



## **II. JURISDICTION**

2. This case is a Clean Air Act citizen suit. Therefore, the Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 42 U.S.C. § 7604(a) (citizen suits for failure to perform a non-discretionary duty required by the Clean Air Act).

3. An actual controversy exists between the parties. This case does not concern federal taxes, is not a proceeding under 11 U.S.C. §§ 505 or 1146, and does not involve the Tariff Act of 1930. Thus, this Court has authority to order the declaratory relief requested under 28 U.S.C. § 2201. If the Court orders declaratory relief, 28 U.S.C. § 2202 authorizes this Court to issue injunctive relief.

## **III. NOTICE**

4. Sierra Club mailed to EPA by certified mail, return receipt requested, written notice of intent to sue regarding the violations alleged in this Complaint. EPA received the written notice by no later than March 5, 2014. More than sixty days have passed since EPA received Sierra Club's "notice of intent to sue" letter. EPA has not remedied the violations alleged in this Complaint. Therefore, a present and actual controversy exists.

## **IV. VENUE**

5. This civil action is brought against an officer of the United States acting in her official capacity. Also, the United States Environmental Protection Agency is headquartered in this judicial district. Defendant Gina McCarthy officially resides in the District of Columbia. A substantial part of the events or omissions giving rise to the claims in this case occurred in the

District of Columbia. Accordingly, venue is proper in this Court pursuant to 28 U.S.C. § 1391(e).

## V. PARTIES

6. Plaintiff SIERRA CLUB is a national grassroots nonprofit conservation organization formed in 1892. Sierra Club's purpose is to explore, enjoy and protect the planet.

7. Sierra Club has over 600,000 members nationally. Members of Sierra Club live, work, recreate, and travel throughout Texas and the Dallas-Fort Worth area and will continue to do so on a regular basis. Ozone in the affected areas threatens, and will continue to threaten, the health and welfare of the Sierra Club's members. 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.* Sierra Club members' ability to enjoy the aesthetic qualities and recreational opportunities of the affected areas is diminished by ozone pollution.

8. EPA's failure to timely perform the mandatory duties described herein also adversely affects the Sierra Club, its staff, and members, depriving them of procedural protection and opportunities as well as information which they are entitled to under the Clean Air Act. The

failure of EPA to perform its mandatory duties also creates uncertainty for Sierra Club's staff and members as to whether they are exposed to excessive air pollution.

9. The above injuries will continue until the Court grants the relief requested herein.

10. Defendant GINA MCCARTHY is the Administrator of the United States Environmental Protection Agency. In that role Administrator McCarthy has been charged by Congress with the duty to administer the Clean Air Act, including the mandatory duties at issue in this case.

## VI. LEGAL BACKGROUND

11. Congress enacted the Clean Air Act to "speed up, expand, and intensify the war against air pollution in the United States with a view to assuring that the air we breathe throughout the Nation is wholesome once again." H.R.Rep. No. 1146, 91st Cong., 2d Sess. 1,1, 1970 U.S.Code Cong. & Admin. News 5356, 5356. To promote this, the Act requires EPA to set National Ambient Air Quality Standards for certain pollutants, including ozone. National Ambient Air Quality Standards establish maximum allowable concentrations in the air of these pollutants.

12. Each National Ambient Air Quality Standard must be stringent enough to protect public health and welfare. Effects on welfare include, but are not limited to, effects on soils, water, vegetation, manmade materials, wildlife, visibility (*i.e.* haze), climate, damage to property, economic impacts, and effects on personal comfort and well-being.

13. Pursuant to 42 U.S.C. § 7407(d)(1)(A), EPA designates areas that fail to meet the National Ambient Air Quality Standard for a pollutant "nonattainment" for that pollutant; EPA designates those that meet the standard "attainment." *See e.g., Sierra Club v. EPA*, 129 F.3d 137, 138 (D.C. Cir. 1997).

14. States with areas designated nonattainment must submit state implementation plans showing how they plan to reduce the air pollution levels to below the National Ambient Air Quality Standard. *See South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882, 887 (D.C. Cir. 2006) (discussing ozone nonattainment requirements found in 42 U.S.C. §§ 7511-7511f that apply to areas failing to reach attainment by the 1990 Clean Air Act Amendments); *see also Sierra Club v. EPA*, 129 F. 3d at 138 (“EPA must establish . . . a schedule by which the state must submit a state implementation plan revision that complies with the requirements for nonattainment areas in order to attain the National Ambient Air Quality Standards. . .”) (citation omitted).

15. On July 18, 1997, EPA promulgated a new 8-hour ozone National Ambient Air Quality Standard. 62 Fed. Reg. 38856 (July 18, 1997).

16. EPA, in implementing the 1997 8-hour standard, originally placed nonattainment areas into two separate categories: “subpart 1” for areas designated nonattainment under Title I, Part D, subpart 1 of the Clean Air Act, 42 U.S.C. §§ 7501-7509a, and “subpart 2” for areas designated nonattainment under Title I, Part D, subpart 2 of the Clean Air Act, 42 U.S.C §§ 7511-7511f. 69 Fed. Reg. 23858 (April 30, 2004).

17. Nonattainment areas designated under subpart 2 were classified according to their design value at the time of the nonattainment designation. 42 U.S.C. § 7511(a)(1); *see also* 40 C.F.R. § 51.903(a) (2009). The nonattainment areas are assigned an “attainment date” by which they must attain the 1997 ozone NAAQS. Within six months of the attainment date, EPA must determine whether the nonattainment area has attained the NAAQS and publish notification of that finding. 42 U.S.C. §§ 7509(c)(1), (2) & 7511(b)(2)(A), (B). This finding is referred to as a

“bump up” because if EPA finds that the area has not attained by its attainment date, the area is bumped up to the next higher classification of ozone nonattainment areas.

18. A state in which a nonattainment area designated under subpart 2 is located is also required to submit a state implementation plan meeting requirements dependant on the area’s classification. 42 U.S.C. § 7511a.

19. States are required to submit demonstrations of attainment no later than three years after their dates of designation for nonattainment areas designated under subpart 2 that are classified as moderate or higher. 40 C.F.R. § 51.908(a) (2009).

20. Furthermore, states are also required to submit state implementation plans that contain provisions implementing new reasonable available control technology (“RACT”) requirements for volatile organic compounds (“VOCs”), 42 U.S.C. § 7511a(b)(2), and nitrogen oxides (“NO<sub>x</sub>”), 42 U.S.C. § 7511a(f), for nonattainment areas designated under subpart 2 that are classified as moderate or higher. *See* 40 C.F.R. § 51.912(a)(1) (2009).

21. States that contain nonattainment areas designated under subpart 2 and classified as moderate or higher are required to submit state implementation plan provisions for reasonable further progress (“RFP”) toward attainment for those areas. 42 U.S.C. §§ 7511a(b)(1) (moderate), 7511a(c)(2)(B) (serious), 7511a(d) (severe), and 7511a(e) (extreme).

22. EPA is required to determine whether a state implementation plan submittal is administratively complete. 42 U.S.C. § 7410(k)(1)(B). No later than six months after the date by which a state is required to submit a plan or plan revision, the Administrator shall determine whether the minimum criteria for the required submittal has been met by the state. *Id.*

23. If, six months after a state submits a state implementation plan, EPA has not made the completeness finding and has not found the submittal to be incomplete, the submittal is deemed administratively complete by operation of law. *Id.*

24. EPA must take final action on an administratively complete submittal by approving in full, disapproving in full, or approving in part and disapproving in part within 12 months of the date the submittal is deemed administratively complete. 42 U.S.C. § 7410(k)(2) – (4).

## **VII. CLAIMS FOR RELIEF**

### **CLAIM ONE**

(EPA’s failure to take final action on certain portions of state implementation plan submittals under 42 U.S.C. § 7410(k)(2) - (4).)

25. Plaintiff incorporates by reference paragraphs 1 through 24.

26. Either EPA or operation of law deemed Texas’ state implementation plan submittals addressing 1997 8-hour ozone National Ambient Air Quality Standards nonattainment area requirements for the Dallas-Fort Worth area administratively complete on the dates listed below in Table 1 in the column labeled “Completeness Determination Date”:

TABLE 1

	<b><u>SIP Requirement</u></b>	<b><u>Completeness Determination Date</u></b>	<b><u>Deadline for EPA Approval or Disapproval</u></b>
1	Contingency Provisions for RFP Milestones 182(c)(9)	7/24/2012	7/24/2013
2	Ozone Attainment Demonstration – Serious	7/19/2012	7/19/2013
3	Clean Fuels for Fleets 182(c)(4)	7/19/2012	7/19/2013
4	RACT NOx for Major Sources	12/15/2007	12/15/2008
5	Enhanced Monitoring (PAMS)	7/24/2012	7/24/2013
6	RACT VOC CTG Auto and Light-Duty Truck Assembly Coatings	7/19/2012	7/19/2013
7	RACT VOC CTG Fiberglass Boat Manufacturing Materials	7/19/2012	7/19/2013
8	RACT VOC CTG Large Appliance Coatings	7/19/2012	7/19/2013
9	RACT VOC CTG Lithographic Printing Materials and Letterpress Printing Materials	7/19/2012	7/19/2013
10	RACT VOC CTG Metal Furniture coatings	7/19/2012	7/19/2013
11	RACT VOC CTG Miscellaneous Industrial Adhesives	7/19/2012	7/19/2013
12	RACT VOC CTG Miscellaneous Metal Products Coatings	7/19/2012	7/19/2013
13	RACT VOC CTG Plastic Parts Coatings	7/19/2012	7/19/2013
14	RFP VOC and NOx - Serious	7/24/2012	7/24/2013

See [http://www.epa.gov/air/urbanair/sipstatus/reports/tx\\_elembypoll.html#ozone-8hr\\_\\_1997\\_\\_631](http://www.epa.gov/air/urbanair/sipstatus/reports/tx_elembypoll.html#ozone-8hr__1997__631) (last viewed April 21, 2014).

27. EPA has a mandatory duty under 42 U.S.C. § 7410(k)(2)-(4) to take final action by approving in full, disapproving in full, or approving in part and disapproving in part Texas' 1997 ozone nonattainment state implementation plan submittals addressing the above requirements by no later than the dates listed above in Table 1 in the column labeled "Deadline for EPA Approval or Disapproval."

28. EPA has not taken final action by approving in full, disapproving in full, or approving in part and disapproving in part pursuant to 42 U.S.C. § 7410(k)(2)-(4) on any of the submittals listed above in Table 1.

29. Thus, EPA has failed to perform its mandatory duties.

## **CLAIM TWO**

(EPA's failure to bump up Dallas Ft. Worth to severe pursuant to 42 U.S.C. §§ 7509(c)(1), (2) and 7511(b)(2)(A), (B).)

30. Plaintiff incorporates by reference paragraphs 1 through 29.

31. When EPA bumped the Dallas Ft. Worth nonattainment area up to a serious nonattainment area, EPA set its attainment date as June 15, 2013. 75 Fed. Reg. 79,302 (Dec. 20, 2010).

32. Under 42 U.S.C. §§ 7509(c)(1) & 7511(b)(2)(A), EPA must determine by no later than six months after the attainment date, that is December 15, 2013 whether the Dallas 1997 8-hour ozone NAAQS serious nonattainment attained the 1997 8-hour ozone NAAQS by the June 15, 2013 attainment date. Furthermore, pursuant to 42 U.S.C. §§ 7509(c)(2) & 7511(b)(2)(B), EPA is required to publish notice in the Federal Register no later than December 15, 2013 identifying whether the Dallas Ft. Worth nonattainment area attained the 1997 8-hour ozone NAAQS by its attainment date.

33. EPA failed to determine whether the Dallas 1997 8-hour ozone NAAQS serious nonattainment attained the 1997 8-hour ozone NAAQS by the June 15, 2013 attainment date and EPA failed to publish notice of such a determination in the Federal Register.

34. It is critical that EPA act promptly on this as the Dallas nonattainment area failed to attain by its attainment date because it has a 2010-2012 design value of 87 parts per billion (ppb). *See* <http://www.epa.gov/airtrends/values.html>, ozone detailed information, Table 1b.

### **REQUEST FOR RELIEF**

WHEREFORE, Sierra Club respectfully requests that the Court:

- A. Declare that the Administrator is in violation of the Clean Air Act with regard to her failure to perform each mandatory duty listed above;
- B. Issue a mandatory injunction requiring the Administrator to perform her mandatory duties by a certain date;
- C. Retain jurisdiction of this matter for purposes of enforcing the Court's order;
- D. Grant Sierra Club its reasonable costs of litigation, including attorneys' and expert witness fees; and
- E. Grant such further relief as the Court deems proper.

Respectfully submitted,

/s Robert Ukeiley

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Robert Ukeiley  
DDC Bar No. MD 14062  
Law Office of Robert Ukeiley

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Tel: (859) 986-5402  
Fax: (866) 618-1017  
rukeiley@igc.org

Counsel for Sierra Club

Dated: May 20, 2014

**CIVIL COVER SHEET**

JS-44 (Rev. 7/13 DC)

<b>I. (a) PLAINTIFFS</b>   (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b>   COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)	ATTORNEYS (IF KNOWN)

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY)  <input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Medical Malpractice 365 Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  151 Medicare Act  <u>Social Security</u> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <u>Other Statutes</u> 891 Agricultural Acts 893 Environmental Matters 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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**E. General Civil (Other)**
OR
 **F. Pro Se General Civil**

<u>Real Property</u> 210 Land Condemnation 220 Foreclosure 230 Rent, Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property  <u>Personal Property</u> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	<u>Bankruptcy</u> 422 Appeal 27 USC 158 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Conditions 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> 820 Copyrights 830 Patent 840 Trademark  <u>Federal Tax Suits</u> 870 Taxes (US plaintiff or defendant) 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> 625 Drug Related Seizure of Property 21 USC 881 690 Other  <u>Other Statutes</u> 375 False Claims Act 400 State Reapportionment 430 Banks & Banking 450 Commerce/ICC Rates/etc. 460 Deportation 462 Naturalization Application 465 Other Immigration Actions 470 Racketeer Influenced & Corrupt Organization	480 Consumer Credit 490 Cable/Satellite TV 850 Securities/Commodities/Exchange 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
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<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  530 Habeas Corpus – General 510 Motion/Vacate Sentence 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  895 Freedom of Information Act 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Labor Railway Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  441 Voting (if not Voting Rights Act) 443 Housing/Accommodations 440 Other Civil Rights 445 Americans w/Disabilities – Employment 446 Americans w/Disabilities – Other 448 Education	<input type="radio"/> <b>M. Contract</b>  110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 153 Recovery of Overpayment of Veteran’s Benefits 160 Stockholder’s Suits 190 Other Contracts 195 Contract Product Liability 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding   
 2 Removed from State Court   
 3 Remanded from Appellate Court   
 4 Reinstated or Reopened   
 5 Transferred from another district (specify)   
 6 Multi-district Litigation   
 7 Appeal to District Judge from Mag. Judge

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____ JURY DEMAND: _____	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: _____	SIGNATURE OF ATTORNEY OF RECORD <u>      /s Robert Ukeiley      </u>
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
**Authority for Civil Cover Sheet**

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 12/09; DC 03/10) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

SIERRA CLUB

Plaintiff

v.

GINA MCCARTHY

Defendant

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)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) RONALD C. MACHEN, JR. U.S. Attorney
United States Attorney's Office
Judiciary Center Building
555 4th Street, N.W.
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Law Office of Robert Ukeiley
507 Center Street
Berea, KY 40403

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify):* \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09; DC 03/10) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

SIERRA CLUB

Plaintiff

v.

GINA MCCARTHY

Defendant

)
)
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)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) GINA MCCARTHY, Administrator
U.S. Environmental Protection Agency
Ariel Rois Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20004

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Law Office of Robert Ukeiley
507 Center Street
Berea, KY 40403

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify):* \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09; DC 03/10) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

SIERRA CLUB

Plaintiff

v.

GINA MCCARTHY

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ERIC H. HOLDER, JR., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Law Office of Robert Ukeiley
507 Center Street
Berea, KY 40403

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify):* \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: