



ENVIRONMENTAL
ADVOCATES

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November 17, 2021

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Michael S. Regan, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (Mail Code 1101A)
Washington, D.C. 20460

Re: Notice of Intent to Sue Pursuant to Section 304(b)(2) of the Clean Air Act for Failure of the Administrator to Act on Clean Air Act State Implementation Plan Submissions from Nevada

Dear Administrator Regan:

I am writing on behalf of Our Children's Earth Foundation ("OCE") to notify you of ongoing violations of the federal Clean Air Act by you, as Administrator of the Environmental Protection Agency ("EPA"), for your failure to timely act, as required by Section 110(k)(2) of the Clean Air Act, 42 U.S.C. § 7410(k)(2), on numerous state implementation plan ("SIP") revisions submitted by the State of Nevada. OCE intends to file a lawsuit seeking to address your failure to perform these nondiscretionary duties set forth in 42 U.S.C. § 7410(k)(2) 60 days from the date of this letter under Section 304 of the Clean Air Act, 42 U.S.C. § 7604. The SIP submissions that you have failed to timely address include those listed in the attached spreadsheet.

A. Failure To Perform Nondiscretionary Duties

Under the Clean Air Act, states are required to submit SIP submissions to the EPA to implement, maintain, and enforce National Ambient Air Quality Standards ("NAAQS"). *See* 42 U.S.C. § 7410(a). The Clean Air Act further requires the Administrator to fully or partially approve or disapprove a SIP submission within twelve (12) months after such submission has been deemed

complete, either by the Administrator or as a matter of law. *See* 42 U.S.C. § 7410(k)(2). If the EPA does not make a completeness finding, SIP submissions are deemed complete by operation of law six (6) months after submission. *See* 42 U.S.C. § 7410(k)(1)(B). Therefore, at most, EPA had eighteen (18) months within which to take final action to approve, disapprove, or partially approve or disapprove the aforementioned SIP submissions from the State of Nevada. As of the date of this letter, EPA has failed to fully or partially approve or disapprove the aforementioned SIP submissions listed in the attachment. Because EPA has failed to take action on the above SIP submissions by the statutory deadline, EPA is now in violation of Clean Air Act Section 110(k)(2), 42 U.S.C. § 7410(k)(2).

B. Notice of Intent to Sue

After the expiration of sixty (60) days from the date of this notice of intent to sue, OCE intends to file suit against you in federal court for your failure to act in accordance with, or fulfill, the duties described in Section A of this letter.

C. Identity of Persons Giving Notice and Their Counsel

As required by 40 C.F.R. § 54.3, the name and address of OCE, the noticing party, is as follows:

Our Children's Earth Foundation
1625 Trancas St. #2218
Napa, CA 94558-9998
Tel: (510) 910-4535
E-mail: annie@ocefoundation.org

OCE is a non-profit public benefit corporation with members throughout the United States, including many members in Nevada and surrounding states, dedicated to protecting the public, especially children, from the health impacts of pollution and other environmental hazards and to improving environmental quality for the public benefit. Part of OCE's mission is to participate in environmental decisionmaking, enforce federal and state environmental laws (including via citizen suits), to reduce pollution, and to educate the public concerning environmental laws and their enforcement.

OCE has retained the following legal counsel to represent it in this matter:

Stuart Wilcox, Esq.
Environmental Advocates
5135 Anza Street
San Francisco, CA 94121
Tel: (720) 331-0385
Fax: (415) 358-5695
E-mail: wilcox@enviroadvocates.com

D. Offer to Negotiate

During the sixty (60) day notice period, OCE is willing to discuss effective measures to correct your failure to comply with your nondiscretionary duties and to discuss any information bearing upon this notice. If you wish to pursue such discussions prior to litigation, we request that you expeditiously initiate them so that these discussions may be completed before the end of the sixty (60) day notice period. OCE does not intend to delay the filing of a complaint in federal court if the discussions fail to resolve these matters within the sixty (60) day notice period, and it intends to seek all appropriate relief, including injunctive relief and all costs of litigation, including, but not limited to, attorneys' fees, expert witness fees, and other costs.

We believe this notice provides information sufficient for you to determine the mandatory duty we allege you have failed to perform. If, however, you have any questions, please feel free to contact us for clarification.

We look forward to hearing from you.

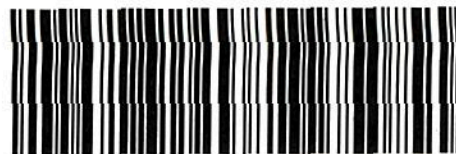
Sincerely,

/s/ Stuart Wilcox
Stuart Wilcox
Environmental Advocates
Counsel for Our Children's Earth Foundation

| Nevada Overdue SIP Submissions | | |
|--|-----------------------------|-----------------------------|
| SPeCS Review Page | State Submittal Date | SPeCS Review Page ID |
| NV Infrastructure SIP for 2012 PM 2.5 | 12/11/15 | 14529 |
| PM Revised Air Quality Standards and Definitions | 12/11/15 | 20178 |
| NV 2015 Ozone i-SIP | 9/28/18 | 26074 |
| Clark County Section 0 Definitions | 4/12/19 | 90386 |
| Clark County Section 12.0 Applicability, General Requirements and Transition Procedures | 4/12/19 | 90468 |
| Clark County Section 12.1 Permit Requirements for Minor Sources | 4/12/19 | 90469 |
| Clark County Section 12.11 General Permits for Minor Stationary | 4/12/19 | 90404 |
| Clark County Rescission of Section 10 - Compliance Schedules | 6/10/19 | 97178 |
| Clark County 1971 CO - 2nd 10-yr LMP | 6/18/19 | 97294 |
| Clark County Section 0 Definitions 2020 Revision | 3/16/20 | 208369 |
| Clark County Section 2 Procedures for Adoption and Revision of Regulations and for Inclusion of Those Regulations in the State Implementation Plan | 3/16/20 | 208391 |
| Clark County Section 4 Control Officer | 3/16/20 | 208767 |
| Clark County Section 12.0 Applicability and General Requirements | 3/16/20 | 208770 |
| Clark County Section 33 Chlorine in Chemical Processes | 3/16/20 | 208773 |
| Clark County Section 41 Fugitive Dust | 3/16/20 | 208775 |
| Clark County Section 53 Oxygenated Wintertime Gasoline | 3/16/20 | 208779 |
| Clark County Section 90 Fugitive Dust from Open Areas and Vacant | 3/16/20 | 208782 |
| Clark County Section 93 Fugitive Dust from Paved Roads and Street Sweeping Equipment | 3/16/20 | 208784 |
| Clark County Section 94 Permitting and Dust Control for Construction Activities | 3/16/20 | 208788 |

Stuart Wilcox
Environmental Advocates
5135 Anza Street
San Francisco, CA 94121

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Michael S. Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. (Mail Code 1101A)
Washington, DC 20460



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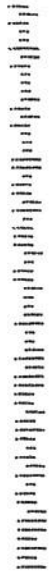


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11/22/2021 9:36:27 AM

EPA

To: **REGAN, MICHAEL
S.**

Mailstop 1101A

Building: ARN

Department ADMINISTRATOR



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