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Office of The Attorney General
State of Connecticut

By Certified Mail, Return Receipt Requested

March 9, 2017

Scott Pruitt
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Clean Air Act notice of intent to sue for failure to perform non-discretionary duty to approve or disapprove a section 126 petition

Dear Administrator Pruitt:

The State of Connecticut respectfully gives notice of its intent to file suit against you in your official capacity as the Administrator of the Environmental Protection Agency (EPA) for failure to perform a non-discretionary duty under the Clean Air Act.

On June 1, 2016, Connecticut submitted the enclosed petition to EPA pursuant to section 126 of the Clean Air Act (CAA), 42 U.S.C. §7426, seeking a finding by EPA that emissions from the Brunner Island Generation Station in York County, Pennsylvania are significantly contributing to Connecticut's nonattainment of the 2008 ozone national ambient air quality standards (NAAQS), and/or are interfering with Connecticut's maintenance of the same. Clean Air Act section 126(b) provides that "[a]ny State or political subdivision may petition the Administrator for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(D)(ii) or this section."

Pursuant to 42 U.S.C. § 7426(b), "[w]ithin 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition." On July 25, 2016, EPA issued itself an extension of time to act upon the June 1, 2016 petition, citing CAA § 307(d)(10), which provides that "[e]ach statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection." Any such extension has now expired.

To date, EPA has not taken action on the Section 126 petition, nor has EPA held or scheduled the public hearing, despite its legal obligation to do so. Consequently, the State of Connecticut is writing to provide notice that it intends to file suit against you and EPA for failing to timely act on the section 126 petition in conformity with the CAA, including by failing to timely hold the public hearing.

This letter provides notice as required under CAA section 304, 42 U.S.C. § 7604, and 40 C.F.R. part 54. In keeping with the requirements of federal regulations, you are hereby notified that the names and addresses of the parties giving the notice are as shown below. Unless EPA takes the required actions before the end of the applicable notice period, the State of Connecticut intends to bring suit in United States District Court under section 304 for EPA's failure to perform the non-discretionary duties outlined in 42 U.S.C. §7426. The suit will seek injunctive and declaratory relief, the costs of litigation, and may seek other relief.

Sincerely,

George Jepsen
Attorney General of the State of Connecticut



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Enclosure: Section 126 petition dated June 1, 2016