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ADEQ Files Notice of Intent to Sue EPA for Failing to Act Timely on State's 2011 Regional Haze Implementation Plan

PHOENIX (Oct. 12, 2012) – Arizona Department of Environmental Quality officials announced today that they intend to file suit against the U.S. Environmental Protection Agency for failure to take timely action on the State's implementation plan for regional haze and for splitting the decision on Arizona's state-wide plan into two parts.

Arizona submitted a proposed air quality plan on Feb. 28, 2011, to improve visibility in protected national parks and wilderness areas throughout the State. EPA was required by the Clean Air Act to approve or disapprove the entire plan by Tuesday, Aug. 28 and has proposed action on only part of the plan related to three power plants.

"The regional haze program is about improving visibility by 2064, not about protecting public health," said ADEQ Director Henry Darwin. "We would have much preferred to work with EPA as a partner to make sure the visibility benefits are justified by the costs, but because we have been cut out of the process we feel as though we have no other choice but to file suit to protect Arizona's rights. EPA's decision to split the decision on a state-wide plan into multiple parts simply makes no sense and is contrary to the Clean Air Act."

Arizona originally submitted a regional haze plan to EPA in December 2003 and updated that plan a year later. EPA then determined more than five years later, in January 2009, that specific parts of the plan purportedly were incomplete.

Between January 2009 and May 2010, ADEQ worked with its partners among tribes, industry and other states and also with EPA to fix the plan. When it became clear that it was no longer possible to satisfy the federal agency's concerns, ADEQ developed its own regional haze plan and submitted it to EPA in February 2011.

A number of environmental groups sued EPA in August 2011 for failing to approve regional haze plans for 40 states, including Arizona. ADEQ successfully intervened in the lawsuit in January 2012, but was ignored by the plaintiffs and EPA. The court for the District of Columbia ruled swiftly on motions filed by the plaintiffs and EPA before Arizona was given the opportunity to oppose. The court upheld the settlement proposed by the plaintiffs and EPA on July 2. ADEQ has filed a notice of intent to appeal.

The July 2 ruling allows EPA to delay and offer a partial decision regarding Arizona's 2011 regional haze plan. EPA is required to decide whether the State's proposed emissions controls for the Apache Generating Station near Benson, the Cholla Power Plant near Joseph City, and the Coronado Generation station near St. Johns are adequate for reducing Regional Haze by Nov. 15, 2012. Under the settlement opposed by Arizona, EPA's decision regarding the rest of the plan is due July 15, 2013. If EPA disagrees with the State, EPA is required to fix any problems it identifies in the State's plans at the same time it notifies the State of its final decision.

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