intent to sue you in your official capacity as Administrator of the U.S. Environmental Protection Agency for your failure to timely respond to our petition to object to the Part 70 Operating Permit (Title V permit) No. O1229 issued to the ExxonMobil Corporation for operation of the Baytown Refinery in Harris County, Texas. Plaintiffs timely filed their petition on September 26, 2016, within 60 days following the end of EPA’s 45-day review period for the Title V permit.<sup>1</sup> Though more than 60 days have passed since Plaintiffs filed their petition, you have not yet granted or denied the petition, as required by 42 U.S.C. § 7661d(b)(2).

### **Authority to Bring Suit**

Clean Air Act, Section 304(a)(2) authorizes a citizen suit in federal district court “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 with the Administrator.” 42 U.S.C. § 7604(a)(2). You have failed to perform your nondiscretionary duty to grant or deny Plaintiffs’ petition within 60 days of receipt. 42 U.S.C. § 7661d(b)(2). Plaintiffs are hereby giving you the required 60-day notice of our intent to bring a citizen suit to compel you to expeditiously grant or deny our petition.

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<sup>1</sup> Plaintiffs’ Title V petition is included with this NOI as Attachment I.

If you fail to grant or deny Plaintiffs' petition within 60 days after receiving this notice, Plaintiffs will file suit in federal district court to compel your response.

**Relief Requested**

Plaintiffs will seek the following relief:

1. An order compelling you to expeditiously grant or deny the Petition;
2. Attorney's fees and other litigation costs; and
3. Other appropriate relief as allowed.

**Parties**

As required by 40 C.F.R. § 54.3, the persons providing this notice are:

Environmental Integrity Project  
1206 San Antonio Street  
Austin, Texas 78701  
Attn: Gabriel Clark-Leach  
Tel: (512) 637-9478

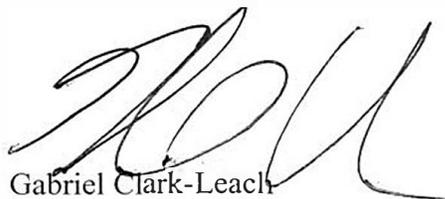
Sierra Club  
2101 Webster Street, Suite 1300  
Oakland, California 94612  
Attn: Aaron Isherwood  
Tel: 415-977-5680

Air Alliance Houston  
3914 Leeland  
Houston, Texas 77003  
Tel: (713) 528-3779  
Attn: Adrian Shelley

While EPA regulations require this information, please direct all correspondence and communications regarding this matter to the undersigned attorney.

If you have any questions regarding this notice letter, believe any of the foregoing information to be in error, or would otherwise like to discuss settlement of this matter, please contact Gabriel Clark-Leach at (512) 637-9478 or [gclark-leach@environmentalintegrity.org](mailto:gclark-leach@environmentalintegrity.org).

Sincerely,



Gabriel Clark-Leach  
Environmental Integrity Project  
1206 San Antonio Street  
Austin, TX 78701  
(512) 637-9478 (phone)  
(512) 584-8019 (fax)  
[gclark-leach@environmentalintegrity.org](mailto:gclark-leach@environmentalintegrity.org)

**Attorney for Plaintiffs**

Environmental Integrity Project,  
Sierra Club, and Air Alliance Houston

Attachment

cc: (Via Certified Mail)

Jeff B. Sessions, Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Samuel Coleman, Regional Administrator  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

Steve Hagle, P.E.  
Office of Air Deputy Director, MC-122  
Texas Commission on Environmental Quality  
P.O. Box 13087  
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