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Via Certified Mail, Return Receipt Requested

November 29, 2023

Administrator Michael S. Regan
U.S. Environmental Protection Agency
Office of the Administrator (Mailing Code 1101A)
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Notice of Intent to Sue for Failure to Perform a Nondiscretionary Duty to Timely Grant or Deny a Petition to Object to the Issuance of Title V Renewal Operating Permit No. 0051-OP23 for the U.S. Steel Mon Valley Works Edgar Thomson Plant

Dear Administrator Regan,

Pursuant to 42 U.S.C. § 7604(b)(2) of the Clean Air Act, the Environmental Integrity Project (“EIP”), Clean Air Council (“CAC”), and Citizens for Pennsylvania’s Future (“PennFuture”) (collectively, “Petitioners”) are writing to provide you with Petitioners’ notice of intent to file suit against you in your official capacity as Administrator of the U.S. Environmental Protection Agency (“EPA”) for failure to timely respond to our September 26, 2023 petition to object to the renewal of the Title V Operating Permit No. 0051-OP23 (“Renewal Permit” or “Permit”) issued by the Allegheny County Health Department (“ACHD”) on August 1, 2023 (which finalized the “Proposed Permit” numbered 0051-OP22 dated June 14, 2023) to the Mon Valley Works Edgar Thomson Plant (“facility” or “Edgar Thomson Plant”), owned and operated by the United States Steel Corporation (“U.S. Steel”), located in Allegheny County, Pennsylvania.

Petitioners’ September 26, 2023 petition to object is included with this notice. *See* Attachment A.¹

EPA has failed to perform a nondiscretionary duty because although more than 60 days have elapsed since Petitioners filed their petition, EPA has not yet granted or denied this petition as required by 42 U.S.C. § 7661d(b)(2).

Authority to Bring Suit

Section 304(a)(2) of the Clean Air Act provides that “any person may commence a civil action on his own behalf” against the EPA Administrator “where there is alleged a failure of the

¹ The Petition is also available on EPA’s public Title V petition database at the following direct link: https://www.epa.gov/system/files/documents/2023-09/us-steel-edgar-thomson-petition_9-26-23.pdf (last accessed Nov. 27, 2023).

Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.” 42 U.S.C. § 7604(a)(2). The district courts have jurisdiction over these suits. 42 U.S.C. § 7604(a).

Title V of the Clean Air Act imposes a nondiscretionary duty upon the Administrator to grant or deny a timely petition to object to the issuance of a federal operating permit on the basis that it is not in compliance with the requirements of the Clean Air Act, including the requirements of any applicable State implementation plan. 42 U.S.C. § 7661d(b)(2) (“The Administrator shall grant or deny such petition within 60 days after the petition is filed” and “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 the Clean Air Act).

Parties Giving Notice

As required by 40 C.F.R. § 54.3, the full names and addresses of the parties giving notice are as follows:

Environmental Integrity Project (“EIP”)
1000 Vermont Ave., Suite 1100
Washington, DC 20005
Attn: Lisa Hallowell
(202) 294-3282
Lhallowell@environmentalintegrity.org

Clean Air Council (“CAC”)
135 S. 19th Street, Suite 300
Philadelphia, PA 19103
Attn: Annie Fox
afox@cleanair.org

Citizens for Pennsylvania’s Future (“PennFuture”)
610 N. Third Street
Harrisburg, PA 17101
Attn: Angela Kilbert
kilbert@pennfuture.org

Please direct all communications to the undersigned attorney.

Relief Requested

Pursuant to 42 U.S.C. § 7661d(b)(2), the deadline for the Administrator’s response to the September 26, 2023 petition was November 25, 2023. As Petitioners have yet to receive a response from EPA to their petition, EPA has failed to respond to the petition within 60 days as required by 42 U.S.C. § 7661d(b)(2). In accordance with § 7604(b)(2), this letter serves to notify you that upon the expiration of the 60-day period after the postmarked date of this letter, the Petitioners intend to file suit in a federal district court requesting the following relief:

- An order compelling you to grant or deny the petition within 60 (or fewer) days from the date of the court's order;
- Petitioners' costs of litigation, including attorneys' fees, filing fees, and other reasonable litigation costs; and
- Any other relief as may be just or appropriate.

If you believe any of the above information is incorrect, would like to discuss settlement of this matter prior to initiation of litigation and take steps to redress the allegations above, or have any questions concerning this notice letter, please contact me at your earliest convenience by phone at (202) 294-3282, or by email at Lhallowell@environmentalintegrity.org.

Respectfully,

/s/ Lisa W. Hallowell
Lisa W. Hallowell
PA Bar Id. No. 207983
Environmental Integrity Project
1000 Vermont Avenue NW, Suite 1100
Washington, DC 20005
(202) 294-3282
Lhallowell@environmentalintegrity.org

Counsel for EIP, CAC, and PennFuture

Enclosed: Attachment A – 2023.09.26 Petition for Objection to Permit No. 0051-OP23

CC (Via Electronic Mail (exclusive of original attachments, which are available upon request):

U.S. EPA Region 3 Regional Administrator Adam Ortiz
Mid-Atlantic Regional Office (Region 3)
U.S. Environmental Protection Agency
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