



ARIZONA CENTER FOR LAW  
— IN THE PUBLIC INTEREST —

AQED  
AIR QUALITY DIVISION

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514 W. Roosevelt St.  
Phoenix, AZ 85003  
www.aclpi.org

**BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

February 4, 2020

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Andrew R. Wheeler, Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
Mail Code: 1101A  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Re: Clean Air Act notice of intent to sue pursuant to 42 U.S.C. §  
7604(b)(2)

Robert Bartels  
Dr. Irene Márquez Biggs  
Jenna LaPrade Bouchard  
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(Ret.)  
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Lee Stein  
Geoffrey Sturr

Dear Administrator Wheeler:

On behalf of the Sierra Club, we are writing to give notice that we intend to sue you for your failure to perform non-discretionary acts or duties under Title 42, Chapter 85 of the United States Code. *See* 42 U.S.C. § 7604(a)(2).

First, you failed to meet the statutory deadline for taking final action on the 2015 West Pinal Moderate PM<sub>10</sub> Nonattainment Area SIP Revision (West Pinal County Plan) submitted by the Arizona Department of Environmental Quality (ADEQ) on December 21, 2015 to address dangerously high pollution from particulate matter 10 microns or smaller (PM<sub>10</sub>) occurring in the western part of Pinal County, Arizona.

Second, you failed to meet the statutory deadline for determining whether West Pinal County has attained the National Ambient Air Quality Standard (NAAQS) for PM<sub>10</sub>.

As you know, PM<sub>10</sub> poses serious risks to human health. PM<sub>10</sub> particles can get trapped in the lungs and cause breathing difficulties, lung tissue damage, cancer, and even premature death. Children, the elderly, and people with chronic lung disease or asthma are particularly vulnerable to the effects of PM<sub>10</sub> pollution.

The Arizona Center for Law in the Public Interest is a nonprofit public interest law firm dedicated to ensuring government accountability and protecting Arizonans' legal rights. Our tax ID# is 86-0767692.

In 2012, the EPA determined that much of West Pinal County failed to attain the PM<sub>10</sub> NAAQS. This area includes Casa Grande, Maricopa, and Florence. According to the enclosed “Fact Sheet” prepared by the EPA, air quality monitoring stations in West Pinal County showed “widespread, frequent, and in some instances, severe, violations of the PM<sub>10</sub> standard, dating back to 2002.” Indeed, “Pinal County’s PM<sub>10</sub> levels are among the worst in the country.” Data from one monitoring station just east of Casa Grande predicted over fourteen PM<sub>10</sub> exceedances per year for the years 2009 through 2011.

Monitoring stations also routinely recorded concentrations of two to three times the level of the standard, with several monitors approaching or exceeding 600 micrograms per cubic meter. In 2011, one monitor measured 2,318 micrograms per cubic meter, while another measured 2,040 micrograms per cubic meter. As you are aware, the health-based standard for PM<sub>10</sub> is no more than 150 micrograms per cubic meter. West Pinal County continues to violate the NAAQS for PM<sub>10</sub>.<sup>1</sup>

Under the Act, the EPA must determine whether a nonattainment area plan satisfies the minimum “completeness” criteria within 60 days after the plan is submitted. 42 U.S.C. § 7410(k)(1)(A)–(B). If the EPA has not made any kind of determination as to the completeness or incompleteness of the plan within six months of submittal, the plan is deemed to be administratively complete by operation of law on that date. 42 U.S.C. § 7401(k)(1)(B). The EPA must then take final action on an administratively complete plan by approving it in full, disapproving it in full, or approving it in part and disapproving it in part within 12 months of the completeness determination. 42 U.S.C. § 7410(k)(2). The West Pinal County Plan was submitted on December 21, 2015 and was deemed “complete” on June 21, 2016 because the EPA did not make a timely determination. The EPA was required to take final action on the plan 12 months later, by June 21, 2017. The EPA failed to meet this deadline.

The Act also requires the EPA to determine whether a nonattainment area attained the NAAQS by the applicable deadline and, if the area fails to attain the standard, to take certain steps to remedy it. The deadline for West Pinal County to attain the PM<sub>10</sub> NAAQS was December 31, 2018, which is “no later than the end of the sixth calendar year after the area’s designation as nonattainment.” 42 U.S.C. § 7513(c)(1). The EPA had six months from the attainment deadline, or by June 30, 2019, to determine whether West Pinal

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<sup>1</sup> See <https://www3.epa.gov/airquality/greenbook/pdte.html>.

Andrew Wheeler  
Page 3 of 3  
February 4, 2020

County actually attained the standard. Again, the EPA failed to meet the deadline and still has not made this determination.

As required by 40 C.F.R. § 54.3, this notice letter is submitted on behalf of:

Sierra Club  
2101 Webster Street, Suite 1300  
Oakland, CA 94612

Sierra Club—Grand Canyon Chapter  
514 W. Roosevelt Street  
Phoenix, AZ 85003

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

West Pinal County citizens (some of whom are Sierra Club members) deserve protection from the harmful effects of PM<sub>10</sub> pollution. We therefore ask that you contact us within 60 days to discuss remedying the violations of your mandatory, nondiscretionary duties described above. If you do not contact us, we will file a complaint.

Sincerely,

A handwritten signature in blue ink, appearing to read "J B Anderson", with a long horizontal flourish extending to the right.

Jennifer B. Anderson  
Daniel J. Adelman  
Arizona Center for Law in the Public Interest  
514 W. Roosevelt St.  
Phoenix, AZ 85003  
[janderson@aclpi.org](mailto:janderson@aclpi.org)  
[danny@aclpi.org](mailto:danny@aclpi.org)  
Tel.: (602) 258-8850

Enclosure (1)

cc: Misael Cabrera, Director of ADEQ (by regular mail)  
Daniel Czecholinski, ADEQ Air Quality Division Director (by regular mail)

## U.S. EPA FACT SHEET

### West Pinal County, Arizona Redesignation to Nonattainment for the 1987 24-hour PM<sub>10</sub> National Ambient Air Quality Standard

May 22, 2012

#### Summary

- EPA is redesignating a portion of Pinal County, Arizona to nonattainment for the 1987 24-hour PM<sub>10</sub> national ambient air quality standard (NAAQS).

#### Background

- Airborne particles are a serious threat to human health. Major concerns for human health from exposure to PM<sub>10</sub> (particles measuring less than 10 microns in diameter) include: effects on breathing and respiratory systems, damage to lung tissue, cancer, and premature death. The elderly, children, and people with chronic lung disease, influenza, or asthma, are especially sensitive to the effects of particulate matter.
- Ambient levels of PM<sub>10</sub> measured at air quality monitoring stations within Pinal County show widespread, frequent, and in some instances, severe, violations of the PM<sub>10</sub> standard, dating back to 2002.
- Pinal County's PM<sub>10</sub> levels are among the worst in the country. Based on 2009 – 2011 certified air quality data, the Pinal County Housing monitor, located approximately 11 miles east of Casa Grande, predicts over 14 exceedances per year. For reference, more than one exceedance per year is a violation of the standard. Ambient monitors located in the new nonattainment area routinely record concentrations two to three times the level of the standard and several monitors have recorded levels approaching or exceeding the significant harm level of 600 micrograms per cubic meter (ug/m<sup>3</sup>). In 2011, the Maricopa monitor measured 2,318 ug/m<sup>3</sup> and the Casa Grande monitor measured 2,040 ug/m<sup>3</sup>. The 1987 standard for PM<sub>10</sub> is 150 ug/m<sup>3</sup>.
- After reviewing the recommendations we received from the State and certain Tribes and evaluating air quality data, planning, control and other air-quality-related considerations, EPA proposed to redesignate much of the western half of Pinal County to nonattainment for the 1987 24-hour PM<sub>10</sub> NAAQS. See 75 FR 60680, October 1, 2010.
- Based on our consideration of the comments we received on our proposal and on further review of the geographic distribution of sources of PM<sub>10</sub>, EPA, in its final action, is reducing the size of the nonattainment area by about 36 percent, relative to the size of the area we originally proposed.
- EPA has determined that the San Carlos Apache and the main reservation of the Tohono O'odham are not causing or contributing to violations of the PM<sub>10</sub> standard in Pinal County, and will not redesignate these areas. We are deferring our decision regarding the lands of the Gila River Indian Community, the Ak-Chin Indian Community, and the Florence Village and San Lucy Farms portions of the Tohono O'odham Nation pending completion of consultation with the tribes.

## Next Steps

- The effect of this action is to establish a new PM<sub>10</sub> nonattainment area within Pinal County. Certain planning requirements will be imposed on the State of Arizona to reduce PM<sub>10</sub> concentrations within this area, including the requirement to submit, within 18 months of redesignation, a revision to the Arizona state implementation plan (SIP) that provides for attainment of the PM<sub>10</sub> standard as expeditiously as practicable but no later than the end of the sixth calendar year after redesignation.
- EPA's designation of an area to nonattainment does not predetermine the State's control strategy for the area. Arizona will be required to develop a plan to attain the air quality standard for PM<sub>10</sub>, and the relative contribution of various sources and options for control will be considered in that process. That attainment plan will be subject to public review and comment, both at the state level and again when EPA evaluates and proposes action on the plan as a revision to the Arizona SIP.

**For More Information:** <http://www.epa.gov/region9/air/az/pinal/index.html>



EPA's Final Boundaries for the West Pinal PM<sub>10</sub> Nonattainment Area With Land Use and Emissions Source Information

