

## **ENVIRONMENTAL INTEGRITY PROJECT AND SIERRA CLUB SUE EPA FOR FAILING TO PROPERLY REGULATE AIR POLLUTION FROM NITRIC ACID PLANTS**

### ***Case Could Prompt EPA to Start Regulating Greenhouse Gases***

**WASHINGTON, D.C. – February 5, 2009** – In a case that could prompt the U.S. Environmental Protection Agency (EPA) to begin regulating greenhouse gas emissions, the Environmental Integrity Project (EIP) and the Sierra Club filed a lawsuit today against EPA for violating its duty to review and update its emission standards for nitric acid plants, which produce chemicals used in the fertilizer and explosives industries.

The Clean Air Act requires EPA to update these standards every eight years, and EPA is already more than 16 years late. EIP and the Sierra Club are represented by the Environmental and Natural Resources Law Clinic (ENRLC) at Vermont Law School.

Nitric acid plants generate nitrous oxide (N<sub>2</sub>O), a greenhouse gas 310 times more potent than carbon dioxide. EIP and Sierra Club hope the information developed during the review will persuade EPA to start regulating N<sub>2</sub>O emissions. Nitric acid plants are, by far, the largest industrial source of N<sub>2</sub>O in the United States, with emissions that could be controlled easily.

Eric Schaeffer, director, Environmental Integrity Project, said: **“EPA would get a lot of bang for its buck by regulating N<sub>2</sub>O emissions from nitric acid plants. The technology for controlling N<sub>2</sub>O is cost-effective and, because N<sub>2</sub>O is such a powerful greenhouse gas, removing even a little of it would make a big difference.”**

Nitric acid plants also generate nitrogen oxides (NO<sub>x</sub>), which are the raw ingredients of ground-level ozone and fine particulate matter. EPA has recently discovered that these types of air pollution are much more dangerous to public health than was previously suspected. It is now clear that these pollutants cause respiratory problems, heart disease, and many premature deaths. In addition, better and more cost-effective technologies for controlling NO<sub>x</sub> emissions have been developed since the last standards were set 24 years ago.

David Bookbinder, chief climate counsel, Sierra Club said: **“Our goal is to prompt EPA to review its standards for nitric acid plants, as it should have done years ago. The review will give the public a chance to show EPA that dangerous NO<sub>x</sub> emissions from nitric acid plants can be reduced at a reasonable cost.”**

EIP and the Sierra Club are hopeful that, under the Obama administration, EPA will move quickly to review and revise the NSPS for nitric acid plants. Patrick Parenteau, senior counsel, ENRLC, said: **“It’s a new day at EPA and we fully expect a favorable reaction from Administrator Jackson.”**

Indeed, in a memo to EPA employees, Lisa Jackson, the new EPA Administrator, has committed to giving “personal attention” to “reducing greenhouse gas emissions” and “improving air quality.”

EIP and Sierra Club notified EPA of their intent to sue the agency in an October 7, 2008 letter. Because EPA did not commence a review of the emission standard for nitric acid plants during the 60-day notice period, the parties are now seeking a court order compelling EPA to review its outdated rule. The standard has not been revised since it was adopted in 1971, and the last review took place twenty-four years ago, in 1984.

EIP and Sierra Club believe EPA should move quickly to review and revise the emission standard for nitric acid plants. Texas and Louisiana, for instance, are home to several large nitric acid plants. The people in these states, particularly in the Gulf Coast region, are suffering from serious air pollution problems. Moreover, both states have been ravaged by hurricanes and other impacts from climate change.

Teresa Clemmer, associate director, ENRLC, said: **“We’re hopeful this lawsuit will focus EPA’s attention on its outdated rules for nitric acid plants. Once EPA takes a close look at the cost-effective new technologies available for controlling both NO<sub>x</sub> and N<sub>2</sub>O, we believe EPA will update and improve its regulations in a relatively short period of time.”**

EIP and Sierra Club hope their effort will prompt EPA to take action on greenhouse gas emissions from other sources as well.

A copy of the complaint and the October 7, 2008 notice of intent letter are available at <http://www.environmentalintegrity.org>.

## **ABOUT THE GROUPS**

The Environmental Integrity Project (<http://www.environmentalintegrity.org>) is a nonpartisan, nonprofit organization established in March of 2002 by former EPA enforcement attorneys to advocate for effective enforcement of environmental laws. EIP has three goals: 1) to provide objective analyses of how the failure to enforce or implement environmental laws increases pollution and affects public health; 2) to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws; and 3) to help local communities obtain the protection of environmental laws.

The Sierra Club members and supporters number more than 1.3 million. Inspired by nature, the Sierra Club and its members work together to protect communities and the planet. The Club is America's oldest, largest and most influential grassroots environmental organization. For more information, go to <http://www.sierraclub.org> on the Web.

Vermont Law School (VLS)—a private, independent institution—is top-ranked in environmental law by U.S. News & World Report. VLS offers a Juris Doctor (JD) curriculum that emphasizes public service, a Master of Environmental Law and Policy (MELP) degree for lawyers and nonlawyers, and two post-JD degrees, the Master of Laws (LLM) in Environmental

Law and the LLM in American Legal Studies (for international students). The school also features innovative experiential programs and is home to the Environmental Law Center and the South Royalton Legal Clinic. For more information, visit <http://www.vermontlaw.edu>.

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