

Law Office of Robert Ukeiley

255 Mountain Meadows Road • Boulder, CO 80302 • tel. 303.442.4033

Robert Ukeiley
rukeiley@igc.org

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

March 14, 2017

Scott Pruitt
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Clean Air Act Notice of Intent to Sue pursuant to 42 U.S.C. § 7604(b)(2) for failure to make findings of failure to submit under 42 U.S.C. § 7410(k)(1)(B) for 2008 ozone NAAQS nonattainment areas state implementation plans

Dear Administrator Pruitt,

On behalf of the Center for Biological Diversity and the Center for Environmental Health, I am writing to inform you that they intend to file suit against you for “a failure of the Administrator [of the United States Environmental Protection Agency (“EPA”)] to perform any act or duty under this chapter which is not discretionary with the Administrator.” 42 U.S.C. § 7604(a)(2). Specifically, under 42 U.S.C. § 7410(k)(1)(B), EPA must issue a finding of failure to submit nonattainment area state implementation plan (SIP) submittal elements, and publish notice of that action in the Federal Register for the 2008 ozone national ambient air quality standards (NAAQS). This duty is required for the nonattainment areas and elements listed in Table 1. As explained in more detail below, EPA has failed to perform these mandatory duties.

EPA should remedy its violation of these mandatory duties to better protect the public and native ecosystems from ozone’s harmful effects. People commonly refer to ground level ozone as smog. According to EPA, based on exhaustive scientific review, ozone pollution causes decreased lung function, increased respiratory symptoms, emergency department visits, hospital admissions for respiratory causes, and even death. 73 Fed. Reg. 16,436 (Mar. 27, 2008). Those most at risk from ozone pollution are children; active people, *e.g.*, runners and people who do manual labor outside; people with pre-existing lung and heart diseases such as asthma; and older people. *Id.* at 16,440. Ozone also damages vegetation, both native and commercial crops.

Id. at 16,485-16,486. Damage to native vegetation results in ecosystem damage, including diminished ecosystem services, that is, the life sustaining services that ecosystems provide to people for free, such as clean air, clean water and carbon sequestration. *Id.*

I. FAILURE TO MAKE FINDING OF FAILURE TO SUBMIT

EPA is required to determine whether a state implementation plan (SIP) submittal is administratively complete. 42 U.S.C. § 7410(k)(1)(B). If, six months after a submittal is due, a state has failed to submit any required SIP submittal, there is no submittal that may be deemed administratively complete, and EPA must make a determination stating that the state failed to submit the required SIP submittal. *Id.* This determination is referred to as a “finding of failure to submit.”

EPA’s nonattainment designations for the 2008 ozone NAAQS were effective for most areas of the United States no later than July 20, 2012. *see* 77 Fed. Reg. 30,088 (May 21, 2012). EPA designated all of the areas listed in Table 1 nonattainment for the 2008 ozone NAAQS. All elements of the nonattainment SIP were due by no later than the dates listed in Table 1. *See* http://www3.epa.gov/airquality/urbanair/sipstatus/reports/ozone-8hr__2008_en.html. EPA has a mandatory duty to make a completeness finding under 42 U.S.C. § 7410(k)(1)(B) by no later than six months after the due dates for the submittals. The States in Table 1 have failed to submit nonattainment SIPs for the areas and elements listed in Table 1 as of the date of this letter. Yet, EPA has failed to issue a finding of failure to submit, as required under 42 U.S.C. § 7410(k)(1)(B), regarding the nonattainment SIPs for the areas and elements listed in Table 1.

TABLE 1

AREA & ELEMENT(S)	SUBMITTAL DEADLINE (No later than)
Los Angeles-South Coast Air Basin, CA: Contingency measures for Volatile Organic Compounds (VOC) and Nitrogen Oxides (NOx), Contingency Provisions for Reasonable Further Progress (RFP) Milestones 182(c)(9), Enhanced Monitoring Photochemical Assessment Monitoring Stations (PAMS), Inspection/Maintenance (I/M) enhanced, Attainment Demonstration, RFP VOC and NOX - Extreme	7/20/2016
Los Angeles-San Bernardino Counties (West Mojave Desert), CA: Contingency measures for VOC and NOx, Contingency Provisions for RFP Milestones 182(c)(9), I/M enhanced, Attainment Demonstration,	7/20/2016

RFP VOC and NOX - Severe 15,	
Riverside County (Coachella Valley), CA: Contingency measures for VOC and NOx, Contingency Provisions for RFP Milestones 182(c)(9), Enhanced Monitoring (PAMS), I/M enhanced, Attainment Demonstration, RFP VOC and NOX - Severe 15,	7/20/2016
Sacramento Metro, CA: Contingency measures for VOC and NOx, Contingency Provisions for RFP Milestones 182(c)(9), Enhanced Monitoring (PAMS), I/M enhanced, Attainment Demonstration, RFP VOC and NOX - Severe 15	7/20/2016
Ventura County, CA: Contingency measures for VOC and NOx, I/M enhanced, Attainment Demonstration, RFP VOC and NOx – Serious,	7/20/2016

As required by 40 C.F.R. § 54.3, the persons providing this notice are:

The Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA. 94612
Attn: Jonathan Evans
Tel: (510) 844-7100 x318

Center for Environmental Health
2201 Broadway, Suite 302
Oakland, CA 94612
Attn: Caroline Cox
Tel: (510) 655-3900

While EPA regulations require this information, please direct all correspondences and communications regarding this matter to the undersigned counsel.

The Center for Biological Diversity and the Center for Environmental Health and their counsel would prefer to resolve this matter without the need for litigation. Therefore, we look forward to EPA coming into compliance within 60 days. If you do not do so, however, we will have to file a complaint.

Administrator Scott Pruitt
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Sincerely,

A handwritten signature in blue ink, appearing to read "R. Ukeiley".

Robert Ukeiley
Counsel for Center for Biological Diversity and
Center for Environmental Health