

George E. Hays
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P.O. Box 843
Bellevue, WA 98009

June 18, 2022

CERTIFIED MAIL # 7011 2970 0004 4695 0647
RETURN RECEIPT REQUESTED

The Honorable Michael S. Regan
Administrator, United States Environmental Protection Agency
Washington, DC 20460

RE: Notice of Intent to Sue in 60 days for Violations of the Clean Air Act, Failure to Act on Sierra Club's Title V Petition Regarding Hunter Power Plant in Utah.

Dear Administrator Regan:

On behalf of Sierra Club and its members, we are writing to provide you with notice that Sierra Club intends to file a civil lawsuit against you in your official capacity as Administrator of the U.S. Environmental Protection Agency, after the passage of 60 days from the postmark date of this notice, for your failure to timely respond to our petition to object to the Part 70 Operating Permit (Title V permit) No. 1500101004, issued to PacifiCorp for the operation of the Hunter Power Plant in Castle Dale, Utah. This notice is being provided pursuant to 42 U.S.C. § 7604(b) and 40 C.F.R. Part 54.

A. The Provision of the Act Which Requires the Administrator to Perform an Act or Duty Which is Not Discretionary

42 U.S.C. § 7661d(b)(2) provides (emphasis added) that:

If the Administrator does not object in writing to the issuance of a permit pursuant to paragraph (1), any person may petition the Administrator within 60 days after the expiration of the 45-day review period specified in paragraph (1) to take such action. A copy of such petition shall be provided to the permitting authority and the applicant by the petitioner. The petition shall 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 the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period). The petition shall identify all such objections. If the permit has been issued by the permitting agency, such petition shall not postpone the effectiveness of the permit. **The Administrator shall grant or deny such petition within 60 days after the petition is filed.** The Administrator shall issue an objection within such period if the

petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of this chapter, including the requirements of the applicable implementation plan. Any denial of such petition shall be subject to judicial review under section 7607 of this title. The Administrator shall include in regulations under this subchapter provisions to implement this paragraph. The Administrator may not delegate the requirements of this paragraph.

B. The Action Not Taken by The Administrator

On January 13, 2021, EPA ordered the Utah Division of Air Quality (“UDAQ”) to “reopen the 2020 [Hunter Title V] Permit to evaluate whether the 1997-1999 projects at the PacifiCorp-Hunter facility should have triggered PSD under the EPA-approved SIP rules applicable at that time.” In October of 2021, UDAQ transmitted a proposed permit and its response to comments to EPA for its 45-day review. EPA’s 45-day review period of Utah’s proposed permit ended on November 15, 2021. EPA did not object to the proposed permit.

On January 14, 2022, within 60 days after the end of EPA’s 45-day review period, Sierra Club petitioned EPA to object to permit. More than 60 days have now passed since Sierra Club filed its January 14, 2022 petition. The Administrator has neither granted nor denied Sierra Club’s petition to object to the Part 70 Operating Permit (Title V permit) No. 1500101004.

C. The Full Name and Address of the Person Giving the Notice

The person giving this notice is:

Sierra Club
2101 Webster St., Suite 1300
Oakland, CA 94612
Phone: (415) 977-5500

D. Relief Requested

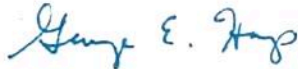
Sierra Club will seek the following relief in federal court:

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

Conclusion

Please direct all correspondence and communications regarding this matter to the undersigned lawyers. 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 us.

Sincerely,



George E. Hays
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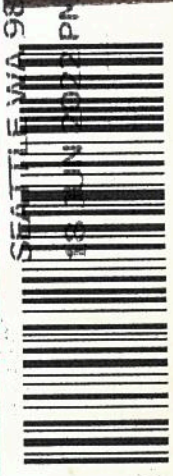
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Counsel for Sierra Club

Law office of George Hays
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Admini strator
Environmental Protection Agency
Washington, DC 20460

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To: **Administrator,
Office of the**

Mailstop 1101A
Building: ARIEL RIOS
NORTH
Department



6/24/2022 8:45:24 AM

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