

1 BRENT NEWELL (SBN 210312)
 2 ALEGRÍA DE LA CRUZ (SBN 229713)
 3 SOFIA PARINO (SBN 221379)
 4 CENTER ON RACE, POVERTY & THE ENVIRONMENT
 47 Kearny Street, Suite 804
 San Francisco, CA 94108
 5 Telephone: (415) 346-4179
 Fax: (415) 346-8723
 6 Email: bnewell@crpe-ej.org
 7 Email: adelacruz@crpe-ej.org

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 NORTHERN DISTRICT OF CALIFORNIA

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8 Attorneys for Plaintiffs
 9 El Comité para el Bienestar de Earlimart
 10 Association of Irrigated Residents

11 **UNITED STATES DISTRICT COURT**
 12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN FRANCISCO DIVISION**

JCS

CASE NO. **CV 11 3779**

15 EL COMITÉ PARA EL BIENESTAR DE
 16 EARLIMART, an unincorporated association,
 17 ASSOCIATION OF IRRITATED RESIDENTS, an
 unincorporated association,

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

18 Plaintiffs,

19 v.

20 UNITED STATES ENVIRONMENTAL
 21 PROTECTION AGENCY, LISA JACKSON, in her
 22 official capacity as Administrator of the United States
 Environmental Protection Agency, and JARED
 23 BLUMENFELD, in his official capacity Regional
 Administrator for Region IX of the United States
 24 Environmental
 25 Protection Agency,

26 Defendants.

INTRODUCTION

1
2 1. Many pesticides and fumigants are known carcinogens and reproductive toxins, with
3 pesticide drift causing community poisonings. In addition to this toxic burden, communities
4 in California also suffer from ozone and fine particulate matter (“PM2.5”) pollution, for
5 which the volatile organic compounds (VOCs) in pesticides act as precursors. Pesticides
6 rank as the fifth largest source of ozone-forming and PM2.5-forming VOC emissions in the
7 San Joaquin Valley, with fumigants accounting for 53 percent of those emissions. Each year
8 1,292 San Joaquin Valley residents die from long-term exposure to fine particulate matter.
9 PM2.5 pollution exacerbates respiratory conditions, including asthma increases
10 hospitalizations and emergency room visits, contributes to cardiac illnesses, and increase
11 school and work absenteeism.

12 2. Plaintiffs EL COMITÉ PARA EL BIENESTAR DE EARLIMART and the
13 ASSOCIATION OF IRRITATED RESIDENTS (collectively “El Comité”) bring this Clean
14 Air Act (“the Act”) citizen suit to compel the U.S. Environmental Protection Agency
15 (“EPA”) to undertake long-overdue nondiscretionary duties and approve, disapprove, or
16 partially approve/disapprove the (1) Proposed State Implementation Plan (“SIP”)
17 Commitment for the San Joaquin Valley (hereafter “Pesticide Element Revision”); and (2)
18 regulations pertaining to field fumigation methods, pesticide emission inventory, and field
19 fumigation limits (hereafter “Fumigant Regulations”).

20 3. The Act is a model of cooperative federalism, whereby the EPA sets health-based
21 National Ambient Air Quality Standards (“NAAQS”) and individual states develop the plans
22 to achieve the standards. States submit these plans and plan revisions to EPA, which reviews
23 the submissions to ensure that the plans or plan revisions meet the minimum requirements of
24 the Act. If satisfactory, EPA approves the plans or plan revisions as part of the SIP. If the
25 plans or plan revisions do not meet the Act’s minimum requirements, then EPA must
26 disapprove the submissions, triggering mandatory sanctions and an EPA promulgated plan if
27 the state does not correct the deficiencies within 18 months. 42 U.S.C. §§ 7410(c), 7509(a)-
28 (b).

COMPLAINT

1 4. On April 17, 2009, the California Department of Pesticide Regulation (DPR) adopted
2 the Pesticide Element Revision. On October 12, 2009, the Air Resources Board (ARB)
3 submitted the Pesticide Element Revision and Fumigant Regulations to EPA for approval as
4 part of the SIP. EPA has mandatory duty to take final action on the Pesticide Element
5 Revision and the Fumigant Regulations no later than April 12, 2011. As of August 1, 2011,
6 EPA has neither proposed action, nor taken final action, on the Pesticide Element Revision or
7 the Fumigant Regulations. EPA has violated the Act, and continues to violate the Act, by
8 failing to take final action on the Pesticide Element Revision and the Fumigant Regulations.

9 **JURISDICTION**

10 5. This Court has jurisdiction over this action to compel the performance of
11 nondiscretionary duties by EPA pursuant to 42 U.S.C. § 7604(a)(2) (citizen suit provision of
12 the Act) and 28 U.S.C. § 1331 (federal question jurisdiction).

13 6. The relief El Comité requests is authorized by 28 U.S.C. §§ 2201(a) and 2202, and 42
14 U.S.C. § 7604.

15 7. On April 14, 2011, at least 60 days before commencing this action, El Comité
16 provided EPA written notice of the claims stated in this action as required by CAA §
17 304(b)(2), 42 U.S.C. § 7604(b)(2) and 40 C.F.R. §§ 54.2 and 54.3.

18 8. A copy of the notice letter, sent by certified mail, return receipt requested, is attached
19 as Exhibit 1. Although more than 60 days have elapsed since El Comité gave notice, EPA
20 remains in violation of the Act.

21
22 **VENUE**

23 9. Venue lies in the Northern District of California pursuant to 28 U.S.C. § 1391(e)(1),
24 because the EPA Administrator for Region IX is located in San Francisco County, and
25 pursuant to 28 U.S.C. § 1391(e)(2), because EPA's alleged inactions relate to the duties of
26 the EPA Administrator for Region IX.

INTRADISTRICT ASSIGNMENT

1
2 10. Similarly, because the omissions alleged in this Complaint relate to the duties of the
3 Regional Administrator, assignment to the San Francisco Division of this Court is proper
4 under Civil L.R. 3-2(c)-(d).

PARTIES

5
6 11. Plaintiff EL COMITÉ PARA EL BIENESTAR DE EARLIMART (in English, The
7 Committee for the Betterment of Earlimart) is an unincorporated association dedicated to
8 protecting environmental health, advocating for air quality, and reducing pesticide use. El
9 Comité educates and informs residents of Earlimart and surrounding communities in the San
10 Joaquin Valley about pesticides and pesticide air pollution with meetings, flyers, word of
11 mouth, media, posters, and newspaper editorials. El Comité provides communities with
12 technical assistance in order to respond to pesticide drift accidents and to work with state and
13 local agencies. El Comité appears before the San Joaquin Valley Air Pollution Control
14 District and the California Air Resources Board and advocates for air quality.

15 12. Plaintiff ASSOCIATION OF IRRITATED RESIDENTS is an unincorporated
16 association that advocates for air quality and environmental health in the San Joaquin Valley.
17 Members reside in Kern, Tulare, Kings, Fresno and Stanislaus counties.

18 13. Members of the plaintiff organizations live, raise their families, work, and recreate in
19 the San Joaquin Valley. They are adversely affected by exposure to levels of air pollution
20 that exceed the health-based PM 2.5 and ozone NAAQS, for which the VOCs in pesticides
21 act as a precursor. The adverse effects of such pollution include actual or threatened harm to
22 their health, their families' health, their professional, educational and economic interests, and
23 their aesthetic and recreational enjoyment of the environment in the San Joaquin Valley.

24 14. The Act violations alleged in this Complaint also deprive members of plaintiff
25 organizations of certain procedural rights associated with EPA's required action on the
26 Pesticide Element Revision and the Fumigant Regulations, including notice and opportunity
27 to comment.

1 15. The Act violations alleged in this Complaint have injured and continue to injure the
2 interests of the plaintiff organizations and its members. Granting the relief requested in this
3 lawsuit would redress these injuries by compelling EPA action that Congress determined to
4 be an integral part of the regulatory scheme for improving air quality in areas violating
5 NAAQS, such as the San Joaquin Valley.

6 16. Defendant UNITED STATES ENVIRONMENTAL PROTECTION AGENCY is the
7 federal agency charged with implementation and enforcement of the Act. As described
8 below, the Act imposes on EPA certain non-discretionary duties.

9 17. Defendant LISA JACKSON is sued in her official capacity as the Administrator of
10 the EPA. She is charged in that role with taking various actions to implement and enforce
11 the Act, including the actions sought in this Complaint.

12 18. Defendant JARED BLUMENFELD is sued in his official capacity as EPA Regional
13 Administrator for Region IX. He is responsible for implementing and enforcing the Act in
14 Region IX, which includes the San Joaquin Valley.

15 **STATUTORY FRAMEWORK**

16 19. The Act establishes a partnership between EPA and the states for the attainment and
17 maintenance of national air quality goals. *See* 42 U.S.C. §§ 7401-7515. Under the Act, EPA
18 has set health-based primary NAAQS for six pollutants. *See* 40 C.F.R. part 50.4 - 50.13.
19 States, or regions within a state, must adopt a SIP that contains enforceable emissions
20 limitations necessary to attain the NAAQS and meet applicable requirements of the Act,
21 including ensuring attainment, maintenance, and enforcement of the NAAQS. 42 U.S.C. §§
22 7410(a)(1), (a)(2)(A); 7502(c)(6). All such plans and plan revisions must be submitted to,
23 and approved by EPA. 42 U.S.C. §§ 7410(a)(1), (k).

24 20. Within sixty days of EPA's receipt of a proposed SIP revision, the Act requires EPA
25 to determine whether the submission is sufficient to meet the minimum criteria established
26 by EPA. 42 U.S.C. § 7410(k)(1)(B). If EPA fails to make this so-called "completeness"
27 finding, the proposed SIP revision becomes complete by operation of law six months after
28 submission. *Id.* If EPA determines that the proposed SIP revision does not meet the

1 minimum criteria, the state is considered not to have made the submission. 42 U.S.C. §
2 7410(k)(1)(C).

3 21. Within twelve months of finding that a proposed SIP revision is complete (or deemed
4 complete by operation of law), EPA must act to approve, disapprove, or approve in part and
5 disapprove in part, the submission. 42 U.S.C. § 7410(k)(2).

6 22. If EPA disapproves the revision, then the Act requires EPA to impose sanctions
7 against the offending state or region, including increased offsets for new and modified major
8 stationary sources or a prohibition on the use of federal highway funds, unless the State
9 submits revisions within 18 months. 42 U.S.C. §§ 7509(a), (b). EPA must impose both
10 offsets and highway funding sanctions within 24 months unless the state has corrected the
11 deficiency. *Id.* Moreover, the Act requires EPA to promulgate a Federal Implementation
12 Plan within 24 months of disapproval unless the state has corrected the deficiency and EPA
13 has approved the revision. 42 U.S.C. § 7410(c).

14 23. Once EPA approves a SIP or SIP revision, all emission standards and limitations
15 become federal law and are enforceable by EPA and citizens in federal court. 42 U.S.C. §§
16 7413; 42 U.S.C. § 7604(a), (f).

17 24. If EPA fails to comply with a non-discretionary duty, such as acting on a proposed
18 SIP revision within the Act's deadlines, the Act allows citizens to bring suit to compel EPA
19 to perform its duty. 42 U.S.C. § 7604(a)(2).

20 **FACTUAL BACKGROUND**

21 Ozone and Fine Particulate Matter Pollution in California

22 25. Many pesticides and fumigants are known carcinogens and reproductive toxins, with
23 pesticide drift causing community poisonings. In addition to this toxic burden,
24 communities in California also suffer from ozone and fine particulate matter ("PM2.5")
25 pollution, for which the volatile organic compounds (VOCs) in pesticides act as precursors.

26 26. Health studies indicate that acute levels above the PM2.5 NAAQS cause premature
27 death. Failure to achieve the PM2.5 NAAQS results in excess mortality in the San Joaquin
28

1 Valley. 1,292 San Joaquin Valley residents die each year from long term exposure to PM2.5
2 at levels above the NAAQS.

3 27. Ozone and PM2.5 levels in the San Joaquin Valley constitute a public health crisis.
4 Pesticides rank as the fifth largest source of ozone-forming and PM2.5-forming VOC
5 emissions. Ozone and PM2.5 pollution exacerbate respiratory conditions, including asthma,
6 increase hospitalizations and emergency room visits, contribute to cardiac illnesses, and
7 increase school and work absenteeism.

8 28. The American Lung Association ranks the San Joaquin Valley counties of Kern,
9 Tulare, Kings, and Fresno as the first, second, fifth, and sixth most ozone-polluted counties
10 in the United States, respectively.

11 29. For short-term exposure to PM2.5, the American Lung Association ranks the San
12 Joaquin Valley counties of Kern, Fresno and Tulare as the first, second, and ninth most
13 polluted in the United States, respectively. For long-term exposure to PM2.5, the American
14 Lung Association ranks the San Joaquin Valley counties of Kern, Tulare, Kings, and Fresno
15 as the first, second, fifth, and sixth most polluted in the United States, respectively.

16 30. People living in these counties are at risk for decreased lung function, respiratory
17 infection, lung inflammation and aggravation of respiratory illness. Even when exposures in
18 these counties are fairly low, exposure to particles over time can increase risk of
19 hospitalization for asthma, damage to the lungs, and increase the risk of premature death.

20 31. The San Joaquin Valley has the worst PM2.5 pollution in the United States, with the
21 highest recorded annual average and 24-hour PM2.5 levels.

22 32. From 2005 through 2010, the San Joaquin Valley averaged 9.8 days above the 1-hour
23 standard per year and an average of 69.5 days above the 1997 8-hour ozone standard.

24 33. EPA designated the San Joaquin Valley air basin as a nonattainment area for the
25 1997 24-hour and annual average PM2.5 NAAQS. The 1997 24-hour PM2.5 NAAQS is 65
26 micrograms per cubic meter and the 1997 annual average PM2.5 NAAQS is 15 micrograms
27 per cubic meter.

28

1 34. In 2006, EPA promulgated a new 24-hour PM_{2.5} NAAQS (35 micrograms per cubic
2 meter), which is more stringent than the 1997 24-hour PM_{2.5} NAAQS. Effective December
3 15, 2009, EPA designated the San Joaquin Valley as a PM_{2.5} nonattainment area under the
4 2006 NAAQS. 74 Fed. Reg. 85866, 58696 (Nov. 13, 2009).

5 35. On April 17, 2009 and October 12, 2009, DPR adopted the Pesticide Element
6 Revision and the Fumigant Regulations, respectively. On October 12, 2009, ARB
7 transmitted the Pesticide Element Revision and the Fumigant Regulations to EPA for
8 approval as part of the SIP.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PERFORM A NON-DISCRETIONARY DUTY TO ACT ON**
11 **PESTICIDE ELEMENT REVISION AND FUMIGANT REGULATIONS**

12 **(42 U.S.C. § 7410(k)(2))**

13 36. El Comité re-alleges and incorporates by reference, the allegations set forth in
14 paragraphs 1-35.

15 37. The Air Resources Board submitted the Pesticide Element Revision and the
16 Fumigant Regulations to EPA for approval as part of the SIP on October 12, 2009.

17 38. On or about October 12, 2009, EPA received the Pesticide Element Revision and the
18 Fumigant Regulation.

19 39. By operation of law, the Pesticide Element Revision and the Fumigant Regulation
20 were deemed complete on or about April 12, 2010 when EPA failed to make a completeness
21 finding. 42 U.S.C. § 7410(k)(1)(B). The Act requires EPA to act on (*i.e.* approve,
22 disapprove, or approve in part and disapprove in part) the Pesticide Element Revision and the
23 Fumigant Regulation within 12 months of the date of the completeness finding. 42 U.S.C. §
24 7410(k)(2). Thus, the deadline for EPA to act on the Pesticide Element Revision and the
25 Fumigant Regulation was on or about April 12, 2011.

26 40. EPA has failed to take final action on the Pesticide Element Revision and the
27 Fumigant Regulation.

1 41. Accordingly, EPA has violated and continues to violate the Act § 110(k)(2), 42
2 U.S.C. § 7410(k) since April 12, 2011.

3 42. This Act violation constitutes a “failure of the Administrator to perform any act or
4 duty under this chapter which is not discretionary with the Administrator,” within the
5 meaning of the Act’s citizen suit provision. 42 U.S.C. § 7604(a)(2). EPA’s violation is
6 ongoing and will continue unless remedied by this Court.

7 43. EPA’s failure to Act is part of a pattern and practice whereby EPA Region IX
8 consistently fails to act on SIP submissions and revisions submitted by the California Air
9 Resources Board within the time mandated by the Act.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs respectfully request the Court to grant the following relief:

12 A. DECLARE that EPA violated the Act by failing to take final action on the Pesticide
13 Element Revision and the Fumigant Regulations;

14 B. ISSUE preliminary and permanent injunctions directing EPA to finalize action on the
15 Pesticide Element Revision and the Fumigant Regulations;

16 C. RETAIN jurisdiction over this matter until such time as EPA has complied with its
17 non-discretionary duties under the Act;

18 D. AWARD to plaintiffs their costs of litigation, including reasonable attorney and
19 expert witness fees; and

20 E. GRANT such additional relief as the Court may deem just and proper.

21 Respectfully submitted on this 1st day of August, 2011.

22 CENTER ON RACE, POVERTY & THE ENVIRONMENT

23 
24 _____

25 Brent Newell
26 Sofia Parino
27 Attorney for Plaintiffs
28 El Comité para el Bienestar de Earlimart
Association of Irrigated Residents



CENTER ON RACE, POVERTY & THE ENVIRONMENT

47 KEARNY STREET, SUITE 804, SAN FRANCISCO, CA 94108 TEL 415-346-4179 FAX 415-346-8723 WWW.CRPE-EJ.ORG

April 14, 2011

By Certified Mail, Return Receipt Requested

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Jared Blumenfeld, Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA, 94105

Re: Amended Notice of Intent to Sue for Failure to Take Action on the Pesticide Element Revision and the Fumigant Regulations.

Dear Ms. Jackson and Mr. Blumenfeld:

El Comité para el Bienestar de Earlimart and the Association of Irrigated Residents (collectively "El Comité") gives notice to the Environmental Protection Agency, Lisa Jackson, and Jared Blumenfeld (collectively "EPA") of El Comité's intent to sue EPA for its failure to fulfill its mandatory duty to take final action to approve, disapprove, or partially approve/disapprove (1) the Proposed Sip Commitment for the San Joaquin Valley adopted by the Department of Pesticide Regulation on April 17, 2009 (hereafter "Pesticide Element Revision"); and (2) regulations pertaining to field fumigation methods, pesticide emission inventory, and field fumigation limits in the Ventura ozone nonattainment area (hereafter "Fumigant Regulations"). El Comité sends this notice pursuant to § 304(b) of the Clean Air Act ("Act"), 42 U.S.C. § 7604(b), and 40 C.F.R. §§ 54.2 and §§ 54.3. At the conclusion of the 60-day notice period, El Comité intends to file suit under section 304 of the Act, 42 U.S.C. § 7604, to prosecute EPA's failure to perform a non-discretionary duty.

EPA shall act on the Pesticide Element Revision and the Fumigant Regulations, by full or partial approval or disapproval, within twelve months of a completeness finding. 42 U.S.C. §

PROVIDING LEGAL & TECHNICAL ASSISTANCE TO THE GRASSROOTS MOVEMENT FOR ENVIRONMENTAL JUSTICE

RALPH SANTIAGO ABASCAL (1934-1997) DIRECTOR 1990-1997

LUKE W. COLE (1962-2009) EXECUTIVE DIRECTOR 1997-2009

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7410(k)(2). Section 110(k)(1)(B) of the Act, 42 U.S.C. § 7410(k)(1)(B), requires that EPA shall make a completeness finding within 60 days of the date that EPA receives a plan or plan revision. A plan or plan revision shall be deemed complete by operation of law if EPA fails to make a completeness finding within 6 months of the date that EPA receives a plan or plan revision. 42 U.S.C. § 7410(k)(1)(B).

California Submitted the Pesticide Element Revision and the Fumigant Regulations on October 12, 2009.

On April 17, 2009, the California Department of Pesticide Regulation adopted the Pesticide Element Revision. On October 12, 2009, the Air Resources Board submitted the Pesticide Element Revision to EPA for approval as part of the SIP.

On April 20, 2009, the California Department of Pesticide Regulation adopted the Fumigant Regulations, which incorporated amendments to already adopted regulations to control volatile organic compound emissions from pesticides. On October 12, 2009, the Air Resources Board submitted the Fumigant Regulations to EPA for approval as part of the SIP.

EPA has not made a completeness finding with respect to the Pesticide Element Revision and the Fumigant Regulations. Accordingly, EPA has a mandatory duty to take final action on the Pesticide Element Revision and the Fumigant Regulations no later than April 12, 2011. As of April 14, 2011, EPA has neither proposed action, nor taken final action, on the Pesticide Element Revision or the Fumigant Regulations. EPA has violated the Act, and continues to violate the Act, by failing to take final action on the Pesticide Element Revision and the Fumigant Regulations within 18 months of EPA's receipt of the Plan.

Health Effects of Ozone and PM2.5 Air Pollution.

Many pesticides and fumigants are known carcinogens and reproductive toxins, with pesticide drift causing community poisonings. In addition to this toxic burden, communities in California also suffer from ozone and fine PM2.5 pollution, for which the VOC in pesticides acts as a precursor.

Currently, pesticides rank among the largest contributors to the San Joaquin Valley's notorious smoggy air quality. In the San Joaquin Valley, where residents are exposed to the highest number of unhealthy days of ozone pollution in the United States, pesticides rank as the fifth largest source of smog-forming and PM2.5-forming volatile organic compound emissions.

The San Joaquin Valley has the worst fine particulate matter (PM2.5) pollution in the United States, with the highest recorded annual average and 24-hour PM2.5 levels. 75 Fed. Reg. 74518, 74519 (Nov. 30, 2010). In 2005, EPA designated the Valley as nonattainment for the 24-hour and annual average 1997 PM2.5 National Ambient Air Quality Standards. See 70 Fed. Reg. 944 (Jan. 5, 2005).

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NOx and VOC are ozone (commonly known as “smog”) precursors and fine particle (PM2.5) precursors. PM2.5 levels in the San Joaquin Valley constitute a public health crisis. The Environmental Working Group published the Air Resources Board’s estimates that show 1,292 San Joaquin Valley residents die each year from long-term exposure to PM2.5.¹ Ozone and PM2.5 pollution exacerbate respiratory conditions, including asthma, increase hospitalizations and emergency room visits, contribute to cardiac illnesses, and increase school and work absenteeism.²

The American Lung Association ranks the San Joaquin Valley counties of Kern, Fresno, and Tulare as the third, fourth, and sixth most ozone-polluted counties in the United States, respectively.³ The American Lung Association ranks the San Joaquin Valley cities of Bakersfield, Fresno, Visalia, and Hanford as the second, third, fourth, and sixth most ozone-polluted cities, respectively.⁴

For short-term exposure to PM2.5, the American Lung Association ranks the San Joaquin Valley counties of Kern, Fresno, and Tulare as the first, second, and ninth most polluted counties in the United States, respectively.⁵ For long-term exposure to PM2.5, the American Lung Association ranks the San Joaquin Valley counties of Kern, Tulare, Fresno, and Kings as the second, third, sixth, and ninth most polluted counties, respectively.⁶

Between 2006 and 2009, the San Joaquin Valley recorded 301 days when air quality exceeded the 1997 8-hour ozone standard, second only to the smoggy South Coast Air Basin. Bakersfield, located in Kern County, records the highest concentrations of PM2.5 in the United States. 75 Fed. Reg. at 74519.

In late 2008, Jane V. Hall, Ph.D., and Victor Brajer, Ph.D., published a comprehensive analysis of the effects from not meeting the 1997 8-hour ozone standard and the 2008 24-hour PM2.5 standards. The health effects of not meeting these standards, and their concomitant economic values,

¹Renee Sharp and Bill Walker, *PARTICLE CIVICS: HOW CLEANER AIR IN CALIFORNIA WILL SAVE LIVES AND SAVE MONEY*, Environmental Working Group at 19.

²American Lung Association, *STATE OF THE AIR: 2010*.

³*Id.* at 16.

⁴*Id.* at 13.

⁵*Id.* at 14.

⁶*Id.* at 15.

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inflict a conservative measurable cost of \$5.7 billion *each year* –\$1,600 per person – in the San Joaquin Valley.⁷

Identity of Noticing Parties

El Comité para el Bienestar de Earlimart
P.O. Box 10725
Earlimart, CA 93219
(661) 304-4080
Contact: Teresa DeAnda, President

Association of Irrigated Residents
30100 Orange Street
Shafter, CA 93263
Telephone: (661) 910-7734
Contact: Tom Frantz, President

Attorney for Noticing Parties

Brent Newell
Center on Race, Poverty, and the Environment
47 Kearny Street, Suite 804
San Francisco, CA 94108
Telephone: (415) 346-4179
Fax: (415) 346-8723

Conclusion

At the conclusion of the 60-day period, El Comité will file suit in U.S. District Court to compel EPA to perform its nondiscretionary duty under the Clean Air Act. If you wish to discuss this matter short of litigation, please direct all future correspondence to El Comité's attorney.

Sincerely,



Brent Newell

⁷See Jane Hall and Victor Brajer, THE BENEFITS OF MEETING FEDERAL CLEAN AIR STANDARDS IN THE SOUTH COAST AND SAN JOAQUIN VALLEY AIR BASINS, November 2008.

Ms. Jackson and Mr. Blumenfeld
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April 14, 2011

cc: Governor Jerry Brown⁸ (By Certified Mail, Return Receipt Requested)
State Capitol Building
Sacramento, CA 95814

Mary Nichols, Chair (By Certified Mail, Return Receipt Requested)
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

James Goldstene, Executive Officer
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812 (By Certified Mail, Return Receipt Requested)

⁸El Comité sends this amended version of the Notice Letter because the original version erroneously identified Governor Schwarzenegger as the recipient, rather than Governor Brown.