

Eco Green Generation LLC

6547 N. Academy Blvd. #1022
Colorado Springs, CO 80918
719-208-4674

August 7, 2024

By certified mail/return receipt requested and via email

Michael S. Regan, Administrator U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
titleVpetitions@epa.gov

Re: Notice of Intent to Sue Administrator Regan for the Failure to Deny or Remedy an Air Permit to at least two heavy oil fueled electric generating units on the island of Oahu, State of Hawaii for violation of the HAPS provisions of the Clean Air Act 40 C.F.R, Part 63 subpart (YYYY). (Emitting of toxic compounds of Butadiene, Benzene, Formaldehyde, Naphthalene and PAH in excess of 25 tons per year per plant without Maximum Achievable Control Technology implementation).

Dear Administrator Regan:

I am writing on behalf of Eco Green Generation LLC to provide you with notice that we intend to bring suit against your office in your official capacity as Administrator of the U.S. Environmental Protection Agency ("EPA"). This suit will seek redress for your office's failure to timely object or cause a remedy to be proposed and approved by EPA for Hawaiian Electric Company Inc. operations of the Kahe power plant and the Waiau power plant for violating 40 C.F.R Part 63 subpart (YYYY) of the Clean Air Act.

Eco Green Generation intends to file suit 60 days after issuance of this notice letter to compel your response. Clean Air Act section 304(a)(2) authorizes citizen suits "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). The Administrator has a nondiscretionary duty to grant or deny petitions filed by citizens that object to the issuance of a federal operating permit on the basis that it contains provisions not in compliance with the Clean Air Act. 42 U.S.C. §7661d(b)(2). In the event the Administrator fails to perform this nondiscretionary duty, citizens may bring suit to compel such action. The District Courts have jurisdiction over these suits. 42 U.S.C. §7604(a). The Clean Air Act requires citizens to give the Administrator notice 60 days before bringing an action under section 304(a)(2). 42 U.S.C. §7604(b)(2).

Eco Green Generation is hereby giving you one notice of its intent to file suit against you in your official capacity as Administrator of the EPA, under Clean Air Act Section 112 as the Kahe power plant and the Waiau power plant together consume annually

approximately 330,000,000 gallons of fuel oil which in turn produces more than 130 tons of toxic compounds (the sum of Butadiene, Benzene, Formaldehyde, Naphthalene and PAH all of which are carcinogenic) which exceeds the allowable 25 tons per year for each plant without requiring maximum achievable control technology remediation thus violating Section 112 of the Clean Air Act and 40 CFR Part 63 subpart (YYYY).

In 2019 the EPA issued the attached Consent Decree for the Guam Power Authority because it was using the same fuel (heavy fuel oil) that both the Kahe and Waiau power plants are currently using but generating with even older equipment. In addition to requiring a fuel change, EPA ordered the construction of a new fuel receiving terminal, the construction of a pipeline to a new power plant, a new power plant using state of the art efficiency equipment, a \$400,000 fine and the closing within 2 years of the existing power plants. (see attached Consent Decree)

Eco Green Generation LLC requests:

- 1) an order similar to the attached Consent Decree for Guam compelling Hawaiian Electric Co to complete the following for MACT.
 - a. Change fuel from heavy fuel oil #6 to at least ULSD fuel oil #2 or cleaner natural gas or propane if available.
 - b. Construct or contract terminal facilities to receive bulk natural gas or propane
 - c. Construct or contract a pipeline from the Kalaeloa Harbor to the site of a new 530 MW power plant.
 - d. Construct or contract a new 530 MW combined cycle turbine power plant capable of burning ULSD, natural gas, propane and hydrogen (when available and affordable) via blending up to 66% hydrogen
 - e. Retire within two years Kahe and Waiau power plants
- 2) Attorney's fees and other litigation costs;
- 3) Assess reasonable and applicable fines and penalties associated with unlawful dumping of toxic compounds above the legal limit
- 4) Such other relief as a court deems appropriate...

Prior to this notice Eco Green Generation attempted on three separate occasions to bring this issue and a solution to the attention of Hawaiian Electric Company, but the utility refused to meet or to discuss the matter. HECO has issued several Requests For Proposal but none of them establish any limitations of emissions of HAP or pollutants.

In a Qualified Facility filing on February 6, 2024 with the Federal Energy Regulatory Commission and notice sent to Hawaiian Electric Company, Eco Green Generation LLC has explained how a change of fuel (heavy fuel oil to propane), the addition of bulk storage and pipelines from Kalaeloa Harbor (a bulk terminal for propane) to a new power plant site, and new power plant using combined cycle propane combustion turbines producing 530 MW replacing the 60 year old and 70 year old turbines at Kahe

and Waiau will be an option to achieve MACT. (Similar to the 2019 Consent Decree issued to Guam, copy attached).

If you have any questions regarding the allegations in this notice letter, believe that any information contained herein is in error, or would like to discuss this matter, please contact me at the address listed below.

Sincerely,

William Rhodes, manager

Eco Green Generation LLC

6547 N. Academy Blvd. #1022

Colorado Springs, CO 80918

email: rhodesbill@yahoo.com, 503-490-5083

cc via email,

Section Chief,

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