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February 1, 2017

Acting Administrator Catherine McCabe
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Fax number (202) 501-1450

Via Certified Mail

RE: Notice of Intent to Sue for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. O26 Issued to the Southwest Electric Power Company for the Welsh Power Plant in Titus County, Texas

Dear Administrator McCabe:

With this letter, the Environmental Integrity Project and Sierra Club (“Plaintiffs”) are giving you notice of our intent to sue you in your official capacity as Administrator of the U.S. Environmental Protection Agency for your failure to timely respond to our petition to object to the Part 70 Operating Permit (Title V permit) No. O26 issued to the Southwestern Electric Power Company (“SWEPCO”) for operation of the Welsh power plant in Titus County, Texas. Plaintiffs timely filed their petition on November 8, 2016, within 60 days following the end of EPA’s 45-day review period for the Title V permit.¹ Though more than 60 days have passed since Plaintiffs filed their petition, you have not yet granted or denied the petition, as required by 42 U.S.C. § 7661d(b)(2).

Authority to Bring Suit

Clean Air Act, Section 304(a)(2) authorizes a citizen suit in federal district court “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). You have failed to perform your nondiscretionary duty to grant or deny Plaintiffs’ petition within 60 days of receipt. 42 U.S.C. § 7661d(b)(2). Plaintiffs are hereby giving you the required 60-day notice of our intent to bring a citizen suit to compel you to expeditiously grant or deny our

¹ Plaintiffs’ Title V petition is included with this NOI as Attachment 1.

petition. If you fail to grant or deny Plaintiffs' petition within 60 days after receiving this notice, Plaintiffs will file suit in federal district court to compel your response.

Relief Requested

Plaintiffs will seek the following relief:

1. An order compelling you to expeditiously grant or deny the Petition;
2. Attorney's fees and other litigation costs; and
3. Other appropriate relief as allowed.

Parties

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

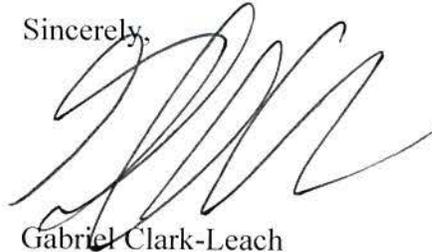
Environmental Integrity Project
1206 San Antonio Street
Austin, Texas 78703
Attn: Gabriel Clark-Leach
Tel: (512) 637-9478

Sierra Club
2101 Webster Street, Suite 1300
Oakland, California 94612
Attn: Katie Schaefer
Tel: (415)-977-5745

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

If you have any questions regarding this notice letter, believe any of the foregoing information to be in error, or would otherwise like to discuss settlement of this matter, please contact Gabriel Clark-Leach at (512) 637-9478 or gclark-leach@environmentalintegrity.org.

Sincerely,



Gabriel Clark-Leach
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1206 San Antonio Street
Austin, TX 78701
(512) 637-9478 (phone)
(512) 584-8019 (fax)
gclark-leach@environmentalintegrity.org

Attorney for Plaintiffs

Environmental Integrity Project,
Sierra Club

Attachment

cc: (Via Certified Mail)

Dana Boente, Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Samuel Coleman, Acting Regional Administrator
U.S. EPA Region 6
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Steve Hagle, P.E.
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Texas Commission on Environmental Quality
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