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Citizen Suit Action/Clean Water Act: Environmental Integrity Project Notice of Intent to Sue U.S. Environmental Protection Agency for Alleged Failure to Submit National Water Quality Inventory to Congress

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The Environmental Integrity Project (“EIP”) sent a May 2nd Clean Water Act Notice of Intent (“NOI”) to sue to the Environmental Protection Agency (“EPA”) for alleged violation of a nondiscretionary duty under that statute.

EIP is sending the NOI on behalf of the following organizations:

- Waterkeeper Alliance
- Center for Biological Diversity

EIP alleges that EPA has failed to biannually submit statutorily required water quality reports and analysis thereof to the United States Congress. Cited is Section 305(b)(2) of the Clean Water Act as mandating the submission of the documents.

The NOI describes the required submittal as including “water quality of all navigable waters in such state during the preceding year”. The report is stated to be required to include:

...waters are so impaired by pollution that they are unable to support aquatic life, unsafe for recreational uses like fishing, boating, and swimming, can no longer serve as a reliable source of drinking water without extensive treatment, or threaten commercial fisheries.

The report is also stated to be required to discuss states’ plans to reduce pollution and recommend what additional actions are necessary to clean up polluted waters.

EIP asserts that such report should address what it describes as a “disturbing reality” that more than 50% of the United State’s assessed waterways are so impaired by pollution that they are unable to support their uses. The organization cites a report it issued titled:

2022 Clean Water Act at 50.

The NOI also asserts that the report should discuss the accuracy of state Section 305(b)(1) reports and any inconsistencies in their methods. Cited is a GAO report titled:

Clean Water Act: Changes Needed if Key EPA Program is to Help Fulfill the Nation's Water Quality Goals, GAO-14-80 (DEC 05, 2013).

The NOI asserts that EPA has therefore failed to meet a mandatory duty to submit the referenced report to Congress for the last 5 years. Clean Water Act citizen suit litigation is threatened against EPA to compel compliance.

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