



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 23 2019

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

NOW THE
OFFICE OF LAND AND
EMERGENCY MANAGEMENT

Mr. Adam Kron
Environmental Integrity Project
1000 Vermont Avenue NW, Suite 1100
Washington, D.C. 20005

Mr. Jared E. Knicley
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, D.C. 20005

Dear Mr. Kron and Mr. Knicley:

Pursuant to Paragraphs 5 and 7 of the Consent Decree (CD) entered by the Court in the matter of Environmental Integrity Project, et al. (Plaintiffs) v. Gina McCarthy (Defendant), ECF No. 33 (Dec. 28, 2016), the U.S. Environmental Protection Agency (EPA or the Agency) is obligated to make certain determinations under the Resource Conservation and Recovery Act (RCRA) by March 15, 2019.¹ A copy of the signed determinations must be provided to the Plaintiffs within seven days of signature. Accordingly, this letter provides the signed determinations as described below.

Paragraph 5 of the CD states that no later than March 15, 2019 [April 23, 2019], EPA shall either (a) sign a notice of proposed rulemaking revising the RCRA Subtitle D regulations under (40 CFR Part 257) for the management of wastes from the exploration, development, and production of crude oil, natural gas, and geothermal energy (oil and gas wastes), or (b) sign a determination that revising the regulations is not necessary. EPA has determined that revising the regulations is not necessary at this time.

Paragraph 7 of the CD states that no later than March 15, 2019 [April 23, 2019], EPA shall either (a) sign a notice of proposed rulemaking revising the state plan guidelines pertaining to the management of oil and gas wastes under 40 CFR Part 256 of RCRA, or (b) sign a determination that revising the state plan guidelines is not appropriate. EPA has determined that revising the state plan guidelines is not

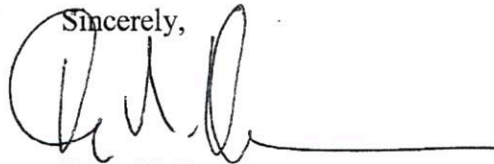
¹ EPA notes that the March 15, 2019 deadline was changed to April 23, 2019, pursuant to Paragraph 24 of the CD due to a lapse in appropriations that lasted for 35 days, from December 22, 2018, until January 25, 2019. This lapse occurred within 120 days of the March 15, 2019, deadlines in Paragraphs 5 and 7 of the CD, and so under Paragraph 24 those two deadlines were automatically extended by 35 days to April 23, 2019.

necessary given the determination that revising the Subtitle D regulations under RCRA for the management of oil and gas wastes is not necessary at this time.

The supporting document comprising EPA's review and decision entitled, *Management of Oil and Gas Exploration, Development and Production Wastes: Factors Informing a Decision on the Need for Regulatory Action* has been made available on EPA's website: <https://www.epa.gov/hw/proper-management-oil-and-gas-exploration-and-production-waste>.

If you have any further questions, please contact me at breen.barry@epa.gov or your staff may contact Laurel Celeste in the EPA Office of General Counsel at celeste.laurel@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barry N. Breen', with a long horizontal line extending to the right.

Barry N. Breen
Acting Assistant Administrator