



southern  
utah  
wilderness  
alliance

Gina McCarthy, Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Shaun McGrath, Regional Administrator  
Environmental Protection Agency, Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129

**Re: 60-Day Notice of Intent to Sue for Violations of Clean Water Act – Failure by Environmental Protection Agency to Timely Approve or Disapprove Utah Division of Water Quality’s 2012-2014 Integrated Report**

Dear Ms. McCarthy and Mr. McGrath:

The Southern Utah Wilderness Alliance (“SUWA”) hereby provides sixty days’ notice of intent to file an action under Section 505 of the Clean Water Act (“CWA”), 33 U.S.C. § 1365(a)(2), against you in your official capacities as Administrator of the Environmental Protection Agency (“EPA”) and Regional Administrator of EPA Region 8, respectively. SUWA intends to seek prospective relief for the violations described below.<sup>1</sup>

SUWA is a non-profit environmental organization dedicated to the preservation of Utah’s wild lands, including its many lakes, rivers, and streams. SUWA has approximately 13,000 members, many of whom live in Utah. SUWA members and staff use, enjoy, and/or recreate in/near Utah’s lakes, rivers, and streams.

The CWA embodies our nation’s goal “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). To achieve this goal, every two years states are required pursuant to 33 U.S.C. § 1313(d)(2) and 40 C.F.R. § 130.7(d)(1) to submit a list (commonly referred to as the “303(d) list”) to EPA of their impaired waters and the proposed total maximum daily loads for those waters. “[EPA] shall either approve or disapprove such identification and load *not later than thirty days after the date of submission.*” 33 C.F.R. § 1313(d)(2) (emphases added); *see also* 40 C.F.R. § 130.7(d)(2) (same). “If the EPA fails to respond within [the thirty-day statutory period], it is subject to suit under the citizen-suit

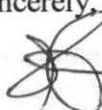
<sup>1</sup> In addition, EPA’s failures constitute an unlawful withholding and unreasonable delay of agency action under the Administrative Procedure Act, 5 U.S.C. § 706(1), and are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, under 5 U.S.C. § 706(2)(A).

provision of the [CWA] to compel it to perform this nondiscretionary duty.” *Hayes v. Whitman*, 264 F.3d 1017, 1023 (10th Cir. 2001).

In the present case, the State of Utah submitted its revised 2012-2014 Integrated Report – a 303(d) list combined with a report on the condition of the state’s waters – on March 27, 2015. *See* Utah, Department of Environmental Quality, Monitoring and Reporting, Water Quality Assessment Program, <http://www.deq.utah.gov/ProgramsServices/programs/water/wqmanagement/assessment/index.htm> (last updated Sept. 15, 2015). To date, EPA has yet to approve or disapprove Utah’s Integrated Report. *Id.* This failure is actionable pursuant to 33 U.S.C. § 1365(a)(2) and 5 U.S.C. § 702.

If you have any questions about this matter, please feel free to contact me at the address or phone number listed below.

Sincerely,



DATED: October 2, 2015

---

Stephen H.M. Bloch  
Attorney  
Southern Utah Wilderness Alliance  
425 East 100 South  
Salt Lake City, UT 84111  
(801) 428-3981