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Citizen Suit Enforcement/Clean Water Act: Environmental Integrity Project Notice of Intent to Sue Newburgh, Indiana, Aluminum Smelting Plant for Alleged Violations

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The Environmental Integrity Project (“EIP”) on behalf of the Sierra Club sent a November 14th Notice of Intent to Sue (“NOI”) to Warrick Newco Operations (“Warrick”) alleging violations of the Clean Water Act.

The NOI provides that Warrick operates an aluminum smelting complex (“Facility”) in Newburgh, Indiana.

The Facility is stated to hold a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit.

The NPDES permit authorizes a discharge into the Ohio River and an unnamed tributary of Cypress Creek.

EIP states that it intends to file suit in the United States District Court for the Southern District of Indiana against Warrick at any time beginning 60 days after the postmarked date of the NOI. The statutory basis for the lawsuit would be Section 505(a) of the Clean Water Act which permits citizen suits in federal court against persons alleged to be in violation of:

1. An effluent standard or limitation; or
2. An Order issued by the Administrator or a state with respect to such a standard or limitation

The NOI alleges that the Warrick Facility has:

... repeatedly exceeded its permitted effluent limits for mercury, aluminum, chlorine, copper, fluoride, nickel, pH, and zinc.

Such exceedances are alleged to be continuing.

A copy of the NOI can be downloaded [here](#).