



VIA CERTIFIED MAIL

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May 5, 2023

Michael Regan, Administrator
Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Notice of Intent to Sue Over Failure to Respond to Request to Object to Colorado Department of Public Health and Environment's Renewal of Clean Air Act Title V Permit 95OPAD108 Suncor Energy, Inc. Plant 2 (East Plant)

Dear Administrator Regan:

GreenLatinos, the Center for Biological Diversity, and Sierra Club ("Plaintiffs") intend to sue you and the Environmental Protection Agency ("EPA") for your failure to respond within 60 days to Plaintiffs' petition to object to the renewal of Clean Air Act Title V Operating Permit issued by the Air Pollution Control Division of the Colorado Department of Public Health and Environment ("Division") authorizing Suncor Energy, Inc. ("Suncor") to operate Plant 2 of the Suncor Energy, Inc. petroleum refinery ("East Plant"), Title V Permit No. 95OPAD108. The East Plant is a large petroleum refinery located at 5800 Brighton Blvd., in Commerce City, Colorado.

Plaintiffs intend to bring a suit 60 days from the date of this letter, or shortly thereafter, under section 304 of the Clean Air Act, 42 U.S.C. § 7604, against you for your failure to perform a non-discretionary duty outlined in 42 U.S.C. § 7661d(b)(2). The suit will seek injunctive relief, declaratory relief, the cost of litigation, and other relief.

GreenLatinos is a national nonprofit organization that convenes a broad coalition of Latino leaders committed to addressing environmental, natural resources, and conservation issues that significantly affect the health and welfare of the Latino community. GreenLatinos engages in this advocacy at the national, regional, and local levels. It strives to amplify the voices of minority, low-income, and tribal communities and to advance health equity, environmental justice, and community resilience. Environmental justice, clean transportation, clean air, and climate change are among the organization's core priorities.

The Center for Biological Diversity is a national nonprofit environmental advocacy organization and works to defend and protect air quality in Colorado and other states. Its mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems,

public lands and waters, and public health through science, policy, and environmental law. Based on the understanding that the health and vigor of human societies and the integrity and wildness of the natural environment are closely linked, the Center for Biological Diversity is working to secure a future for animals and plants hovering on the brink of extinction, for the ecosystems they need to survive, and for a healthy, livable future for all of us. The Center has more than 89,000 members, including over 3,100 members in Colorado.

Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. In addition to helping people from all backgrounds explore nature and our outdoor heritage, Sierra Club works to promote clean energy, safeguard the health of our communities, protect wildlife, and preserve our remaining wild places through grassroots activism, public education, lobbying, and legal action. Sierra Club currently has more than 722,605 members nationwide, and more than 21,031 members in Colorado.

Plaintiffs and their members are adversely affected by EPA's failure to respond to the petition to object to the renewal of Suncor's East Plant Title V Permit. The facility releases large amounts of air pollution that are harmful to public health and the environment. Our interest in protecting clean air is adversely affected by EPA's failure to timely respond to the petition.

The Division is the agency responsible for issuing Title V operating permits in Colorado. The Division issued a draft Title V operating permit for Suncor's East Plant and granted the public thirty days to comment on the draft permit. On March 19, 2021, Plaintiffs and a coalition of environmental and community groups submitted initial comments to the Division on the draft permit, and supplemental comments on May 11, 2021. On February 8, 2022, the Division submitted a proposed Title V Permit to EPA for review. On March 25, 2022, EPA objected to the Initial Proposed Permit on narrow grounds. On June 22, the Division submitted a revised proposed permit to EPA. EPA did not object to the revised proposed permit within its 45-day review period, which ended on August 7, 2022. The Division issued the final permit on September 1, 2022. On October 11, 2022, pursuant to 42 U.S.C. § 7661d(b)(2), Plaintiffs submitted a petition to the Administrator of the EPA to object to the East Plant Title V Permit renewal. The petition raised 14 grounds for objection to the proposed permit renewal raising issues related to, among others, Suncor's extensive history of permit violations, inadequate monitoring requirements, and failure to model modifications for violations of National Ambient Air Quality Standards.

The Clean Air Act, at 42 U.S.C. § 7661d(b)(2), provides that "the administrator shall grant or deny such [Title V] petition within 60 days after the petition is filed." Responding to Title V petitions pursuant to 42 U.S.C. § 7661d(b)(2) is a non-discretionary duty under the Clean Air Act. The Suncor Energy, Inc. East Plant Title V petition was filed on October 11, 2022. EPA therefore had until December 10, 2022, to grant or deny the Title V petition. EPA neither granted nor denied the Title V petition by this date and/or by the date of this letter and therefore EPA is in violation of 42 U.S.C. § 7661d(b)(2). Administrator Regan is responsible for the violation of this non-discretionary duty by not responding to Plaintiffs' petition within 60 days.

In keeping with the requirements of 40 C.F.R. § 54.3, you are hereby notified that the full names and addresses of the persons providing this notice is:

GreenLatinos
1919 14th St.
Suite 700
Boulder, CO 80302

Center for Biological Diversity
1411 K Street, NW, Suite 1300
Washington, DC 20005

Sierra Club
2101 Webster St., Suite 1300
Oakland, CA 94612

If you wish to discuss this matter, please contact me using the information below.

Sincerely,



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*Counsel for Plaintiffs GreenLatinos, Center for
Biological Diversity, and Sierra Club*