Message

From: Pratt, Marirose [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B223918595AD4FE0985D3B46DA1803D5-PRATT, MARIROSE]
Sent: 7/28/2022 11:50:32 AM
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Subject: UPDATE re: New Indy Catawba - Notice of Intent to Sue
Attachments: 7-22-22_Butler v. New Indy.pdf; 7-22-22_Notice of Intent to New Indy.pdf

Good morning All,

Based on communications with an attorney at Motely Rice (the law firm representing citizen plaintiffs in actions against New Indy), I have been able to confirm the following:

1. The attached notice of intent to sue New Indy for violating EPA's CAA Section 303 Order is the only notice of intent to sue that the citizens provided EPA and New Indy last week. The citizens provided this notice pursuant to CAA Section 304(b) for claims they intend to bring under CAA Section 304(a)(1) (alleging violations of "an emission standard or limitation").
2. The attached Complaint that the citizens filed on July 22, 2022 (Butler v. New Indy) is a citizen suit brought pursuant to Section 304(a)(3) of the CAA alleging a violation of the CAA's New Source Review/Prevention of Significant Deterioration permitting requirements. Section 304(b) of the CAA does not require a notice of intent to sue as a prerequisite for bringing this type of action.
3. The citizen plaintiffs have not issued a notice of intent to sue the EPA. Any suggestion that it had probably came from a misunderstanding of the attached notice of intent, which includes a section alleging that EPA has failed to diligently prosecute New Indy for violating EPA's CAA 303 Order.

Please let me know if you have any questions.

Thanks,
Marirose

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