
LAW OFFICE OF BRENT J. NEWELL

March 4, 2026

By Certified Mail, Return Receipt Requested

Lee Zeldin, Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, D.C. 20460

Michael Martucci, Acting Regional Administrator
U.S. Environmental Protection Agency Region 9
75 Hawthorne Street
Mail Code ORA-1
San Francisco, CA 94105

**Re: Clean Air Act Notice of Intent to Sue for Failure to Act on State
Implementation Plan Revisions for the 2012 Annual PM2.5 National
Ambient Air Quality Standard in the San Joaquin Valley, California.**

Dear Administrator Zeldin and Acting Regional Administrator Martucci:

Little Manila Rising, Medical Advocates for Healthy Air, and Sierra Club (collectively “Valley Groups”) give notice to the Environmental Protection Agency, Lee Zeldin, and Michael Martucci (collectively “EPA”) of the Valley Groups’ intent to sue EPA for its failure to fulfill its mandatory duty to take final action on California State Implementation Plan revisions for the 2012 annual fine particulate matter (“PM2.5”) National Ambient Air Quality Standard (“NAAQS” or “standard”) in the San Joaquin Valley, California:

(1) San Joaquin Valley Unified Air Pollution Control District 2024 Plan for the 2012 Annual PM2.5 Standard (“2024 PM2.5 Plan”);

(2) California Air Resources Board Staff Report entitled “Review of the San Joaquin Valley 2024 Plan for the 2012 12 µg/m³ Annual PM2.5 Standard” (“Staff Report”), including the

aggregate commitment of 7.3 tons per day (“tpd”) of oxides of nitrogen (“NOx”) and 0.2 tpd of direct PM2.5 emissions reductions in 2030;

(3) California Air Resources Board Resolution 24-10 (“Resolution 24-10”), including the aggregate commitment of 7.3 tpd of NOx and 0.2 tpd of direct PM2.5 emissions reductions in 2030.

The Valley Groups send this notice pursuant to section 304(b) of the Clean Air Act (“Act”), 42 U.S.C. § 7604(b), and 40 C.F.R. §§ 54.2 and 54.3. At the conclusion of the 60-day notice period, the Valley Groups intend to file suit under section 304(a)(2) of the Act, 42 U.S.C. § 7604(a)(2), to prosecute EPA’s failure to perform its non-discretionary duty.

The Valley has “long been ‘an area with some of the worst air quality in the United States,’ and it has repeatedly failed to meet air quality standards.” *Association of Irrigated Residents v. EPA*, 10 F.4th 937, 944 (9th Cir. 2021) (quoting *Committee for a Better Arvin v. EPA*, 786 F.3d 1169, 1173 (9th Cir. 2015)). California regulators’ history of failure spans decades during which time EPA has found that the Valley has failed to attain several National Ambient Air Quality Standards by their respective deadlines.¹

Ozone and PM2.5 pollution remain a public health crisis in the Valley. Short-term exposure to ozone irritates lung tissue, decreases lung function, exacerbates respiratory disease such as asthma and Chronic Obstructive Pulmonary Disease (COPD), increases susceptibility to respiratory infections such as pneumonia, all of which contribute to an increased likelihood of emergency department visits and hospitalizations. Short-term exposure to ozone also increases the risk of premature death, especially among older adults. Long-term exposure to ozone causes asthma in children, decreases lung function, damages the airways, leads to development of COPD, and increases allergic responses.²

Short-term exposure to PM2.5 pollution causes premature death, decreases lung function, exacerbates respiratory disease such as asthma, and causes increased hospital admissions. Long-

¹ See 66 Fed. Reg. 56476 (Nov. 8, 2001) (1-hour ozone standard failure to attain by 1999); 67 Fed. Reg. 48039 (July 23, 2002) (PM-10 standard failure to attain by 2001); 76 Fed. Reg. 82133 (December 30, 2011) (1-hour ozone standard failure to attain by 2010); 81 Fed. Reg. 84481 (November 23, 2016) (1997 24-hour and annual PM2.5 standards failure to attain by 2015); 86 Fed. Reg. 67329 (Nov. 26, 2021) (disapproving 1997 annual PM2.5 implementation plan because of failure to attain the standard by December 31, 2020); 90 Fed. Reg. 46065 (Sept. 25, 2025) (1997 8-hour ozone standard failure to attain by June 15, 2024).

² AMERICAN LUNG ASSOCIATION STATE OF THE AIR 2025 at 27-29, available at <https://www.lung.org/getmedia/5d8035e5-4e86-4205-b408-865550860783/State-of-the-Air-2025.pdf> (last visited February 23, 2026).

term exposure causes development of asthma in children, decreased lung function growth in children, increased risk of death from respiratory and cardiovascular disease, and increased risk of death from heart attacks.³

According to the American Lung Association, counties in the San Joaquin Valley air basin rank among the worst in the United States for PM2.5. For short-term exposure to PM2.5, the Valley counties of Kern, Tulare, Fresno, and Kings, rank as the first, third, fifth, and sixth most PM2.5-polluted counties, respectively.⁴ With respect to long-term exposures, Kern, Tulare, Fresno, Kings, and Stanislaus rank as the first, second, third, fifth, and eighth most PM2.5-polluted counties, respectively.⁵ For exposure to ozone, Tulare, Kern, and Fresno rank as the fourth, fifth, and seventh most ozone-polluted counties.⁶

EPA Failure to Take Final Action on the 2024 PM2.5 Plan, Staff Report, and Resolution 24-10.

On June 20, 2024, the San Joaquin Valley Unified Air Pollution Control District adopted the 2024 PM2.5 Plan. The 2024 PM2.5 Plan includes the following elements: the emissions inventories, the attainment demonstration, the RFP demonstration, quantitative milestones, contingency measures, precursor demonstration, Best Available Control Measures/Best Available Control Technology demonstration, section 189(e) extension request and Most Stringent Measures demonstration, and motor vehicle emissions budgets.

On July 25, 2024, the California Air Resources Board adopted Resolution 24-10. The Resolution adopted the 2024 PM2.5 Plan and the aggregate commitment of 7.3 tpd NOx and 0.2 tpd PM2.5 emissions reductions in 2030.

On August 22, 2024, the California Air Resources Board (“CARB”) submitted the 2024 PM2.5 Plan, the Staff Report, and Resolution 24-10 to EPA as revisions to the California SIP.

Effective November 4, 2024, EPA approved contingency measures for the 2012 annual PM2.5 standard. 89 Fed. Reg. 80749 (Oct. 4, 2024).

³ *Id.* at 25-27.

⁴ *Id.* at 23.

⁵ *Id.*

⁶ *Id.*

On February 22, 2025, the 2024 PM2.5 Plan, the Staff Report, and Resolution 24-10 became complete by operation of law. The SPeCS for SIPs Public Element Dashboard confirms the February 22, 2025 completeness date.

EPA shall act on the 2024 PM2.5 Plan, the Staff Report, and Resolution 24-10, by full or partial approval or disapproval, within twelve months of the completeness date. 42 U.S.C. § 7410(k)(2). EPA has a non-discretionary duty to take final action to approve, disapprove, or partially approve/disapprove the 2024 PM2.5 Plan, the Staff Report, and Resolution 24-10 no later than February 22, 2026. EPA has failed to approve, disapprove, or partially approve/disapprove the 2024 PM2.5 Plan, the Staff Report, and Resolution 24-10. EPA's failure to perform its non-discretionary duty under section 110(k)(2) of the Act, 42 U.S.C. § 7410(k)(2), has violated and continues to violate the Clean Air Act.

Identity of the Noticing Parties and their Attorney:

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Conclusion

Following the 60-day period, the Valley Groups will file suit in U.S. District Court to compel EPA to perform its nondiscretionary duty under the Clean Air Act. If you wish to discuss this matter short of litigation, please direct all future correspondence to the Valley Groups' attorney.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Newell", written in a cursive style.

Brent Newell