Message

From: Feldman, Michael [Feldman.Michael@epa.gov]
Sent: 4/27/2020 8:41:53 PM
To: Imhoff, Robert [imhoff.robert@epa.gov]
Subject: FW: EPA Failing to Protect Texans From Sulfur Dioxide, Lawsuit Says

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From: Casso, Ruben <Casso.Ruben@epa.gov>
Sent: Monday, April 27, 2020 3:34 PM
To: Donaldson, Guy <Donaldson.Guy@epa.gov>; Feldman, Michael <Feldman.Michael@epa.gov>; Mocka, Corey <mocka.corey@epa.gov>
Cc: Snyder, Erik <snyder.erik@epa.gov>; Miller, Michael <Miller.Michael@epa.gov>; Olszewski, Joshua <olszewski.joshua@epa.gov>
Subject: EPA Failing to Protect Texans From Sulfur Dioxide, Lawsuit Says

https://news.bloombergenvironment.com/environment-and-energy/epa-failing-to-protect-texans-from-sulfur-dioxide-lawsuit-says

Environment & Energy Report

EPA Failing to Protect Texans From Sulfur Dioxide, Lawsuit Says

April 27, 2020, 2:20 PM

- **COURT:** D.D.C.
- **TRACK DOCKET:** No. 1:20-cv-01088 (Bloomberg Law Subscription)
- **JUDGE:** James E. Boasberg (Bloomberg Law Subscription)

Texas failed to submit a state implementation plan for how areas surrounding three coal plants will meet national air quality standards for sulfur dioxide, and the EPA has failed to take note of that fact, in violation of the Clean Air Act, the Sierra Club says in a lawsuit filed Monday in federal court in Washington.

The group says the agency's delay is a danger to human health because exposure to sulfur dioxide for even a short amount of time can aggravate asthma attacks and respiratory failure. Children, the elderly, and adults with asthma are particularly at risk, according to the lawsuit filed in the U.S. District Court for the District of Columbia.

Sierra Club says nearly all sulfur dioxide pollution in the U.S. comes from a handful of large coal-fired power plants. In 2016, the Environmental Protection Agency designated areas around the Big Brown, Martin Lake, and Monticello coal-fired power plants in Texas as being in nonattainment with sulfur dioxide National Air Ambient Quality Standards.

Under the CAA, the state was required to submit an implementation plan that achieved compliance with the standards by July 2018. The state has yet to do so, according to the lawsuit. If a state fails to submit a plan, then the EPA is required by statute to issue a "finding of failure to submit." The deadline for the agency to issue its finding for Texas was January 2019, according to the lawsuit, but the agency still hasn't acted.

The lawsuit says the agency's failure means Texas still doesn't have a fully-approved nonattainment plan that requires reductions in sulfur dioxide pollution. As a result, Sierra Club says its members in the nonattainment areas are exposed to elevated levels of pollution that threaten their health and force them to reduce their time outside.

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg. Bloomberg Law is operated by entities controlled by Michael Bloomberg.

Cause of Action: Clean Air Act.

Relief: Injunctive and declaratory relief; attorneys' fees and costs.

Response: The EPA doesn't comment on pending litigation.

Attorneys: The Sierra Club represents itself.

The case is Sierra Club v. Wheeler, D.D.C., No. 1:20-cv-01088, 4/27/20.