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February 16, 2016

RECEIVED ON:

Via Certified Mail - Return Receipt Requested

Administrator Gina McCarthy
United States Environmental Protection Agency
Ariel Rios Building, Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

FEB 18 2016
ORC
EPA Region 10
Office of the Regional Administrator

Re: Notice of intent to sue for failure to perform non-discretionary duty or for unreasonable delay under the Clean Air Act to issue or deny Title V permit for Hanford Site

Dear Administrator McCarthy:

This letter is served upon you under Section 304(b) of the Clean Air Act, 42 U.S.C. § 7604(b), and 40 C.F.R. § 54, and provides you with one hundred, eighty day notice of intent to sue by Bill Green ("Petitioner"), 424 Shoreline Ct., Richland, WA 99354, (509) 375-5443, for your failure to issue or deny the Hanford Site Title V permit after expiration of the ninety days provided to the State of Washington Department of Ecology ("Ecology") by Section 505(c), 42 U.S.C. § 7661d(c), for its submission to EPA of a permit revised to meet EPA's May 29, 2015, objection to the permit. Any response to this notice of intent to sue should be directed to Petitioner's counsel, the undersigned.

In accordance with the settlement of Petitioner's previous claims brought in *Green v. McCarthy*, E.D. Wash. No. 4:14-cv-05093-TOR (*see* consent decree entered June 8, 2015), on **May 29, 2015**, you issued the Order Responding to the Petitioner's Requests that the Administrator Object to the Issuance of State Operating Permits (In the matter of U.S. Department of Energy-Hanford Operations, Benton County, Washington, Permit Numbers 00-05-006, Renewal 2, and 00-05-006, Revision A, Issued by the Washington Department of Ecology, Petition Numbers X-2014-01 and X-2013-01) ("Order"), which granted Petitioner's Claim 3B ("Petitioner Claims that Ecology Did Not Adequately Respond to Public Comments Regarding Subpart H") (Order at pp. 20 – 23). The Order transmitted to Ecology EPA's objection to the identified Hanford Site Title V permits "on the basis that Ecology's record is inadequate with respect to addressing Subpart H in the Hanford Title V Permit," as further described therein, under Section 505(b), 42 U.S.C. § 7661d(b).

Section 505(c), 42 U.S.C. § 7661d(3), requires you to issue or deny the Hanford Title V permit if Ecology fails to perform as obligated by Section 505(b)(3), 42 U.S.C. § 7661d(b)(3), within ninety days of your objection. More than ninety days have passed since your issuance of the Order and Ecology has not revised, reissued, modified, terminated, or

revoked the permit as required, triggering this requirement for your issuance or denial of the permit. Your continued failure to issue or deny the Hanford Title V permit more than ninety days after the date of your objection, given Ecology's failure to timely respond as required by Section 505(b)(3) and (c), constitutes your failure to perform a non-discretionary duty or an unreasonable delay in the performance of required agency action.

Where there is a failure by the Administrator to perform a non-discretionary act or duty or an unreasonable delay in the performance of agency action under the Clean Air Act, a civil action is available to address such failure or unreasonable delay. 42 U.S.C. § 7604(a). Accordingly, at the close of one hundred, eighty days from the postmark date of this notice of intent to sue, Petitioner intends to file suit against you and EPA in federal district court under Section 304(a) of the Clean Air Act, 42 U.S.C. § 7604(a), seeking declaratory relief, an injunction requiring prompt action by you under Section 505(c), 42 U.S.C. § 7661d(c), and an award of litigation expenses.

If you have questions or would like to discuss this matter, please contact me.

Very truly yours,

SMITH & LOWNEY, PLLC

By: 
Richard Smith
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cc: Dennis McLerran, Region 10 Administrator, U.S. EPA
Maia Bellon, Director, Washington Department of Ecology
Ellie Dawson, DOJ (email only)