



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Plastic Pollution/Clean Water Act: Center for Biological Diversity Notice of Intent to Sue U.S. Environmental Protection Agency for Failure to Identify Impaired Hawaiian Waters

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The Center for Biological Diversity (“CBD”) sent an October 31st letter framed as a Notice of Intent to Sue (“Notice”) to the United States Environmental Protection Agency (“EPA”) for alleged violations of the Clean Water Act.

The alleged violations are stated to be EPA’s failure to perform a non-discretionary duty under the Clean Water Act to identify Hawaiian coastal waters as impaired by plastic pollution as required by Section 303(d) of the Clean Water Act.

CBD alleges that EPA has ignored scientific evidence that plastic pollution is causing violations of Hawaii’s water quality standards at seventeen different locations. The state’s existing water quality standards are stated to require that they be:

. . . free of pollutants, and ocean waters must support marine life and coral reefs.

The Notice states that studies have documented the presence of microplastics in the state’s marine waters . . . and:

. . . the damage these plastics are doing to local ecosystems, including exposing fish, birds, sea turtles, and other sensitive wildlife to dangerous toxins that threaten their survival and reproduction; and jeopardizing public health.

EPA is stated to be required to recognize and list the coastal and oceanic waters as impaired by plastic pollution in order to begin the process of reducing plastics in the state’s waters.

The Notice contains the following sections:

- Microplastics Threaten Water Quality and Ecosystem Health
- Plastic Pollution Threatens Hawaiian Waters
- The Clean Water Act and Hawaii’s Water Quality Standards
- Hawaii’s Impaired Waters List
- Violations of Hawaii’s Water Quality Standards and Water Bodies to Be Listed as Impaired

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

