

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SIERRA CLUB)
 2101 Webster St., Suite 1300)
 Oakland, CA 94612,)
)
 and)
)
 ENVIRONMENTAL INTEGRITY)
 PROJECT)
 1000 Vermont Avenue NW, Suite 1100)
 Washington, DC 20005,)
)
 Plaintiffs,)
)
 v.)
)
 SCOTT PRUITT, in his official capacity as)
 Administrator of the United States Environmental)
 Protection Agency)
 Ariel Rios Building)
 1200 Pennsylvania Avenue, N.W.)
 Washington, DC 20460,)
)
 Defendant.)

Civ. No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. The Administrator of the United States Environmental Protection Agency (“Administrator” or “EPA”) has failed to perform his non-discretionary duty to grant or deny a petition filed by the Sierra Club and Environmental Integrity Project (“EIP”) on October 15, 2016 (hereinafter “Petition”), asking EPA to object to the air pollution control operating permit (hereinafter “the Permit”) issued by the Pennsylvania Department of Environmental Protection (“DEP”) under Title V of the Clean Air Act for the Wheelabrator Frackville Energy, Inc. power

generating facility (hereinafter “Wheelabrator”). *See* 42 U.S.C. § 7661d(b)(2) (authorizing such petitions).

2. Although well more than sixty days have passed since Sierra Club and EIP filed their October 15, 2016 petition with the EPA, the Administrator has not granted or denied Plaintiffs’ Petition, in contravention of the mandatory sixty-day deadline for such action imposed under the Clean Air Act. *See* 42 U.S.C. § 7661d(b)(2). The Administrator, therefore, has violated and continues to violate his nondiscretionary duty under the Clean Air Act.

3. Accordingly, Plaintiffs Sierra Club and EIP seek a declaration that the Administrator is in violation of the Clean Air Act and an order compelling the Administrator to grant or deny Plaintiffs’ Petition by a date certain.

II. JURISDICTION

4. The instant action arises under the Clean Air Act, 42 U.S.C. § 7661d(b). This Court has jurisdiction over Sierra Club’s claims pursuant to 42 U.S.C. § 7604(a) and 28 U.S.C. §§ 1331, 1361. This Court has authority to order declaratory and injunctive relief pursuant to 42 U.S.C. § 7604 and 28 U.S.C. §§ 1361, 2201, and 2202.

III. NOTICE

5. By certified letter dated December 22, 2016, Plaintiffs provided Defendant with written notice of the Administrator’s failure to perform his nondiscretionary duty at issue in this case and of Plaintiffs’ intent to bring this action, as required by 42 U.S.C. § 7604(b) and 40 C.F.R. §§ 54.2, 54.3. A copy of this notice is provided as Exhibit A to this Complaint. A period of more than sixty days has elapsed since Defendant was notified of Plaintiffs’ claim and intent to file suit. Therefore, notice was proper. *See* 42 U.S.C. § 7604(b)(2).

IV. VENUE

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e)(1). A substantial part of the events or omissions giving rise to Plaintiffs' claim occurred in the District of Columbia. Defendant Administrator Pruitt is an officer of the United States, sued for acts and omissions in his official capacity as Administrator of the EPA, and EPA has its principal office in the District of Columbia.

V. PARTIES

7. Plaintiffs are non-profit environmental organizations with longstanding interests in improving air quality across the nation, and a particular interest in advocating for control of air pollution from power plants due to their significant impacts on public health and the environment.

8. Plaintiff Sierra Club is the oldest and largest grassroots environmental organization in the United States, with over 800,000 members nationally, including over 30,000 members in Pennsylvania. Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

9. Plaintiff EIP is a national nonprofit organization that advocates for effective enforcement of environmental laws, with a specific focus on the Clean Air Act and large stationary sources of air pollution, like coal-fired power plants. EIP's mission is to illustrate through objective facts and figures how the failure to enforce or implement environmental laws increases pollution and harms public health; to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws;

and to help local communities obtain the protections of environmental laws.

10. Sierra Club and EIP are “persons” within the meaning of 42 U.S.C. § 7602(e). As such, Plaintiffs may commence a civil action under 42 U.S.C. § 7604(a).

11. Plaintiffs bring this action on their own behalf and on behalf of Sierra Club’s members. Sierra Club and EIP are greatly concerned about the effects of air pollution on the environment and human health and have a long history of involvement in (and investment of institutional resources in) exercising their legal right to engage in advocacy related to air quality and source permitting under the Clean Air Act. The Administrator’s failure to perform the mandatory duty described in this Complaint and timely respond to the Petition has injured and continues to injure Plaintiffs’ organizational and procedural interests, adversely affecting Sierra Club and EIP’s ability to assure that the Permit complies with Clean Air Act requirements.

12. The Administrator’s failure to perform his mandatory duty has injured and continues to injure the health, recreational, environmental, and procedural interests of Sierra Club members. Sierra Club members live, work, travel, and recreate in areas where they are exposed to dangerous air pollutants emitted from the Wheelabrator plant. Such air pollutants, which include particulate matter, are associated with a variety of adverse health effects and damage to wildlife and vegetation. The Permit upon which Sierra Club’s Petition is based purports to authorize Wheelabrator to release air pollutants, thereby threatening the health of Sierra Club members and their use and enjoyment of the air, environment, wildlife, and scenery adversely impacted by such pollutants. EPA’s failure to respond to Plaintiffs’ Petition creates doubt and concern for Sierra Club members about whether the Wheelabrator plant is operating in compliance with the requirements of the Clean Air Act and whether they are being protected from exposure to the Plant’s air pollutant emissions to the extent required by law.

13. During the permitting process for Wheelabrator, Sierra Club and EIP provided comments critical of the Permit's terms and limits. Subsequently, Plaintiffs petitioned EPA to object to the issuance of the Permit. The Clean Air Act gives Plaintiffs a procedural right to a timely, sixty-day decision on their Petition. *See* 42 U.S.C. § 7661d(b)(2). EPA's failure to act on the Petition prevents Plaintiffs from challenging an unfavorable EPA decision or benefiting from a favorable decision on the Petition. EPA's continuing failure to respond to Sierra Club and EIP's Petition causes harm by depriving Sierra Club, EIP, and Sierra Club members of protections to which they are entitled under the Clean Air Act and their procedural right to a timely decision on the Petition.

14. Granting the relief requested in this lawsuit would redress Plaintiffs' injuries.

15. Scott Pruitt is sued in his official capacity as the Administrator of the EPA. The Administrator is responsible for taking various actions to implement and enforce the Clean Air Act, including the mandatory duty at issue in this case.

VI. LEGAL BACKGROUND

16. The core purpose of the Clean Air Act is the protection of public health against the effects of harmful air pollution. *See* 42 U.S.C. § 7401(b)(1). To help meet this goal, the 1990 amendments to the Clean Air Act created the Title V permit program, an operating permit program that applies to all major sources of air pollution. *See* 42 U.S.C. §§ 7661-7661f.

17. Major sources of air pollution must obtain a valid operating permit issued pursuant to Title V of the Clean Air Act, which records applicable air pollution control requirements in a single document. *See* 42 U.S.C. §§ 7661a(a), 7661c(a). Sources regulated under Title V of the Act may not operate except in compliance with their Title V permits, 42 U.S.C. § 7661a(a), and such permits "shall include enforceable emission limitations and

standards . . . and such other conditions as are necessary to assure compliance with applicable requirements of [the Air Pollution Prevention and Control] chapter, including the requirements of the applicable implementation plan.” 42 U.S.C. § 7661c(a); *see also* 40 C.F.R. § 70.6(a)(1).

18. The Clean Air Act provides that the EPA Administrator may approve state programs to administer the Title V permitting program with respect to sources within their borders. *See* 42 U.S.C. § 7661a(d). EPA fully approved Pennsylvania’s administration of its Title V permit program in 1996. *See* Clean Air Act Final Full Approval Of Operating Permits Program; Final Approval of Operating Permit and Plan Approval Programs Under Section 112(l); Final Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Plan Approvals and Operating Permits Under Section 110; Commonwealth of Pennsylvania, 61 Fed. Reg. 39,597 (July 30, 1996) (codified at 40 C.F.R. § 52.2020(c)); *see also* 40 C.F.R. Part 70, Appendix A, Pennsylvania (a) (“Pennsylvania Department of Environmental Resources [now known as the Pennsylvania Department of Environmental Protection]: submitted on May 18, 1995; full approval effective on August 29, 1996.”).

19. Before Pennsylvania DEP may issue a Title V permit, the state agency must send the proposed Title V permit to EPA for review. 42 U.S.C. § 7661d(a)(1). EPA then has forty-five days to review the proposed permit. 42 U.S.C. § 7661d(b). EPA must object to the issuance of the permit if EPA finds that the permit does not comply with all applicable requirements under the Clean Air Act. *Id.*

20. If the Administrator does not object in writing to the issuance of the proposed permit on his own accord, any person may, within sixty days after the expiration of EPA’s review period, petition the Administrator to take such action. 42 U.S.C. § 7661d(b)(2).

21. The Clean Air Act sets a mandatory deadline by which EPA must respond to any

such petition, requiring that the Administrator “shall grant or deny such petition within 60 days after the petition is filed.” *Id.*

22. If EPA objects to a permit, the permitting authority may not issue the permit unless it is revised. 42 U.S.C. § 7661d(b)(3). If the permitting authority has issued the permit prior to receipt of an objection by the Administrator, the Administrator shall modify, terminate, or revoke such permit. *Id.*

23. If the Administrator fails to comply with a non-discretionary duty, such as acting on a petition to object within the statutorily mandated sixty-day time frame, the Clean Air Act allows any person to bring suit to compel the Administrator to do so. *See* 42 U.S.C. § 7604(a).

VII. FACTUAL BACKGROUND

24. Wheelabrator, a waste coal-fired power plant, is a major stationary source of air pollution located in Schuylkill County, Pennsylvania and subject to Title V of the Clean Air Act.

25. On May 21, 2016, Pennsylvania DEP noticed a proposed Title V permit for the Wheelabrator plant with a thirty-day public comment period. Plaintiffs Sierra Club and EIP submitted timely comments on the Proposed Permit on June 20, 2016.

26. EPA’s forty-five day review period for the proposed permit began on July 6, 2016, and ended on August 19, 2016.

27. On October 15, 2016, Plaintiffs filed a petition requesting that the Administrator object to issuance of the Wheelabrator Title V permit on the basis that the permit lacks testing and monitoring conditions and terms necessary to assure compliance with the applicable particulate matter emissions limits for the Plant’s coal-fired boiler. Plaintiffs’ Petition was timely filed within sixty days following the conclusion of EPA’s forty-five day review period, *see* 42 U.S.C. § 7661d(b)(2), and based on an objection that was raised with reasonable

specificity during the public comment period for the proposed permit, in accordance with 42 U.S.C. § 7661d(b)(2).

28. EPA had sixty days, until December 14, 2016, to grant or deny Plaintiffs' Petition. 42 U.S.C. § 7661d(b)(2). As of the date of filing of this complaint, EPA has not yet granted or denied the Petition.

VIII. CLAIM FOR RELIEF

29. Sierra Club and EIP incorporate the allegations in all preceding paragraphs of this Complaint as if set forth in full herein.

30. The Administrator had a nondiscretionary duty to grant or deny Plaintiffs' Petition within sixty days after it was filed. 42 U.S.C. § 7661d(b)(2) ("The Administrator shall grant or deny such petition within 60 days after the petition is filed") (emphasis added).

31. More than sixty days have passed since Sierra Club and EIP filed their October 15, 2016 Petition requesting that EPA object to the Title V Permit for Wheelabrator.

32. As of the date of filing this Complaint, the Administrator has not granted or denied Plaintiffs' Petition. Thus, the Administrator has violated and continues to violate the Clean Air Act, 42 U.S.C. § 7661d(b)(2).

33. This Clean Air Act violation constitutes a "failure of the Administrator to perform any act or duty under [the Air Pollution Prevention and Control] chapter which is not discretionary with the Administrator" within the meaning of the Clean Air Act's citizen suit provision. 42 U.S.C. § 7604(a). The Administrator has been in violation of his non-discretionary duty for 222 days, the violation is ongoing, and will continue unless remedied by this Court.

IX. REQUEST FOR RELIEF

WHEREFORE, Sierra Club respectfully requests this Court enter judgment providing the following relief:

- A) A declaration that the Administrator has violated the Clean Air Act by failing to grant or deny Sierra Club and EIP's Petition requesting that EPA object to the Title V operating permit for Wheelabrator;
- B) An order compelling the Administrator to perform his mandatory duty to grant or deny Plaintiffs' Petition for objection to the Title V operating permit for Wheelabrator by an expeditious certain date;
- C) An order retaining jurisdiction over this matter until such time as the Administrator has complied with his non-discretionary duty under the Clean Air Act;
- D) An order awarding Plaintiffs' their costs of litigation, including reasonable attorneys' fees; and
- E) Such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: July 24, 2017

/s/ Kathryn Amirpashaie

Kathryn M. Amirpashaie
DC Bar Id. No. 1001491
Law Office of Kathryn M. Amirpashaie, PLC
406 Blue Ridge Avenue NE
Leesburg, VA 20176
Tel: (703) 771-8394
kmalawoffice@gmail.com

Counsel for Plaintiffs

EXHIBIT A

Law Office of Kathryn M. Amirpashaie, PLC
406 Blue Ridge Avenue NE, Leesburg, Virginia 20176

Kathryn M. Amirpashaie

Telephone: 703.771.8394
E-Mail: kmalawoffice@gmail.com

December 22, 2016

VIA CERTIFIED MAIL

Administrator Gina McCarthy
U.S. Environmental Protection Agency
Mail code: 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: Notice of Intent to Sue under the Federal Clean Air Act

Dear Administrator McCarthy:

This letter provides notice, pursuant to 42 U.S.C. § 7604(b), that the Sierra Club and Environmental Integrity Project (“EIP”) intend to file a citizen suit against the United States Environmental Protection Agency (“EPA”) and the Administrator of the EPA, based on your failure to perform a nondiscretionary duty set forth under Title V of the Clean Air Act (“CAA” or “Act”). Specifically, Sierra Club and EIP intend to file suit over your failure to, within the time frame required by 42 U.S.C. § 7661d(b)(2), grant or deny their petition seeking an objection by EPA to the Title V Operating Permit renewal, Permit No. 54-00005 (hereafter “Proposed Permit”), proposed by the Pennsylvania Department of Environmental Protection (“DEP”) for the Wheelabrator Frackville Energy, Inc. power generating facility (hereinafter “Wheelabrator”) in Schuylkill County, Pennsylvania. The petition was delivered via electronic filing to EPA on October 15, 2016. On the same day, copies of the petition were also sent via e-mail and first class mail to the permitting authority and permit applicant. As of today, more than 60 days have passed without EPA taking action on said petition, in violation of the Administrator’s nondiscretionary duty under CAA section 505(b)(2) to grant or deny the petition within 60 days after it was filed. *See* 42 U.S.C. § 7661d(b)(2).

I. Wheelabrator Is Subject to Title V of the Clean Air Act

Title V of the CAA requires specified sources of air pollution to obtain an operating permit from a permitting authority. 42 U.S.C. § 7661a(a). Pennsylvania's state operating permit and Title V permit programs have been approved by EPA and, accordingly, DEP is responsible for issuing Title V permits to facilities within the State. 25 Pa. Code Chapter 127, Subchapters F and G; 61 Fed. Reg. 39,597 (July 30, 1996). On May 21, 2016, DEP issued notice of its intent to issue a renewal Title V Operating Permit for the Wheelabrator Plant, initiating a 30-day public comment period. On June 20, 2016, Sierra Club and EIP submitted timely comments on the Proposed Permit. In pertinent part, these comments raised issue with the permit's exceedingly infrequent reporting requirements and otherwise unacceptably lax compliance mechanisms for particulate matter.

II. EPA Failed to Grant or Deny Sierra Club and EIP's Petition to Object to the Proposed Permit for the Wheelabrator Plant within the Statutorily Required Time Frame

As per CAA section 505(b)(1), within 45 days of receipt of a proposed Title V permit, the Administrator of the EPA "shall . . . object" to the permit's issuance if it "contains provisions that are determined by the Administrator as not in compliance with the applicable requirements of [the CAA], including the requirements of an applicable implementation plan." 42 U.S.C. § 7661d(b)(1). If EPA fails to object during this period, any person may petition the Administrator for issuance of an objection within 60 days after the expiration of the 45-day review period. 42 U.S.C. § 7661d(b)(2). Accordingly, the timing for EPA to object to the Proposed Permit for Wheelabrator and for the public to petition EPA to object to the Proposed Permit was as follows: EPA's 45-day review period ended on August 19, 2016; the 60-day public petition period ended on October 18, 2016. *See* EPA Title V Operating Permit Public Petition Deadlines, attached hereto as Exhibit 1.

EPA failed to object to the Wheelabrator Proposed Permit within the allotted 45-day time frame. Consequently, Sierra Club and EIP filed a petition to object to the Proposed Permit on October 15, 2016, within 60 days after the expiration of EPA's 45-day review period, in accordance with 42 U.S.C. § 7661d(b)(2). *See* EPA Title V Operating Permits Title V Petition Database, attached hereto as Exhibit 2. The Petition to EPA was properly based on issues raised during the public comment period for the Proposed Permit. Specifically, the Petition raised objection with the Proposed Permit's impermissibly lax compliance requirements for particulate matter emissions from the Plant's electric generating unit (Source 031).

According to CAA section 505(b)(2), the Administrator was required to respond to Sierra Club and EIP's October 15, 2016 petition within 60 days, either granting or denying the Petition. 42 U.S.C. § 7661d(b)(2) ("The Administrator shall grant or deny such petition within 60 days

after the petition is filed.”). However, as of December 22, 2016, EPA has yet to respond to the petition to object to the Wheelabrator Title V Permit.

III. Citizens May Sue EPA for Failure to Timely Grant or Deny a Petition to Object

Section 304(a)(2) of the CAA provides that any person may sue the Administrator of the EPA “where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary.” 42 U.S.C. § 7604(a)(2). Section 505(b)(2) of the CAA expressly provides that the “Administrator shall grant or deny [a petition to object] within 60 days after the petition is filed.” 42 U.S.C. § 7661d(b)(2) (emphasis added). This provision imposes a mandatory, nondiscretionary duty upon EPA to act within 60 days of the filing of a petition under this section. Accordingly, in the event that the Administrator fails to perform this nondiscretionary duty, citizens may bring suit to compel such action.

IV. Sierra Club and EIP Intend to File a Citizen Suit to Compel EPA to Grant or Deny the Petition to Object

The CAA requires citizens to provide the Administrator with 60 days notice prior to bringing an action under CAA section 304(a)(2) 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(b)(2); *see also* 40 C.F.R. 54.2(a). Accordingly, through this letter, Sierra Club and EIP hereby notify EPA and the Administrator of their intent to file suit against EPA and the Administrator of the EPA under CAA section 304(a)(2) for failing to perform the nondiscretionary duty of granting or denying Sierra Club and EIP’s October 15, 2016 petition to object to the Proposed Title V Permit renewal for Wheelabrator. The Administrator had 60 days—until December 14, 2016—to grant or deny the petition to object to the Proposed Permit. *See* 42 U.S.C. § 7661d(b)(2). As of December 22, 2016, the Administrator has not yet granted or denied the petition. If the violation remains unresolved at the end of the 60-day notice period, Sierra Club and EIP intend to seek the following relief:

1. An order compelling EPA and the Administrator to grant or deny Sierra Club and EIP’s Petition within 60 days from the date of the order;
2. Attorneys’ fees and other litigation costs; and
3. Other appropriate relief as allowed.

If you would like to discuss the matters identified in this letter or offer a proposal for resolving this issue, please contact me directly at kmalawoffice@gmail.com or (703) 771-8394.

Sincerely,

/s Kathryn Amirpashaie

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Counsel for the Environmental Integrity Project

cc via e-mail only:

Michael Lee (lee.michaelg@epa.gov)

Dave Campbell (campbell.dave@epa.gov)

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Sent To: Gina McCarthy, US EPA
 200 Pennsylvania Ave NW
 Washington DC 20460

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for instructions

| | | | |
|--|--|---|--|
| <input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee | <input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)* | <input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)* | <input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans) |
| <input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education | <input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | <input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 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
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Failure to perform a mandatory duty under 42 U.S.C. 7604(a)(2) [grant or deny a petition to object to a Title V CAA permit]

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

| | |
|-----------------|----------------------------------|
| DATE: 7/24/2017 | SIGNATURE OF ATTORNEY OF RECORD: |
|-----------------|----------------------------------|

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. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia



SIERRA CLUB
and
ENVIRONMENTAL INTEGRITY PROJECT

Plaintiff(s)

v.

SCOTT PRUITT, in his official capacity as
Administrator of the United States Environmental
Protection Agency

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Scott Pruitt, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

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:

Kathryn M. Amirpashaie
Law Office of Kathryn M. Amirpashaie, PLC
406 Blue Ridge Ave. NE
Leesburg, VA 20176

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.

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. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia



SIERRA CLUB
and
ENVIRONMENTAL INTEGRITY PROJECT

Plaintiff(s)

v.

SCOTT PRUITT, in his official capacity as
Administrator of the United States Environmental
Protection Agency

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Channing D. Phillips
U.S. Attorney for the District of Columbia
c/o Civil Process Clerk
U.S. Attorney's Office
555 4th Street NW
Washington, DC 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:

Kathryn M. Amirpashaie
Law Office of Kathryn M. Amirpashaie, PLC
406 Blue Ridge Ave. NE
Leesburg, VA 20176

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.

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. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia



SIERRA CLUB
and
ENVIRONMENTAL INTEGRITY PROJECT

Plaintiff(s)

v.

SCOTT PRUITT, in his official capacity as
Administrator of the United States Environmental
Protection Agency

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Jeff Sessions
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

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Kathryn M. Amirpashaie
Law Office of Kathryn M. Amirpashaie, PLC
406 Blue Ridge Ave. NE
Leesburg, VA 20176

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Server's address

Additional information regarding attempted service, etc: