



**U.S. Department of Justice**

Civil Division

Federal Programs Branch

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Washington, D.C. 20005

OCT 31 2018

The Honorable Jay Inslee  
Office of the Governor  
P.O. Box 40002  
Olympia, WA 98504

RECEIVED  
NOV 05 2018  
Office of the Governor

Re: Substitute House Bill 1723 (“HB 1723”), “Hanford Site  
Employees Occupational Disease Presumption”

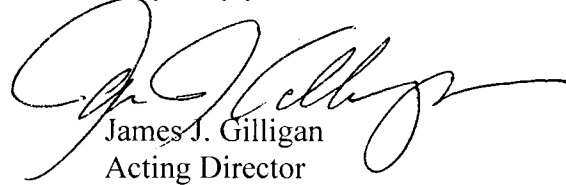
Dear Governor Inslee:

I write with respect to Washington State’s presumptive care law, entitled “Hanford Site Employees—Occupational Disease Presumption,” enacted as Substitute House Bill 1723 (“HB 1723”), and now codified at Revised Code of Washington (RCW) 51.32.187. The law creates a legal presumption that past, current, and future “United States [D]epartment of [E]nergy Hanford site workers,” as defined under the law, are entitled to workers’ compensation benefits if they develop certain diseases or conditions, without having to demonstrate that their conditions resulted from their employment at Hanford, unless the presumption can be rebutted by clear and convincing evidence.

HB 1723 violates the Supremacy Clause of the U.S. Constitution because it discriminates against the federal government and those with whom it deals, and because it purports to directly regulate the Federal Government. The law, which applies only to workers at the Hanford site, is impermissibly discriminatory because it treats other entities in the State better than it treats federal contractors and the Federal Government. Through such limited application, the law also purports to directly regulate the Federal Government. The then-Acting Assistant Attorney General for the Civil Division of the United States Department of Justice, therefore, has authorized the filing of a civil action against the State of Washington to enjoin this violation.

We intend to file the action on or about November 30, 2018. As is our practice in civil actions of this kind, however, we are willing to give the State of Washington the opportunity to resolve this matter without litigation. Should you wish to discuss this matter, you or your legal representative should contact Christopher Healy, the Civil Division attorney assigned to this case, at (202) 514-8095 or christopher.healy@usdoj.gov. If you wish to resolve this matter without litigation, we must hear from you or your legal representative no later than November 14, 2018.

Very truly yours,

A handwritten signature in black ink, appearing to read "James J. Gilligan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James J. Gilligan  
Acting Director  
Federal Programs Branch  
Civil Division

cc: Attorney General Bob Ferguson  
Office of the Attorney General  
1125 Washington St. SE  
PO Box 40100  
Olympia, WA 98504-0100

Director Joel Sacks  
Washington State Department of Labor & Industries  
7273 Linderson Way SW  
Tumwater, WA 98501