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CLUB**



**Climate Change
Law Foundation**

October 24, 2016

VIA CERTIFIED MAIL

Ms. Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington D.C. 20460

Re: 60-Day Notice of Intent to File Clean Air Act Citizen Suit

Dear Administrator McCarthy,

This letter is submitted on behalf of Climate Change Law Foundation (“CCLF”),¹ Association of Irrigated Residents (“AIR”),² Center for Biological Diversity (“CBD”),³ and Sierra Club,⁴ (collectively, “Environmental Groups” or “Petitioners”) to notify you that, pursuant to section 304(b) of the Clean Air Act (“CAA” or “Act”) (42 U.S.C. § 7604(b)), the above organizations intend to file suit against the U.S. Environmental Protection Agency (“EPA”) for its failure to perform non-discretionary duties under section 505(b)(2) of the CAA (42 U.S.C. § 7661d(b)(2)). EPA failed to either grant or deny a petition, filed by Petitioners pursuant to Section 505(b)(2) of the CAA and 40 C.F.R. sections 70.7 and 70.8(d), to object to a proposed Authority to Construct/Certificate of Conformity (“Permit”) for a Steam Plant in the McKittrick Oil Field in California, within 60 days after the petition was filed. (42 U.S.C. § 7661d(b)(2).) Specifically, Petitioners requested that EPA object to the Permit proposed by the San Joaquin Valley Air Pollution Control District (“Air District”) for the Chevron USA Inc., 7z Steam Plant in the McKittrick Oil Field, Facility # S-1128, Project # 1144548, Application #'s S-1128-1006-0 through '1013-0. This petition was sent to EPA via Federal Express on July 7, 2016, and more than 60 days have elapsed without EPA taking action on the petition. Petitioners ask that you direct your staff to take immediate action to address this deficiency, as required under the Act.

¹ Climate Change Law Foundation, c/o Noah Garrison, Esq., 638 Pier Avenue, #A, Santa Monica, CA 90405

² James Birkelund, Esq., 548 Market St., Suite 11200, CA 94104

³ Center for Biological Diversity, P.O. Box 1476, La Cañada Flintridge, CA 91012

⁴ Sierra Club, 2101 Webster Street, Suite 1300, Oakland, CA 94612

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Background

Chevron USA Inc. has applied to the Air District for an Authority to Construct Permit and Certificate of Conformity to construct eight new 85 MMBtu/hr natural gas fired steam generators under a Title V Permit originally issued on April 25, 2001. The Air District deemed the application complete on January 15, 2015, and published notice of its preliminary decision on the project on May 6, 2016, triggering a 30-day comment period on the preliminary decision. Public comments were due on June 10, 2016. Petitioners submitted comments on the proposed Permit to the Air District during the comment period, on June 9, 2016. The Air District also transmitted the preliminary decision to EPA via e-mail on May 6, 2016. Because the Air District determined that the proposed action is a significant Title V modification that “can be processed with a Certificate of Conformity,”⁵ the Air District stated that the proposed Permit would trigger a 45-day review period by EPA for a Title V modification, ending on June 20, 2016. EPA did not object to the issuance of the Permit or otherwise submit substantive comments to the Air District by this date.

Petitioners timely filed their petition for EPA to object to the Permit on July 7, 2016, within 60 days of the expiration of EPA’s 45-day review period. (*See*, 42 U.S.C. § 7661d(b)(2).) In compliance with 42 U.S.C. section 7661d(b)(2) and Air District Rule 2201 section 5.9.1.7, the petition was based on objections that were raised during the public comment period. Specifically, the petition noted that the Permit would authorize modifications that will significantly increase harmful air pollution, and requested EPA object to the Permit because it relies on invalid emissions reduction credits for volatile organic compounds (VOCs). EPA did not take action within 60 days of its receipt of the petition, as required by 42 U.S.C. § 7661d(b)(2).

Conclusion

EPA has failed to complete its non-discretionary duty to grant or deny the petition on the Chevron USA Inc. Permit. Unless this deficiency is promptly addressed, Environmental Groups intend to file suit in U.S. District Court sixty days after your receipt of this letter. Please feel free to contact us at (415) 602-6223 to further discuss the matters raised in the petition or to explore possible options for resolving this claim.

Sincerely



James Birkelund
Attorney for Climate Change Law
Foundation and Association of
Irrigated Residents

⁵ See, [http://www.valleyair.org/notices/Docs/2016/05-09-16_\(S-1144548\)/S-1144548.pdf](http://www.valleyair.org/notices/Docs/2016/05-09-16_(S-1144548)/S-1144548.pdf) at 2. The process was requested by the Facility.

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Maya Golden-Krasner
Attorney for the Center for
Biological Diversity



Elizabeth Benson
Attorney for Sierra Club

cc: Alexis Strauss, Acting Regional Administrator, EPA Region 9

PROOF OF SERVICE

I, the undersigned, am over the age of 18 years and not a party to this case. I am a resident of or employed in the county where the mailing occurred and my business address is: 25515 Cornwall Place, Santa Clarita, CA 91350.

On the date shown below, I caused to be served the following documents:

- **60-Day Notice of Intent to File Clean Air Act Citizen Suit**

by having copies of the same enclosed in sealed envelopes addressed to each of the entities shown below and deposited in the U.S. mail with the postage fully prepaid.

Name and address of federal EPA offices to whom documents were mailed:

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Alexis Strauss, Acting Regional
Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Name and address of others to whom documents were mailed: See attached distribution list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 24, 2016

By: 
Natalie Garrett

Distribution List

Federal

Gerardo C. Rios
Chief, Air Permits Office
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

State

Arnaud Marjollet
Permit Services Manager
San Joaquin Valley Air Pollution Control
District
1990 E. Gettysburg Ave.
Fresno, CA 93726

Rich Karrs
Air Quality Engineer
San Joaquin Valley Air Pollution Control
District
34946 Flyover Court
Bakersfield, CA 93308

Petitioner

Mr. Kris Rickards
Chevron USA, Inc.
P.O. Box 1392
Bakersfield, CA 93302

