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June 3, 2016

Via Certified Mail, Return Receipt Requested

Administrator Gina McCarthy
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Notice of Intent to Sue for Failure to Timely Grant or Deny a Petition to Object to the Title V Operating Permit for the Morgantown Generating Station

Dear Administrator McCarthy:

With this letter, Chesapeake Climate Action Network, Sierra Club, Environmental Integrity Project and Physicians for Social Responsibility, Chesapeake, Inc. are giving you notice of our intent to sue you in your official capacity as Administrator of the U.S. Environmental Protection Agency for failure to timely respond to our petition to object to the proposed Title V Operating Permit Number 24-017-0014 (“Proposed Permit” or “Permit”) issued by the Maryland Department of the Environment to NRG Energy, Inc. for the Morgantown Generating Station (“Morgantown”). Morgantown is a coal-fired power plant located at 12620 Crain Highway, Newburg, Maryland 20664.

Our Title V petition, which is included with this notice letter (minus the petition’s exhibits), was timely filed on January 4, 2016 — within 60 days following the end of EPA’s 45-day review period for the Proposed Permit. EPA failed to respond to the petition within 60 days, in violation of 42 U.S.C. § 7661d(b)(2). Please respond to our petition, as required by law, or we will be forced to file suit 60 days after you receive this notice letter to compel your response.

Authority to Bring Suit

Clean Air Act § 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 a petition filed by citizens to 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 that 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).

Relief Requested

In our lawsuit, we will seek the following relief:

- An order compelling you to grant or deny the petition within 60 days from the date of the order;
- Attorney's fees and other litigation costs; and
- Other appropriate relief as allowed.

If you have any questions regarding this notice letter, believe any of the foregoing information to be in error or would like to discuss a settlement of this matter prior to the initiation of litigation, please contact me at the number or email address listed below.

Sincerely,



Patton Dycus
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(202) 263-4455
pdycus@environmentalintegrity.org

Attachment

cc: *(Via U.S. Mail)*

Loretta E. Lynch, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Shawn M. Garvin, Regional Administrator
U.S. EPA Region 3
Environmental Protection Agency
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Karen Irons, Manager
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