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January 19, 2011

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

The Honorable Lisa P. Jackson
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W. (Mailcode 1101A)
Washington, DC 20460

RE: Notice of Intent to Sue Pursuant to § 304 (b)(2) of the Clean Air Act for Failure of the Administrator to Promulgate Regional Haze FIPs.

Dear Administrator Jackson:

This letter constitutes notice pursuant to Clean Air Act Section 304(b)(2), 42 U.S.C. § 7604(b)(2), and 40 C.F.R. Part 54, that the National Parks Conservation Association, Sierra Club, Grand Canyon Trust, WildEarth Guardians, Montana Environmental Center, Environmental Defense Fund, San Juan Citizens Alliance, Our Childrens Earth Foundation, Plains Justice, and Powder River Basin Resource Council (“Noticing Parties”) intend to file a citizen suit pursuant to Clean Air Act Section 304(a)(2) to address your failure to perform the nondiscretionary duty of promulgating regional haze Federal Implementation Plans for delinquent states by January 15, 2011.

Congress in 1977 directed EPA to take action to clean up the sullied air in our nation’s parks and wilderness areas. Decades of delay in finalizing federal plans to reduce visibility impairing haze in our parks and wilderness areas has deprived citizens of the enjoyment of these precious resources, and has caused visitors, employees, and wildlife to be unnecessarily exposed to harmful levels of air pollution.

A. Failure to Perform Nondiscretionary Duties

Section 110(c) of the Clean Air Act, 42 U.S.C. § 7410(c), requires the Administrator of EPA (“Administrator,” “you”, or “EPA”) to promulgate a Federal Implementation Plan (“FIP”) within two years of a finding that a state has failed to make a required a State Implementation Plan (“SIP”) submittal. The pertinent provision of Section 110(c) states:

(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator--

(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A).

On January 15, 2009, EPA made a formal finding that 32 states plus the District of Columbia and the U.S. Virgin Islands had failed to submit any of the required regional haze SIP elements set forth at 40 C.F.R. §51.308. 74 Fed.Reg. 2392, 2393 (January 15, 2009). EPA also found that five states had submitted some, but not all, of the required regional haze SIP elements set forth at 40 C.F.R. §§51.308 and 51.309. *Id.*

Specifically, EPA found that the following States and Territories had failed to submit SIPs addressing any of the required regional haze SIP elements of 40 C.F.R. §51.308:

Alaska, California, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, U.S. Virgin Islands, Virginia, Washington, and Wisconsin.

74 Fed. Reg. at 2393. EPA further found that the following states had failed to submit SIPs addressing part of the required regional haze SIP elements:

Arizona—40 CFR 51.309(g) and 40 CFR 51.309(d)(4).
Colorado—40 CFR 51.308(d) and 40 CFR 51.308(e) for two sources.
Michigan—40 CFR 51.308(d) and 40 CFR 51.308(e) for six sources.
New Mexico—40 CFR 51.309(g) and 40 CFR 51.309(d)(4).
Wyoming—40 CFR 51.309(g).

Id.

The above-referenced EPA findings of failure to submit all or part of required haze SIPs triggered a nondiscretionary duty under 42 U.S.C. §7410(c)(1)(A) for EPA to promulgate haze FIPs by January 15, 2011 for each of the above named states and territories for which EPA has not fully approved regional haze SIPs by that date. EPA confirmed its obligation to promulgate regional haze FIPs for each of the above-named states, the District of Columbia, and the U.S. Virgin Islands, within two years of its January 15, 2009 notice as follows:

In this action, EPA is finding that 37 states, the District of Columbia, and the U.S. Virgin Islands have failed to make all or part of the required SIP submissions to address regional haze. This finding starts the two year clock for the promulgation by EPA of a FIP. EPA is not required to promulgate a FIP if the state makes the

required SIP submittal and EPA takes final action to approve the submittal within two years of EPA's finding.

Id.

Unfortunately, EPA has failed to meet the January 15, 2011 deadline through the final promulgation of regional haze FIPs or full approval of regional haze SIPs for any of the states and territories listed above. Accordingly, the Administrator is in violation of her nondiscretionary duty to promulgate regional haze FIPs for each of the above-named states and territories by January 15, 2011.

B. Notice of Intent to Sue

After the expiration of sixty (60) days from the postmark date of this notice of intent to sue, the Noticing Parties intend to file suit against you in federal court for your failure to act in accordance with your non-discretionary duties described in Section A of this letter.

C. Noticing Parties Information

As required by 40 C.F.R. § 54.3, the names and addresses of the Noticing Parties are as follows:

National Parks Conservation Association
1300 19th Street NW, Suite 300
Washington DC 20036

Montana Environmental Information Center
PO Box 1184
Helena, MT 59624

Environmental Defense Fund
257 Park Avenue South
New York, NY 10010

Sierra Club
85 Second St., 2nd Floor
San Francisco, CA 94105

Grand Canyon Trust
2601 N. Fort Valley Rd
Flagstaff, AZ 86001

San Juan Citizens Alliance
P.O. Box 2461
1022 1/2 Main Avenue
Durango, Colorado 81302

Our Children's Earth Foundation
3701 Sacramento St. #194
San Francisco, CA 94118

Plains Justice
2606 Montana Avenue
Billings, Montana 59101

Powder River Basin Resource Council
934 N. Main St.,
Sheridan, WY 82801

WildEarth Guardians
312 Montezuma Avenue
Santa Fe, NM 87501

D. Legal Representation

The Noticing Parties have retained counsel to represent them in this matter. Their names and addresses are as follows:

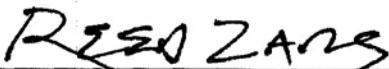
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We would be happy to discuss the concerns raised in this letter with you. Please contact above-named counsel if you would like to pursue such discussions.

We look forward to hearing from you.

Yours Sincerely,



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