

April 22, 2026

**BY CERTIFIED MAIL–RETURN RECEIPT REQUESTED
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Lee Zeldin, Administrator
Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Notice of Intent to Sue Over Failure to Respond to a Clean Air Act Title V Petition

Dear Administrator Zeldin:

The Environmental Law & Policy Center (“ELPC”), Environmental Integrity Project (“EIP”), Faith in Place, Gary Advocates for Responsible Development (“GARD”), and Just Transition Northwest Indiana (“JTNWI”) (collectively, “Petitioners”) intend to sue you and the Environmental Protection Agency (“EPA”) for failing to respond within 60 days to petitions requesting the Administrator to object to a Clean Air Act Title V Operating permit issued by the Indiana Department of Environmental Management (“IDEM”). The petition to object is:

- Petition Requesting that the Administrator Object to the Issuance of Title V Permit No. T089-41271-00453 to the BP Products North America, Inc. – Whiting Business Unit Facility, submitted by ELPC, EIP, Faith in Place, GARD, JTNWI, and others on January 2, 2025 (“BP Whiting Petition”).

EPA failed to perform a nondiscretionary duty because although more than 60 days have elapsed since Petitioners filed their petition, you have not yet granted or denied the above petition as required by 42 U.S.C. § 7661d(b)(2).

Authority to Bring Suit

Section 304(a)(2) of the Clean Air Act provides that “any person may commence a civil action on his own behalf” against the EPA Administrator “where there is alleged failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.” 42 U.S.C. § 7604(a)(2). The district courts have jurisdiction over these suits. 42 U.S.C. § 7604(a).

Title V of the Clean Air Act imposes a nondiscretionary duty upon the Administrator to grant or deny a timely petition to object to the issuance of a federal operating permit on the basis that it is not in compliance with the requirements of the Clean Air Act within 60 days. 42 U.S.C. §

7661d(b)(2) (“The Administrator shall grant or deny such petition within 60 days after the petition is filed” and “shall issue an objection within such period if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements” of the Clean Air Act).

Parties Giving Notice

As required by 40 C.F.R. § 54.3, the full names and addresses of the parties giving notice are as follows:

Environmental Law & Policy Center
35 E Wacker Dr., Suite 1600
Chicago, IL 60601

Environmental Integrity Project
888 17th St. NW
Washington, DC 20006

Faith in Place
5416 S Cornell Ave., 4th Floor
Chicago, IL 60615

Gary Advocates for Responsible Development (GARD)
P.O. Box 2471
Gary, In 46403

Just Transition Northwest Indiana
PO Box 8847
Michigan City, IN 46361

The Petitioners all have members that reside near the facilities covered under the Title V permits who are harmed by your failure to perform your mandatory duties under the Clean Air Act.

Relief Requested

Pursuant to 42 U.S.C. § 7661d(b)(2), the deadline for the Administrator’s response to the BP Whiting Petition was March 3, 2026. As Petitioners have yet to receive a response from EPA on their petition, EPA failed to respond to the petition within 60 days as required by 42 U.S.C. § 7661d(b)(2).

In accordance with 42 U.S.C. § 7604(b)(2), this letter serves to notify you that upon the expiration of the 60-day period after the postmarked date of this letter, Petitioners intend to file suit in federal district court requesting the following relief:

- An order compelling you to grant or deny the petition within 60 (or fewer) days from the date of the court's order;
- Petitioners' costs of litigation, including attorneys' fees, filing fees, and other reasonable litigation costs; and
- Any other relief as may be just or appropriate.

If you believe any of the above information is incorrect, would like to discuss settlement of this matter prior to initiation of litigation and take steps to redress the allegations above, or have any questions concerning this notice letter, please contact us at your earliest convenience by phone or by email.

Sincerely,

/s/ Robert Michaels

Robert Michaels, Managing Attorney
Kerri Gefeke, Associate Attorney
Kristi M. Smith, Smith Environmental Law,
Consulting Attorney to ELPC
Environmental Law & Policy Center
rmichaels@elpc.org
312.795.3713

*On behalf of Faith in Place, Gary Advocates
for Responsible Development, Just
Transition Northwest Indiana, and
Environmental Law & Policy Center.*

/s/ Sanghyun Lee

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Environmental Integrity Project
slee@environmentalintegrity.org
202.263.4441

*On behalf of Faith in Place, Gary Advocates
for Responsible Development, Just
Transition Northwest Indiana, and
Environmental Integrity Project.*

CC (Via Electronical Mail) (exclusive of original attachments, which are available upon request):

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