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DOMINICK R. SMITH
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TENNESSEE

February 24, 2012

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Danny Hale
HALO Properties, LLC
700 Johnny Cash Parkway
Hendersonville, Tennessee 37075

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Lisa Jackson, EPA Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20004

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Gwendolyn Keyes Fleming
EPA Region 4 Administrator
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Honorable Robert Martineau, Commissioner
Tennessee Department of Environment and
Conservations
21st Floor, L & C Tower
401 Church Street
Nashville, TN 37203

RE: Sixty day Notice of Intent to file suit under Section 505 of the Clean Water Act

Dear Addressees:

On behalf of the Tennessee Environmental Council (TEC) and Public Employees for Environmental Responsibility (PEER) you are hereby placed on notice, pursuant to Section 505 of the federal Clean Water Act (CWA) [33 USC §1365 (a) (1) and (b) (1) (a)] that these organizations plan to file suit for violations of and failure to obtain permits under § 404 and 401 of the Act.

On October 8, 2008 the state Division of Water Pollution Control issued Aquatic Resource Alteration Permit (ARAP) number NRS 08.113 to Halo Properties, which was also to serve as a 401 certification of the federal 404 permit for the same project involving stream relocations of unnamed tributaries to the Cumberland River (Old Hickory Lake) and wetland fills associated with a road project in the Indian Lakes development in Hendersonville.

Danny Hale
Lisa Jackson
Gwendolyn Keyes Fleming
Honorable Robert Martineau
February 24, 2012
Page 2

Based on information and belief, it is our position that the 404 permit was never obtained from the Corps of Engineers, and requirement of the ARAP/401 we not met.

The waterways at issue are relatively permanent and directly connected to the Cumberland River, thus being waters of the US and waters of the state, and navigable waters subject to the CWA and associated state law. Failure to obtain a 404 permit for the filling of two jurisdictional wetlands and the filling, alteration, and/or re-routing of the streams constitute illegal activities and fills under the CWA. Further, the activities have resulted in a condition of pollution of the streams involved by reducing habitat, and causing the excessive growth of algae due to the configuration, lack of tree planting and shade, and input of nutrients likely coming from the vacant grassed land created along the roadway.

In addition to the apparent lack of a 404 permit, various requirements of the ARAP/401 have been violated. These include:

Failure to pay \$140,000 to the Tennessee Stream Mitigation Program for partial compensation for stream impacts,

Failure to plant trees and establish a fifty foot buffer on each side of the relocated stream(s) and other vegetation requirements in accordance with the ARAP,

Constructing at least three road crossings of streams instead of the two crossings described in the ARAP,

Failure to construct the relocated stream in a meandering channel,

Causing one stream to have lack of flow below the roadway for a portion of it's reach,

Creating a condition of pollution and violation of state standards in all associated streams due to the excessive growth of nuisance algae, organic enrichment, and apparent associated dissolved oxygen diurnal swings, and a dump of roof shingles in one of the streams near it's approach to crossing under the downstream railroad tracks.

Section 505(b) of the Clean Water Act (the "Act"), 33 U.S.C. §1365 9 (a) (1) and (b) (1) (a) [CWA Section 505] requires that sixty, (60) days prior to the filing of a citizens suit in federal district court, notice of the alleged violations must be provided to the alleged violators, the Environmental Protection Agency and the state in which the alleged violations occur. This letter is provided and intended to comply with that requirement.

Danny Hale
Lisa Jackson
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Honorable Robert Martineau
February 24, 2012
Page 3

The undersigned represent TEC and PEER which are organizations with standing to prosecute this claim and with individual members who have standing to bring this claim. TEC and PEER intend to pursue the matter and will request attorneys fees and remediation for the damage and pollution, full compliance with the terms of the permit(s), the obtaining of necessary permits, and compliance with applicable laws at the earliest opportunity. Until such time, the responsible permittee/land owner(s) is in violation of federal and state law.

TEC and PEER will accept all notice and responses through legal counsel noted below.

Respectfully,

DAVID RANDOLPH SMITH & ASSOCIATES

A handwritten signature in black ink, appearing to read "David Randolph Smith", written in a cursive style.

David Randolph Smith

DRS/ms