1       JAMES M. BIRKELUND, Bar No. 206328         2       Climate Change Law Foundation         548 Market St., #11200         3       mares@climatechangelaw.org         1       Litting Climate Change Law         5       Attorney for Plaintiffs Climate Change Law         6       MAYA GOLDEN-KRASNER, Bar No. 217557         7       The Center for Biological Diversity         8       La Canada Flintridge, CA 91012         9       Tel: 213-215-3729; Fax: 510-844-7150         10       Attorney for Plaintiff Center for Biological Diversity         11       ELIZABETH BENSON, Bar No. 268851         12       85 Second Street, 2nd Floor         13       Baysono@sierraclub.org         14       ELIZABETH BENSON, Bar No. 268851         15       San Francisco, CA 94105         16       ENTORY for Plaintiff Sierra Club         17       ElizABETH BENSON, Bar No. 268851         18       Stored Street, 2nd Floor         19       Stored Street, 2nd Floor         19       Attorney for Plaintiff Sierra Club         11       ELIZABETH BENCH ALL DIVERSITY, ASSOCIATION OF IRRITATED RESIDENTS, SIERRA CLUB, and CLIMATE CHANGE LAW FOUNDATION,       Case No:         19       Plaintiffs.       v.		Case 3:16-cv-01946 Document 1 Fi	iled 04/13/16	Page 1 of 12							
2       Climate Change Law Foundation S48 Market St., #11200 San Francisco, CA 94104 james@climatechangelaw.org Tel: 415-602-6223; Fax: 415-789-4556         4       Attorney for Plaintiffs Climate Change Law Foundation and Association of Irritated Residents         6       MAYA GOLDEN-KRASNER, Bar No. 217557 The Center for Biological Diversity P.O. Box 1476         8       La Canada Flintridge, CA 91012 mgoldenkrasner@biologicaldiversity.org 9         9       Tel: 213-215-3729; Fax: 510-844-7150         10       Attorney for Plaintiff Center for Biological Diversity         11       ELIZABETH BENSON, Bar No. 268851 Sierra Club 85 Second Street, 2nd Floor San Francisco, CA 94105 19         13       elly.bensom@sierraclub.org Tel: 415-977-5723; Fax: 415-977-5793 4         14       ELIZABETH BENSON, Bar No. 268851 Sierra Club 85 Second Street, 2nd Floor San Francisco, CA 94105 19         19       EURABETH BENSON, Bar No. 268851 Sierra Club 85 Second Street, 2nd Floor San Francisco, CA 94105 19         19       EURABETH BENSON, Bar No. 268851 Sierra Club 85 Second Street, 2nd Floor San Francisco, CA 94105 19         19       EURA CLUB, and CLIMATE CHANGE LAW FOUNDATION, 10         10       V.         11       Plaintiffs, V.         12       V.         13       UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; GINA MCCARTHY, in her official capacity as Administrator of the United States Environmental Protection Agency; 10         14											
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<ul> <li><sup>b</sup> mgoldenkrasner@biologicaldiversity.org</li> <li>Tel: 213-215-3729; Fax: 510-844-7150</li> <li>Attorney for Plaintiff Center for Biological Diversity</li> <li>ELIZABETH BENSON, Bar No. 268851 Sierra Club</li> <li>85 Second Street, 2nd Floor San Francisco, CA 94105</li> <li>elly.benson@sierraclub.org</li> <li>Tel: 415-977-5723; Fax: 415-977-5793</li> <li>Attorney for Plaintiff Sierra Club</li> <li>UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT</li> <li>CENTER FOR BIOLOGICAL DIVERSITY, ASSOCIATION OF IRRITATED RESIDENTS, SIERRA CLUB, and CLIMATE CHANGE LAW FOUNDATION,</li> <li>Plaintiffs,</li> <li>V.</li> <li>UNITED STATES ENVIRONMENTAL</li> <li>PROTECTION AGENCY; GINA MCCARTHY,</li> <li>in her official capacity as Administrator of the United States Environmental Protection Agency;</li> <li>and JARED BLUMENFELD, in his official</li> <li>capacity as Regional Administrator of the United States Environmental Protection Agency,</li> <li>Defendants.</li> </ul>	7	The Center for Biological Diversity									
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<ul> <li>18 CENTER FOR BIOLOGICAL DIVERSITY, ASSOCIATION OF IRRITATED RESIDENTS, SIERRA CLUB, and CLIMATE CHANGE LAW FOUNDATION,</li> <li>20 Plaintiffs, v.</li> <li>21 Plaintiffs, v.</li> <li>22 V.</li> <li>23 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; GINA MCCARTHY, in her official capacity as Administrator of the United States Environmental Protection Agency; and JARED BLUMENFELD, in his official capacity as Regional Administrator of the United States Environmental Protection Agency,</li> <li>26 Defendants.</li> </ul>		FOR THE NORTHERN DIS	STRICT OF CA	LIFORNIA							
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<ul> <li>States Environmental Protection Agency,</li> <li>Defendants.</li> </ul>	25	and JARED BLUMENFELD, in his official									
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF		COMPLAINT FOR DECLARATORY AND IN	JUNCTIVE R	ELIEF							

# **INTRODUCTION**

1. This is an action to compel the Administrator of the United States Environmental Protection Agency ("EPA" or "Administrator") to fulfill mandatory duties under the federal Clean Air Act to ensure that the citizens of California have adequate protections against air pollution from an oil refinery in Bakersfield, California.

2. The refinery – the Alon USA – Bakersfield, California Refinery facility ("Refinery" or "Alon") – sought and received approval for an Authority to Construct permit / Certificate of Conformity ("Permit") from the San Joaquin Valley Air Pollution Control District ("Air District") pursuant the federal Clean Air Act. The Permit allows Alon to modify its Bakersfield refinery to restart crude refining, and expand the refinery's crude rail terminal to accommodate a five-fold increase in the Refinery's capacity to import crude oil, from 40 tank cars per day to 208 tank cars per day, or up to 63.1 million barrels of crude per year (hereinafter, the "Project"). This will allow the Refinery to run at its full capacity, processing 70,000 barrels of oil per day.

3. Allowing the Project to move forward will significantly increase harmful air
 pollution that will exacerbate the poor air quality and respiratory illnesses that plague San Joaquin
 Valley communities already unfairly burdened with industrial pollution.

4. The Permit was issued pursuant to the Title V of the Clean Air Act and is a
modification of the Refinery's existing federal Title V operating permit. As a modification of a
Title V permit, the Permit was required to be submitted to EPA for a 45-day review period before
it became final. 42 U.S.C. §§ 7661d(a)(1), (b)(1). EPA did not object to the Permit during the 45day review period.

5. Therefore, the Association of Irritated Residents ("AIR"), Center for Biological Diversity (the "Center"), and Sierra Club (collectively, "Petitioners" or "Plaintiffs") filed a petition ("Petition") with EPA in December 2014, requesting that EPA object to the Air District's proposed Permit for the Refinery. *See* 42 U.S.C. § 7661d(b)(2) (authorizing such petitions).

266. Title V of the Clean Air Act establishes a mandatory 60-day deadline for EPA to27grant or deny a citizen petition for an objection to a Title V permit, modification, or renewal. *Id.* 

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7. Although more than 60 days have passed, the EPA Administrator has not acted on the Petition. The EPA Administrator has therefore failed to complete her non-discretionary duty and is in violation of the Clean Air Act. Plaintiffs seek a declaration stating that the Administrator is in violation of the Act and an order compelling the Administrator to grant or deny the Petition.

## JURISDICTION, NOTICE, AND VENUE

8. The instant action arises under the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.* This Court has jurisdiction over this action pursuant to 42 U.S.C. § 7604 and 28 U.S.C. §§ 1331 and 1361. The relief requested by Plaintiffs is authorized pursuant to 42 U.S.C. § 7604 and 28 U.S.C. §§ 2201, 2202, and 1361. 42 U.S.C. § 7604(d) authorizes this Court to award Plaintiffs their costs and attorneys' fees.

9. In accordance with 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Parts 54.2 and 54.3, Plaintiffs notified the Administrator of the violations alleged herein, and of Plaintiffs' intent to initiate the present action. This notice was provided via certified mail by letter dated December 14, 2015 and addressed to the Administrator. More than 60 days have passed since notice was served, and the violation complained of is continuing.

10. Venue is proper in this Court pursuant to 28 U.S.C. section 1391(e). Defendant
EPA resides in this judicial district. EPA Region 9, which is responsible for implementation and
enforcement of the Clean Air Act within California, is headquartered in San Francisco. Climate
Change Law Foundation, the Center for Biological Diversity, and Sierra Club have offices in this
judicial district. This civil action is brought against an officer of the United States acting in his or
her official capacity and a substantial part of the events or omissions giving rise to the claims in
this case occurred in the Northern District of California.

### PARTIES

11. Plaintiff Association of Irritated Residents is a California non-profit corporation
based in Kern County. AIR formed in 2001 to advocate for clean air and environmental justice in
San Joaquin Valley communities. AIR has several dozen members who reside in Kern, Tulare,
Kings, Fresno, and Stanislaus Counties. AIR members, through themselves, their families, and

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friends, have direct experience with the many health impacts that arise from the type of pollution emissions associated with this Project.

12. Plaintiff Center for Biological Diversity is a non-profit corporation with offices in Oakland, Los Angeles, and elsewhere throughout California and the United States. The Center is actively involved in environmental protection issues throughout California and North America and has over 47,000 members, including many throughout California and in Kern County. The Center's mission includes protecting and restoring habitat and populations of imperiled species, reducing greenhouse gas pollution to preserve a safe climate, and protecting air quality, water quality, and public health. The Center's members and staff include individuals who regularly live, work, recreate and visit Kern County.

11 13. Plaintiff Climate Change Law Foundation ("CCLF") is a California non-profit
12 corporation based in San Francisco. CCLF's core mission is to address climate change and related
13 environmental problems through legal advocacy. The organization engages in legal and policy
14 matters that include climate change, alternative energy, air quality, and environmental and natural
15 resources law. CCLF has members who reside in and regularly use, and intend to continue to use,
16 areas in Kern County and surrounding regions that will be affected by the Project and emissions of
17 pollution it will generate.

18 14. Plaintiff Sierra Club is a national nonprofit organization of approximately 630,000
19 members. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the
20 earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to
21 educating and encouraging humanity to protect and restore the quality of the natural and human
22 environment; and to using all lawful means to carry out these objectives. Sierra Club and its
23 members are greatly concerned about the effect of air pollution on human health and the
24 environment. Sierra Club has approximately 600 members in Kern County.

15. Plaintiffs 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).

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16. Plaintiffs' members live, work, recreate and conduct other activities in areas where their health and welfare are adversely affected or threatened by air pollution caused by the Project.

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17. By this action, Plaintiffs seek to protect the health, welfare, and economic interests of their members and the general public. Plaintiffs' members and staff have an interest in their health and well-being, and in the health and well-being of others, including the residents of Kern County. The acts and omissions of EPA complained of herein have caused and continue to cause injury to Plaintiffs and their members by authorizing modifications to the Refinery that will significantly increase harmful air pollution from the Refinery and impair or threaten members' and the public's health and welfare, as well as recreational, aesthetic, and environmental interests.

18. 10 Plaintiffs' interests and their members' interests have been, are being, and will 11 continue to be harmed by EPA's failure to act on the Petition to object to the Permit for the 12 Project. Plaintiffs and their members have a substantial interest in ensuring that EPA complies 13 with federal law, including the requirements of the Clean Air Act.

14 19. The acts and omissions of EPA alleged herein further deprive Petitioners and their 15 members of procedural rights and protections to which they are entitled. During the permitting 16 process for the Project, Petitioners provided comments critical of the Permit's conditions. 17 Subsequently, Petitioners petitioned EPA to object to the issuance of the Permit. The Clean Air 18 Act gives Petitioners a procedural right to a timely decision on their Petition. EPA's failure to take 19 action on the Petition prevents Petitioners and their members from challenging an unfavorable 20 EPA decision or from benefiting from a favorable decision on the Petition.

21 20. For all the foregoing reasons, the failures complained of herein cause Plaintiffs and 22 their members injuries for which they have no adequate remedy at law. Granting the requested 23 relief would redress these injuries.

Defendant EPA is the federal agency charged with implementation of the Clean Air

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Act.

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22. Defendant Gina McCarthy is the Administrator of EPA, and is responsible for implementation and enforcement of the Clean Air Act. Defendant McCarthy is sued in her official capacity, and officially resides in Washington, D.C.

23. Defendant Jared Blumenfeld is the Regional Administrator of EPA for the Pacific Southwest (Region 9), and is responsible for implementation and enforcement of the Clean Air Act within California. Defendant Blumenfeld is sued in his official capacity, and officially resides in San Francisco, California.

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### LEGAL BACKGROUND

24. The Clean Air Act establishes a comprehensive scheme "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 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.

14 25. Major sources of air pollution must obtain a valid Title V operating permit, which 15 records all of the air pollution control requirements that apply to a major source of air pollution. 16 Major sources of air pollution cannot legally discharge pollutants into the air unless they have a 17 valid Title V operating permit. 42 U.S.C. § 7661a(a), 7661c(a).

18 26. A significant modification to an existing Title V operating permit must meet the requirements that apply to issuance of a Title V operating Permit. See U.S.C. § 7661a(a); 40 20 C.F.R. § 70.7(e), (h).

21 27. The Clean Air Act provides that the Administrator may approve state programs to 22 administer the Title V permitting program with respect to sources within their borders. See 42 23 U.S.C. § 7661a(d). The Administrator granted final approval to 34 district Title V programs in 24 California, including for the San Joaquin Valley Air Pollution Control District, in 2003. See 68 25 Fed. Reg. 65,637 (Nov. 21, 2003). The California Air Resources Board is responsible for 26 monitoring the activity of local air districts.

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28. Before a state or local district with an approved Title V permit program can issue a Title V permit or significant modification to a Title V permit, the state or district must forward the proposed Title V permit to EPA. 42 U.S.C. § 7661d(a)(1); 40 C.F.R. § 70.8(a). EPA then has 45 days to review the proposed permit. 42 U.S.C. § 7661d(b)(1).

29. Air District Rule 2520 allows the Air District to issue a "Certificate of Conformity" as a means of processing a significant modification to a Title V permit. See San Joaquin Valley Air Pollution Control District Rule 2520 §§ 3.7, 5.3.3.

30. A Certificate of Conformity prompts EPA review of the proposed Title V permit changes before construction or modification of the permitted facility and states that procedural requirements substantially equivalent to those of 40 C.F.R. sections 70.6 (covering permit content); 70.7 (covering permit issuance and revision); and, 70.8 (covering permit review by EPA) have been followed. Id. § 3.7. EPA has 45 days to review a Certificate of Conformity and underlying proposed changes to a Title V facility. Id. § 11.3.7.

14 31. Pursuant to a Certificate of Conformity, modifications to a Title V permit may 15 subsequently be processed as an administrative amendment to the permit without additional EPA 16 review or public participation. Id. §§ 3.2, 3.7, 6.4.

17 32. EPA must object to the issuance of a permit if EPA finds that the permit does not 18 comply with all applicable provisions of the Clean Air Act. 42 U.S.C. § 7661d(b)(1); 40 C.F.R. § 19 70.8(c).

20 33. If EPA objects to a permit, the permitting authority may not issue the permit unless 21 it is revised. 42 U.S.C. § 7661d(b)(3). If the permitting authority has issued a permit prior to 22 receipt of an objection by the Administrator, the Administrator shall modify, terminate, or revoke 23 such permit. Id.

24 34. After EPA's 45-day review period expires, "any person may petition the Administrator within 60 days" to object to the proposed permit. 42 U.S.C. § 7661d(b)(2); 40 26 C.F.R. § 70.8(d).

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35. The Clean Air Act requires that "[t]he Administrator shall grant or deny such petition within 60 days after the petition is filed." 42 U.S.C. § 7661d(b)(2).

36. If EPA fails to comply with a non-discretionary duty, such as acting on a petition within the statutorily mandated timeframe, the Clean Air Act allows any person to bring suit to compel EPA to perform its duty. 42 U.S.C. § 7604(a).

### FACTS

37. The Alon USA – Bakersfield, California Refinery facility is a major stationary source of air pollution located in Bakersfield, California that has been mostly idle since 2008. The Refinery is capable of processing 70,000 barrels of crude oil per day at full capacity.

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38. The Refinery is subject to an existing Title V permit, issued on February 28, 2003.

39. On October 25, 2013, Alon applied to the Air District for an Authority to Construct / Certificate of Conformity to modify the Refinery and expand the Refinery's crude rail terminal.

40. The proposed Project would entail a five-fold increase in the Refinery's capacity to
import crude oil, *from 40 tank cars per day to 208 tank cars per day*, or up to 63.1 million barrels
of crude oil per year. This increased influx of crude would allow the shuttered Refinery to restart
and run at its full processing capacity of 70,000 barrels of crude oil per day.

41. The public health implications of the Project are significant. The Project would
result in the release of harmful air pollution, including significant levels of oxides of nitrogen
(NOx) and volatile organic compounds (VOCs). NOx and VOCs are ozone "precursors" that react
in the presence of sunlight to create ground-level ozone (or "smog"), for which the San Joaquin
Valley is already in "extreme" nonattainment.

42. Smog causes severe public health and related effects, which may include chronic respiratory illnesses, emergency room visits, premature death, missed school days, medical bills, lost wages, and reduced worker productivity.

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### **Procedural Background**

43. The Air District published notice of its preliminary decision on the Permit on October 14, 2014 ("Preliminary Decision"), triggering a 30-day comment period on the Preliminary Decision.

44. Petitioners submitted comments objecting to the proposed Permit on a number of grounds to the Air District during the comment period, on November 19, 2014.

45. The Air District determined as part of its Preliminary Decision that the proposed Project "modification can be classified as a significant Title V modification pursuant to Rule 2520, and can be processed with a Certificate of Conformity (COC)."

46. Processing the modification with a Certificate of Conformity allows Alon to amend
its Title V Permit for the Refinery administratively under the theory that the procedural
requirements for the Permit would be "substantially equivalent" to those set forth in 40 C.F.R §§
70.7 and 70.8. District Rule 2520 §§ 3.7, 5.3.3., 11.3. The Air District explicitly stated in its
Preliminary Decision that, "[s]ince the facility has specifically requested that this project be
processed [with a Certificate of Conformity"], the 45-day EPA comment period will be satisfied
prior to the issuance of the Authority to Construct."<sup>1</sup>

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47. EPA did not raise objections to the Permit during the 45-day review period.

18 48. The Air District issued the Authority to Construct/Certificate of Conformity for the
19 Project on March 19, 2015.

49. On December 16, 2014, AIR, the Center for Biological Diversity, and Sierra Club
filed a petition requesting that the Administrator object to the issuance of the Permit on several
grounds, including that the Permit:

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- fails to consider and apply Best Available Control Technology;
- fails to properly calculate the emissions increase that must be offset because it relies on an improper emissions baseline;

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<sup>&</sup>lt;sup>1</sup> Proposed Decision, http://www.valleyair.org/notices/Docs/2014/10-14-14\_%28S-1134224%29/S-1134224-1134223.pdf, at p. 2.

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1 2	<ul> <li>severely underestimates the Project's emissions of VOCs by relying on flawed assumptions about the crude oils that will be stored and processed at the</li> </ul>							
3	Refinery;							
4	<ul> <li>improperly exempts from emissions offset requirements existing heaters that</li> </ul>							
5	will be retrofitted; and							
6	• relies on invalid emissions reduction credits.							
7	The Petition was timely filed within 60 days following the conclusion of EPA's review period.							
8	See 42 U.S.C. § 7661d(b)(2).							
9	50. The Petition was based on objections raised during the public comment period for							
10	the proposed permit or on grounds that arose subsequent to the public comment period, in							
11	accordance with 42 U.S.C. § 7661d(b)(2) and 40 C.F.R §§ 70.8(d), 70.7(h).							
12	51. EPA had 60 days, until February 16, 2015, to grant or deny the Petition. 42 U.S.C.							
13	§ 7661d(b)(2). As of the date of filing of this complaint, EPA has not yet granted or denied the							
14	petition.							
15	52. By letter dated December 14, 2015, Plaintiffs provided the Administrator with							
16	written notice of their intent to sue for EPA's failure to take action on the Petition. The							
17	Administrator received this notice letter via certified mail on or before December 21, 2015. More							
18	than 60 days have elapsed since Plaintiffs gave notice, and EPA remains in violation of the law.							
19 20	CLAIM FOR RELIEF (Failure to Grant or Deny Petition)							
21	53. Plaintiffs hereby incorporate all previous paragraphs by reference herein.							
22	54. The Administrator had a mandatory duty to grant or deny the Petition within 60							
23	days after it was filed. See 42 U.S.C. § 7661d(b)(2).							
24	55. It has been more than 60 days since the Administrator received the Petition							
25	requesting that EPA object to the Permit for the Refinery.							
26	56. Defendants' failure to timely complete this duty constitutes failure to perform an act							
27	or duty that is not discretionary within the meaning of 42 U.S.C. § 7604(a)(2).							
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1	57. Defendants' failure to perform this nondiscretionary act under the Clean Air Act is				
2	ongoing. Plaintiffs are informed and believe that the omissions complained of herein will continue				
3	unless enjoined by order of this Court.				
4	58. Accordingly, Plaintiffs are entitled to an order from this Court declaring that				
5	Defendants have failed to perform the above-referenced nondiscretionary duty, and directing				
6	Defendants to perform such duty immediately.				
7	RELIEF REQUESTED				
8	WHEREFORE, Plaintiffs respectfully request that the Court:				
9	(A) Declare that Defendants' failure to act as complained of herein constitutes a failure to				
10	perform a nondiscretionary duty required by 42 U.S.C. § 7661d(b)(2), and within the meaning of				
11	42 U.S.C. § 7604(a)(2);				
12	(B) Issue a an order compelling the Administrator to perform her mandatory duty to grant				
13	or deny the Petition, by an expeditious certain date;				
14	(C) Retain jurisdiction over this action to ensure compliance with the Court's orders;				
15	(D) Award Plaintiffs their reasonable costs of litigation, including attorneys' fees, pursuant				
16	to 42 U.S.C. § 7604(d); and				
17	(E) Grant such other relief as the Court deems just and proper.				
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19	DATED: April 13, 2016 Respectfully submitted,				
20					
21	/s/ James Birkelund JAMES M. BIRKELUND, Cal. Bar No.206328				
22	Climate Change Law Foundation				
23	548 Market St., #11200 San Francisco, CA 94104				
24	james@climatechangelaw.org Tel: 415-602-6223; Fax: 415-789-4556				
25					
26	Attorney for Plaintiffs Climate Change Law Foundation and Association of Irritated Residents				
27	· ·				
28					
	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF10				

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1	/s/ Maya Golden-Krasner
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3	The Center for Biological Diversity P.O. Box 1476
4	La Canada Flintridge, CA 91012 mgoldenkrasner@biologicaldiversity.org
5	Tel: 213-215-3729; Fax: 510-844-7150
6	Attorney for Plaintiff Center for Biological Diversity
7	
8	/s/ Elizabeth Benson
9	ELIZABETH BENSON, Cal. Bar No. 268851
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13	Attorney for Plaintiff Sierra Club
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	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF 11

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service 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. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)* 

I. (a) PLAINTIFFS DEFENDANTS							
CENTER FOR BIOLOGICAL DIVERSITY, ASSOCIATION OF IRRITATED RESIDENTS, SIERRA CLUB, and CLIMATE CHANGI FOUNDATION				U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA); GINA MCCARTHY, in her official capacity; and JARED BLUMENFELD, in his official capacity as Regional Administrator of EPA.			
(b) County of Residence of First Listed Plaintiff <u>Alameda, CA.</u> (EXCEPT IN U.S. PLAINTIFF CASES)				County of Residence	County of Residence of First Listed Defendant <u>District of Columbia</u> (IN U.S. PLAINTIFF CASES ONLY)		
(c) Attorneys (Firm Name, Address, and Telephone Number) James Birkelund (SBN 206328), Climate Change Law Foundation 548 Market St., #11200, San Francisco, CA 94104.				Attorneys (If Known)			
T: 415-602-6223.	CTION (Place on "X" in	One Box Only)	III. CI	I	INCIPAL PARTIES (Pla	ace an "X" in One Box for Plaintiff	
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government Not			(For Diversity Cases Only) (For Diversity Cases Only) itizen of This State $\square$ 1 $\square$ 1 Incorporated or Principal Place $\square$ 4 $\square$ 4 of Business In This State			
X 2 U.S. Government Defendant	4 Diversity (Indicate Citizenship o	f Parties in Item III)			2   2   Incorporated and P of Business In A     3   3   Foreign Nation		
	,			Foreign Country			
IV. NATURE OF SUIT		nly) RTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
Ito Insurance     Ito Insurance     Ito Insurance     Ito Marine     Ito Marine     Ito Negotiable Instrument     Ito Recovery of Overpayment     & Enforcement of Judgment     Ito Recovery of Defaulted     Student Loans     (Excludes Veterans)     Ito Stockholders' Suits     Ito Stockholders' Suits     Ito Other Contract     Ito Stockholders'     Ito Stockholders' Suits     Ito Stockholders' Statis     Ito Statis     Ito Stockholders' Statis     Ito Stati	PERSONAL INJURY  310 Airplane  315 Airplane Product Liability  320 Assault, Libel & Slander  330 Federal Employers' Liability  340 Marine  345 Marine Product Liability  350 Motor Vehicle Product Liability  360 Other Personal Injury 360 Other Personal Injury 362 Personal Injury - Medical Malpractice  CIVIL RIGHTS  440 Other Civil Rights  441 Voting 442 Employment 443 Housing/ Accommodations  445 Amer. w/Disabilities Employment	PERSONAL INJ 365 Personal Injun Product Liab 367 Health Care/ Pharmaceutic Personal Injun Product Liabi 368 Asbestos Pers Injury Produc Liability PERSONAL PROI 370 Other Fraud 371 Truth in Lend 380 Other Persona Property Dam Product Liabi PRISONER PETII Habeas Corpus: 463 Alien Detaine 510 Motions to V Sentence 530 General	URY       ry       ility       al       ry       ility       sonal       ct       PERTY       ling       al       inage       lity       row       lity       row       inage       lity       row       ct       row       lity       cto       row       cto       row       cto       row       cto       row       cto       row       cto       row       row	625 Drug Related Seizure of Property 21 USC 881         690 Other         690 Other         710 Fair Labor Standards Act         720 Labor/Management Relations         740 Railway Labor Act         751 Family and Medical Leave Act         790 Other Labor Litigation         791 Employee Retirement Income Security Act         101 EMMIGRATION         462 Naturalization Application Actions		<ul> <li>375 False Claims Act</li> <li>400 State Reapportionment</li> <li>410 Antitrust</li> <li>430 Banks and Banking</li> <li>450 Commerce</li> <li>460 Deportation</li> <li>470 Racketeer Influenced and Corrupt Organizations</li> <li>480 Consumer Credit</li> <li>490 Cable/Sat TV</li> <li>850 Securities/Commodities/ Exchange</li> <li>890 Other Statutory Actions</li> <li>891 Agricultural Acts</li> <li>X 893 Environmental Matters</li> <li>895 Freedom of Information Act</li> <li>899 Administrative Procedure Act/Review or Appeal of Agency Decision</li> <li>950 Constitutionality of State Statutes</li> </ul>	
Confinement       Confinement         V. ORIGIN (Place an "X" in One Box Only)         X 1 Original Proceeding       2 Removed from I 3 Remanded from Appellate Court       I 4 Reinstated or Reopened       5 Transferred from I 6 Multidistrict Litigation							
VI. CAUSE OF       Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):         42 U.S.C. §§ 7401 et seq. (Federal Clean Air Act).         Brief description of cause:         Suit to compel EPA to perform mandatory duties pursuant to the Clean Air Act.							
VII. REQUESTED IN COMPLAINT:       CHECK IF THIS IS A CLASS ACTION       DEMAND \$       CHECK YES only if demanded in complation of the complete states and the comp							
VIII. RELATED CASE(S)       IF ANY       (See instructions):         JUDGE       DOCKET NUMBER							
IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)         (Place an "X" in One Box Only)         (X) SAN FRANCISCO/OAKLAND       () SAN JOSE         () EUREKA							
(Place an "X" in One Box On DATE	y)	(X) S SIGNATURE OF AT			ND () SAN JOSE	() EUREKA	
4/13/16		/s/ James Birkelu	und				

**Attachment to Civil Cover Sheet** 

CENTER FOR BIOLOGICAL DIVERSITY, ASSOCIATION OF IRRITATED RESIDENTS, SIERRA CLUB, and CLIMATE CHANGE LAW FOUNDATION v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; GINA MCCARTHY, in her official capacity as Administrator of the United States Environmental Protection Agency; and Jared Blumenfeld, in his official capacity as Regional Administrator of the United States Environmental Protection Agency.

Additional Attorneys for Plaintiffs:

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