

UNITED STATES COURT OF APPEALS
 FOR DISTRICT OF COLUMBIA CIRCUIT

APR - 6 2005

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IN THE UNITED STATES COURT OF APPEALS
 FOR THE DISTRICT OF COLUMBIA CIRCUIT

CATAWBA COUNTY, NORTH
 CAROLINA, *et al.*

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
 PROTECTION AGENCY,

Respondents

No. 05-1064 (and consolidated case nos.
 05-1065, 05-1066, 05-1067, 05-1068, 05-
 1069, 05-1070, 05-1071, 05-1072,
 1073, 05-1074, 05-1075, 10-1076, 05-
 05-1077, 05-1078, 05-1079

SIERRA CLUB'S MOTION TO INTERVENE

Sierra Club hereby moves pursuant to Fed. R. App. P. 15(d) to intervene in the Petitions for Review filed by the Midwest Ozone Group (No. 05-1075) and the State of Indiana (No. 05-1077). Those petitions seek review of a final rule by the United States Environmental Protection Agency ("EPA") entitled "Air Quality Designations and Classifications for the Fine Particles (PM2.5) National Ambient Air Quality Standards," published at 70 Fed. Reg. 944 *et seq.* (January 5, 2005). Pursuant to D.C. Circuit Rule 15(b), this motion also constitutes a motion to intervene in all petitions for review of the challenged regulations.

BACKGROUND

I. EPA's PM2.5 Designations Rule

These consolidated petitions address EPA's rule designating the attainment status of areas throughout the United States, under the National Ambient Air Quality Standard for fine particules (particles 2.5 microns in size or smaller, known as "PM2.5"). The Clean Air Act ("the Act") requires EPA to adopt and periodically update National Ambient Air Quality Standards

("NAAQS") for harmful air pollutants. 42 U.S.C. § 7409. Upon adoption of NAAQS, the Act requires EPA to designate communities as "attainment," "nonattainment," or "unclassifiable" based on whether they meet the NAAQS. 42 U.S.C. § 7407(d)(1)(B). EPA must designate as "nonattainment" any area that does not meet the national primary or secondary NAAQS, or that contributes to ambient air quality in a nearby area that does not meet the NAAQS. 42 U.S.C. § 7407(d)(1)(A)(i). Designation of a nonattainment area triggers certain requirements, including the State's obligation to develop pollution control plans to meet the NAAQS as soon as practicable, but no later than the statutory deadlines. 42 U.S.C. § 7501 - 7515.

EPA adopted NAAQS for PM_{2.5} to address serious health threats from this form of pollution. 62 Fed. Reg. 38652 (1997). PM_{2.5} particles are capable of penetrating deep into the lungs and bloodstream, and can cause adverse health effects even in healthy individuals.¹ EPA has recognized that exposure to PM_{2.5} is associated with a variety of adverse health effects, including premature death from heart and lung disease, heart attacks and arrhythmias, asthma attacks, and aggravation of chronic bronchitis and emphysema.² PM_{2.5} exposure poses a special risk for people with heart or lung disease, older adults, and children, especially when they are physically active.³ In addition to health impacts, PM_{2.5} pollution adversely impacts public welfare by impairing visibility. 62 Fed. Reg. at 38680-81.

On January 5, 2005, EPA published a rule containing attainment status designations under the PM_{2.5} standard. 70 Fed. Reg. 944 (2005) ("Designations Rule" or "Rule"). The Rule designated more than 45 areas throughout the nation as nonattainment for PM_{2.5}. *Id.* at 952-

¹ EPA, Particle Pollution and Your Health, at <http://www.epa.gov/airnow/particle/airborne.html>.

² EPA Fact Sheet on Areas Designated Nonattainment for the Fine Particle National Air Quality Standards, <http://www.epa.gov/pmdesignations/documents/final/factsheet.htm> (Dec. 17, 2004).

³ EPA, Particle Pollution and Your Health, <http://www.epa.gov/airnow/particle/airborne.html>.

1019. The designations trigger several statutory requirements to reduce particles and the pollutants that form them within specified timeframes. *See, e.g.*, 42 U.S.C. §§ 7502, 7513.

Sierra Club is a nonprofit public health and environmental organization dedicated, among other things, to protecting the public health and welfare from air pollution. Sierra Club has members who live and work in numerous areas designated nonattainment for PM_{2.5} in EPA's Rule. *See* Exhibits hereto. Those members' health and welfare will be threatened if the Designations Rule is weakened. Accordingly, Sierra Club seeks to intervene in the above-captioned petitions to oppose such weakening.

II. The Petitioners' Challenges to the PM_{2.5} Designations.

On March 7, 2005, the Midwest Ozone Group and the State of Indiana petitioned for review of the Designations Rule under the Clean Air Act's judicial review provision. 42 U.S.C. § 7607(b)(1). Several other states and counties designated nonattainment for PM_{2.5}, and several steel and energy companies have also petitioned for review of the Rule. All of those petitions have been consolidated. Order of March 11, 2005.

Petitioners Midwest Ozone Group and State of Indiana, like the other petitioners in these consolidated proceedings, will likely seek to weaken the Designations Rule. Because Midwest Ozone Group is an association of electric utility companies and other business interests that has historically opposed EPA efforts to require stronger air pollution controls in the midwestern United States,⁴ Sierra Club has ample cause for concern that MOG will advocate weakening of EPA's Designations Rule. For its part, Indiana alleges that EPA's nonattainment designations of

⁴ *See, e.g., Michigan v. EPA*, 213 F.3d 263 (D.C. Cir. 2000) (challenging EPA's rule requiring states to mitigate interstate transport of ozone); MOG, Notice of Intent to Sue EPA (June 3, 1998) (objecting to EPA's action against midwestern states for ozone nonattainment), http://www.midwestozonegroup.com/resources/litigation/notice_of_intent_to_sue_epa.htm; and <http://www.midwestozonegroup.com/members/companies.htm> (listing MOG members in Illinois, Indiana, Kentucky, Ohio, West Virginia and Tennessee).

certain Indiana counties was arbitrary and capricious. Petition for Review by State of Indiana, No. 05-1077 (Mar. 7, 2005). Other petitions in these consolidated proceedings likewise seek to exclude areas from nonattainment status. *See, e.g.,* Petition for Review in *New York State Dept. of Environmental Conservation v. USEPA*, No. 05-1069 (challenging nonattainment designations of Nassau, Orange, Rockland, Suffolk, and Westchester Counties, New York). Sierra Club is a national organization with over 750,000 members residing in all fifty states, including in midwest nonattainment areas such as Cleveland, Ohio and Louisville, Kentucky within the area that has been the focus of the Midwest Ozone Group; in Indiana counties named in Indiana's petition (including the Chicago-Gary-Lake County, IL-IN nonattainment area and the Cincinnati-Hamilton, OH-KY-IN nonattainment area); in New York Counties named in New York's petition, and in other areas named by petitioners in these consolidated proceedings. *See* Exhibits hereto. Exclusion of these counties (or parts thereof) from nonattainment areas would threaten the health and welfare of Sierra Club members by thwarting measures required by the Act to limit unhealthful PM_{2.5} levels.

ARGUMENT

I. Introduction

Under Fed. R. App. P. 15(d), a motion to intervene need only make "a concise statement of the interest of the moving party and the grounds for intervention." This Court has noted that "in the intervention area the 'interest' test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967) (reversing denial of intervention under Fed. R. Civ. P. 24(a)). Sierra Club seeks intervention to oppose attempts to weaken public

health and environmental safeguards that benefit Sierra Club's members. As discussed further below, Sierra Club has an interest sufficient to support intervention in this case.

This court has previously allowed Sierra Club to intervene in petitions for review challenging EPA actions' under the Clean Air Act — including nonattainment designations. *See* Order of August 17, 2004 in *Alcoa v. EPA*, No. 04-1189 (Aug. 17, 2004) (allowing Sierra Club to intervene in suits by industry and governmental entities, challenging nonattainment designations for ozone). *See also Nat'l Petrochemical & Refiners Assoc. v. EPA*, 287 F.3d 1130, 1133 (D.C. Cir. 2002) (Sierra Club allowed to intervene in industry petitions challenging EPA regulation of particulates and other pollutants); and *Alabama Power Co. v. Costle*, 636 F.2d 323, 323 and 343 (D.C. Cir. 1979). Sierra Club should be allowed to intervene here as well.

II. Petitioners' Challenges Threaten the Health and Welfare of Sierra Club's Members

Sierra Club has an interest in this action because it has members whose health and welfare is threatened by the particulate pollution that EPA's Designations Rule seeks to remedy. Sierra Club's members live in most or all of the areas designated by EPA as violating the PM_{2.5} standards, including areas that encompass parts of the Midwest and Indiana that are likely targets of Petitioners' challenges. *See* Exhibits hereto.

The interests of Sierra Club's members in safeguarding their health and welfare is central to the Designations Rule and the underlying Clean Air Act provisions, which aim to protect public health by providing for expeditious attainment of health-based air quality standards. *See Train v. Natural Resources Defense Council*, 421 U.S. 60, 66 (1975) (requirement to attain health-based air quality standards by specified deadlines is the "heart" of the Act). This alone demonstrates that Sierra Club's' intervention is appropriate.

This Court has ruled that an aspiring intervenor “need not show anything more than that it has standing to sue in order to demonstrate the existence of a legally protected interest for purposes of Rule 24(a).” *Mova Pharmaceutical Corp. v. Shalala*, 140 F.3d 1060, 1076 (D.C. Cir. 1998). For reasons discussed above, Sierra Club has such standing here, just as this Court has previously found the Club has standing to protect its members from air pollution. *See, e.g. Sierra Club v. EPA*, 129 F.3d 137, 139 (D.C. Cir. 1997). *A fortiori*, Sierra Club meets the lesser requirements for intervention under Fed. R. App. P. 15(d), which requires only “a concise statement of the interest of the moving party and the grounds for intervention.”⁵

Sierra Club’s interest is especially strong here, because the Clean Air Act grants this Court exclusive jurisdiction to review the challenged rule. 42 U.S.C. § 7607(b)(1), (e). Accordingly, this proceeding will determine the Rule’s validity. Sierra Club’s interest in preventing weakening of the Designations Rule, and securing the full measure of health and welfare protections for its members under the Clean Air Act, will be prejudiced if Sierra Club is not allowed to intervene.

In addition, Sierra Club’s interests are not adequately represented by the existing parties. As matters now stand, the Court will hear only from the agency that promulgated the Designations Rule, and governmental and industry entities that seek to weaken the rule. This Court has “ha[s] often concluded that governmental entities do not adequately represent the interests of aspiring intervenors.” *Fund for Animals v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003). That is especially true here, where Sierra Club has frequently disagreed with — and

⁵ While Sierra Club has more than sufficient interest to confer standing, a demonstration of standing is not a prerequisite here, where Sierra Club seeks to intervene as respondent, and therefore is not invoking the court’s jurisdiction. *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003) (“Requiring standing of someone who seeks to intervene as a defendant runs into the doctrine that the standing inquiry is directed at those who invoke the court’s jurisdiction”) (citations omitted).

challenged in rulemaking comments and court proceedings — EPA's actions and inaction under the Clean Air Act. *See, e.g., Sierra Club v. EPA*, 346 F.3d 955 (9th Cir. 2003) (challenge to EPA's waiver of requirements for stronger particulate controls in Imperial County, CA); *Sierra Club v. EPA*, 294 F.3d 155 (D.C. Cir. 2002) (challenge to EPA's extension of deadline for meeting smog standards); *Sierra Club v. EPA*, 167 F.3d 658 (D.C. Cir. 1999)(challenge to adequacy of EPA emission limits for medical waste incinerators); *Sierra Club v. Whitman*, No.: 1:00CV02206 CKK (D.D.C. filed 9-14-00) (suit to enforce deadlines for reclassifying particulate matter and ozone nonattainment areas to more stringent categories). Sierra Club simply cannot rely on EPA to present the full range of arguments supporting the Rule. Sierra Club respectfully submits that the Court's adjudication will be assisted by hearing from a leading non-governmental advocate of the Clean Air Act's public health protections.

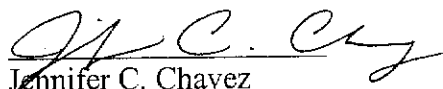
In short, Sierra Club has met the requirements for intervention: it has an interest relating to the subject matter of this action that may be impaired by disposition in the Movant's absence, and that is not adequately represented by the existing parties. *See* Fed. R. App. P. 15(d).⁶ Moreover, Sierra Club's motion is being timely filed within the thirty-day period allowed under Fed. R. App. P. 15(d), and Sierra Club stands ready to cooperate in assuring the efficient adjudication of petitioners' claims.

⁶ Indeed, for reasons shown above, Sierra Club's showing would even meet the more detailed requirements governing intervention of right in a district court proceeding, Fed. R. Civ. P. 24(a)(2), as well as the lesser prerequisites for permissive intervention in such a proceeding. Fed. R. Civ. P. 24(b)(2).

For all of the foregoing reasons, Sierra Club respectfully requests leave to intervene in Nos. 05-1075 and 05-1077, and under D.C. Cir. Rule 15(b), in all other petitions for review of the Designations Rule.

DATED: April 5, 2005

Respectfully submitted,



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Attorneys for Movant Sierra Club

EXHIBITS

DECLARATION OF YOLANDA MAURICE ANDERSEN

I, Yolanda Maurice Andersen, hereby declare and state as follows:

1. I am the Assistant Director of Member Services for the Sierra Club, a non-profit corporation organized under the laws of the State of California. I work in Sierra Club's national office in San Francisco, California. I have been working at Sierra Club in that capacity since July 1999. In that capacity, I am responsible for assisting in the planning, developing and implementation of the programs, operations and Club staff responsible for, among other things, providing information services to members, operating Sierra Club's member/donor database and delivering member/donor acknowledgments, and renewing existing memberships and acquiring new members. My work requires me to be familiar with the nature and scope of Sierra Club's membership programs, its membership records, the manner in which information on members is kept, and the manner in which such information can be retrieved. My work also requires that I be familiar with Sierra Club's purpose, organization and activities, and with the environmental interests and concerns of Club members.

2. Sierra Club is a nonprofit corporation existing under the laws of California, with its principal place of business in San Francisco, CA. Sierra Club is a membership organization dedicated to exploring, enjoying, and protecting the wild places of the earth, and to protecting and restoring the quality of the natural and human environment. Sierra Club's actions to protect and enhance the environment include litigation to enforce environmental laws. Club members are greatly concerned about air quality, and Sierra Club has a long history of involvement in air quality related activities on both the local and national levels.

3. Sierra Club regularly maintains membership records that include the address of each member. These records are regularly updated each business day to add new members, reflect address changes, and remove the names of persons who are no longer members. The records are

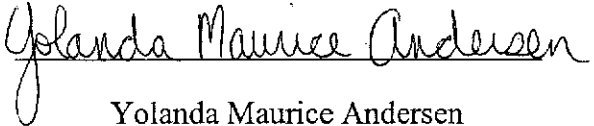
maintained on a computer database, from which I obtained the information provided below on April 5, 2005.

4. Sierra Club has more than 750,000 members, residing in all 50 states.

5. Sierra Club members reside in numerous communities that are located within areas designated as nonattainment areas by the Environmental Protection Agency's PM_{2.5} designations rule (70 Fed. Reg. 944 (Jan. 5, 2005), including: Birmingham, AL (over 1,300 members); Washington, DC (over 3,500 members); Atlanta, GA (over 6,500 members); Chicago, IL (9,500 members) Indianapolis, IN (over 2,300 members); Louisville, KY (over 1,950 members); Baltimore, MD (over 3,800 members); Detroit, MI (over 6,850 members); Birmingham, AL (over 1,300 members); Columbus OH (over 6,850 members); St. Louis, MO (over 6,350 members); Cincinnati, OH (over 5,950 members); Pittsburg, PA (over 6,450 members); New York City, NY (over 15,350 members); Knoxville, TN (over 1,750 members); Blount County, TN (over 175 members); Phenix City, AL (16 members); Great Neck, NY (over 300 members); and Greensboro, NC (over 1,300 members).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this fifth day of April, 2005.


Yolanda Maurice Andersen

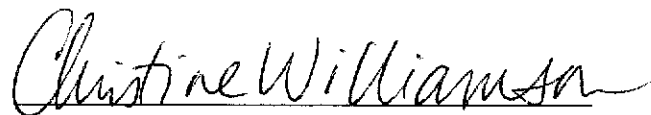
DECLARATION OF CHRISTINE LYNDA WILLIAMSON

I, Christine Lynda Williamson, hereby declare as follows:

1. My name is Christine L. Williamson. I live at 4046 N. Clark St Unit K, Chicago, IL 60613-1986. My residence is located in Cook County, Illinois.
2. I am a member of Sierra Club, and have been a member since 1987. I am currently an Executive Committee Member and the Conservation Chair for the Chicago Group of the Sierra Club. I served as Conservation Chair for the Illinois Chapter of the Sierra Club from 1997 to 2005.
3. I am concerned about the impacts of air pollution, including fine particle pollution, on my health and welfare. I know from published reports that this type of pollution has been linked to a broad range of adverse health impacts, including cardio-vascular and respiratory problems.
4. I spend most of my recreation time outdoors year-round. For example, I enjoy bicycling outdoors approximately two hours daily, including bicycling to and from work in all seasons. I volunteer every morning for a bird rescue project, monitoring the downtown area for killed or stunned birds that collide with buildings during migration, and transporting them on foot or on bike to a rehabilitation center. My recreation and volunteer activities thus require me to be outside for substantial periods every day, breathing in polluted air.
5. In addition, I am as frequent birdwatcher, and I watch birds in Chicago, IL, Porter, IN, Gary, IN, and Hammond, IN, among many other places. I am often outside for the entire day birdwatching, and cannot avoid breathing air that contains elevated levels of pollution.
6. The air pollution in Chicago interferes with my enjoyment of these and other outdoor activities. For example, I regularly experience a hacking cough that disappears when I spend time outside the Chicago metropolitan area. I am concerned as an athlete that my routine elevated exposure to the air pollution in Chicago may adversely affect my health.
7. I strongly support the Sierra Club's litigation efforts to ensure that the Clean Air Act's requirements for protection of my health from particulate pollution are implemented in a full, expeditious and effective manner.

I declare upon penalty of perjury that the foregoing is true and correct.

Executed this 5th day of April, 2005.



IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CATAWBA COUNTY, NORTH
CAROLINA, *et al.*

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
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1077, 05-1078, 05-1079

Declaration of Martha J. Sinclair

1. My name is Martha J. Sinclair. I live at 11986 Elmgrove Circle, Cincinnati, OH 45240. My residence is located in Hamilton County, OH.
2. I am a member of Sierra Club, and have been a member since 1992. I am currently the Chair of the Air Quality Committee for the Sierra Club. I served as Co-Chair of the Environmental Quality Strategy Team from 1997-2004, and, I served on the Executive Committee of the Ohio Chapter of the Sierra Club from 2000-2005.
3. I am concerned about the impacts of air pollution, including fine particle pollution, on my health and welfare. I know from published reports that this type of pollution has been linked to a broad range of adverse health impacts, including cardio-vascular and respiratory problems.
4. The air pollution in Cincinnati interferes with my and my family's enjoyment and participation in outdoor activities.
5. I strongly support the Sierra Club's litigation efforts to ensure that the Clean Air Act's requirements for protection of my health from particulate pollution are implemented in a full, expeditious and effective manner.

mjsinclair
3/31/05

IN THE UNITED STATES COURT OF APPEALS
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1073, 05-1074, 05-1075, 05-1076, 05-
1077, 05-1078, 05-1079

Declaration of Barbara S. Josepher

1. My name is Barbara S. Josepher. I live at 339 Cold Spring Road, Syosset, New York 11791. My residence is located in Nassau County, New York.
2. I am a member of the Sierra Club, and have been a member since 1970. I am currently a staff member with Sierra Club's Atlantic Chapter, in New York State. I am also the Treasurer of the Long Island Group of the Atlantic Chapter.
3. I regularly engage in outdoor activities, including walking, swimming, and paddling, as well as playing tennis.
4. I am concerned about the impacts of air pollution, including fine particle pollution, on my health and welfare. I am aware from published reports that this type of pollution has been linked to a broad range of adverse health impacts, including cardio-vascular and respiratory problems.
5. I travel into Manhattan (New York County) on a regular basis. During the evening, this is usually by automobile.
6. I strongly support the Sierra Club's litigation efforts to ensure that the Clean Air Act's requirements for protection of my health from particulate pollution are implemented in a full, expeditious and effective manner.

Barbara S Josepher 3/31/05

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v.

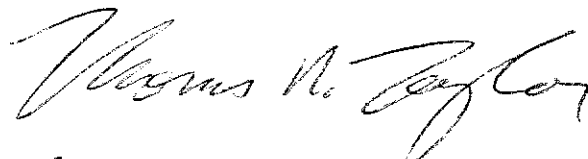
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1077, 05-1078, 05-1079

Declaration of Thomas Taylor

1. My name is Thomas N. Taylor. I live at 3609 Crosstimbers Drive, Greensboro, NC 27410, in Guilford County, North Carolina.
2. I have been a member of the Sierra Club since 1991. I am currently the Treasurer of the Piedmont Plateau Group of the North Carolina Chapter of the Sierra Club.
3. I am concerned about the impacts of air pollution, including fine particle pollution. This type of pollution has been linked to a broad range of public health concerns, including cardio-vascular and respiratory problems. My daughter has asthma, and I am concerned about the possible impacts this pollution may have on her.
4. I spend much recreation time in the outdoors, breathing the air while hiking, playing tennis, and canoeing, among other activities.
5. I feel we should have the strongest controls reasonably possible, and that Guilford County should not be released from the obligation to clean up its air.
6. I strongly support the Sierra Club's litigation efforts to ensure that the Clean Air Act's requirements for protection of my health from particulate pollution are implemented in a full, expeditious and effective manner.


Apr 4, 2005

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Motion to Intervene* has been served by United States first-class mail this 6th day of April, 2005, upon the following:

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1064 and consolidated cases*

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Cir. No. 05-1079*


Emily Robinson
Litigation Assistant

ADDENDUM

IN THE UNITED STATES COURT OF APPEALS
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)	05-1065, 05-1066, 05-1067, 05-1068, 05-
UNITED STATES ENVIRONMENTAL)	1069, 05-1070, 05-1071, 05-1072,
PROTECTION AGENCY,)	1073, 05-1074, 05-1075, 10-1076, 05-
)	05-1077, 05-1078, 05-1079
Respondents)	
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**CERTIFICATE OF MOVANT SIERRA CLUB
AS TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to Rule 28(a)(1)(A), the Movant Sierra Club hereby submits this Certificate as to Parties, Rulings, and Related Cases:

I. PARTIES AND AMICI

Parties, Intervenors and Amici Who Appeared Below.

Pursuant to D.C. Circuit Rule 28(a)(1)(A), the requirement to identify parties, intervenors and amici who appeared below is inapplicable because the present petitions seek direct review of formal rulemaking.

Parties, Intervenors and Amici in This Court.

The Petitioners in this case and consolidated cases are Catawba County, North Carolina (05-1064); ISG Burns Harbor LLC (05-1065); Blount County, Tennessee (05-1066); Guilford County, North Carolina (05-1067); Stephanie R. Timmermeyer, Cabinet Secretary, West

Virginia Dept. of Environmental Protection (05-1068); New York Dept. of Environmental Conservation (05-1069); Phenix City, Alabama (05-1070); Buckeye Power, Inc., Columbus Southern Power Co., Cinergy Corp., Dayton Power and Light Co., Ohio Power Co., Ohio Valley Electric Corp. (05-1071); Oakland County, Michigan (05-1072); Dynegy Midwest Generation, Inc. (05-1073); Consolidated Gov. of Columbus-Muscogee County, GA (05-1074); Midwest Ozone Group (05-1075); West Virginia Chamber of Commerce (05-1076); State of Indiana (05-1077); Anderson County and Greenville County, South Carolina (05-1078); South Carolina Dept. of Health and Environmental Control (05-1079). The Respondent in this action is the United States Environmental Protection Agency ("EPA") and Stephen L. Johnson, Acting Administrator of the EPA.

Disclosures Pursuant to D.C. Circuit Rule 26.1:

Movant Sierra Club hereby makes the disclosures required by D.C. Circuit Rule 26.1:

The following are parent companies, subsidiaries or affiliates of Sierra Club that have issued shares or debt securities to the public: none.

Sierra Club, a corporation organized and existing under the laws of the State of California, is a national nonprofit organization dedicated to the protection of the environment and to the protection of the public health from air pollution.

II. RULINGS UNDER REVIEW

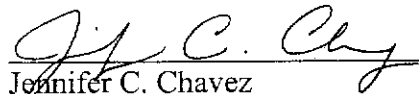
Petitioners seek review of the final action (including the promulgation of regulations) taken by respondents at 70 Fed. Reg. 944 *et seq.* (January 5, 2005) and entitled "Air Quality Designations and Classifications of the Fine Particle (PM_{2.5}) National Ambient Air Quality Standards.

III. RELATED CASES

Case Nos. 05-1064, 05-1065, 05-1066, 05-1067, 05-1068, 05-1069, 05-1070, 05-1071, 05-1072, 05-1073, 05-1074, 05-1075, 05-1076, 05-1077, 05-1078, and 05-1079 were consolidated by this Court's order of March 11, 2005. Sierra Club is unaware of any other cases that are related under the meaning of D.C. Circuit Rule 28(a)(1)(C).

DATED: April 6, 2005

Respectfully submitted,



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