



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

Stormwater/Citizen Suit Enforcement: Conservation Law Foundation Notice of Intent to File Suit Against EPA Under the Clean Water Act Regarding Commercial/Industrial/Institutional Sites

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The Conservation Law Foundation and Charles River Watershed Association (collectively, "CLF") sent a July 13th document to the United States Environmental Protection Agency ("EPA") styled:

Notice of Violations and Intent to File Suit Under the Clean Water Act ("NOI")

The NOI states that CLF intends to file civil action in the United States District Court for the District of Massachusetts under Section 505 of the Clean Water Act against EPA alleging past and continuing violations.

EPA is alleged to have failed to perform an act or duty that is not discretionary under Section 402(p)(2)(E) of the Clean Water Act. Note the cited regulations at 40 C.F.R. §§ 122.26(a)(1)(v), (a)(9)(i)(C)-(D), (f).

CLF states it submitted three petitions to EPA requesting that it make a final determination that certain commercial, industrial, institutional, and multi-family residential property (i.e., "CII sites") stormwater discharges contribute to violations of water quality standards in the following waterbodies:

- Charles river
- Mystic River
- Neponset River Watersheds

As a result, CLF alleges that Clean Water Act permits are required for the referenced properties. EPA is alleged to have failed to make a final determination on the petitions within the statutorily mandated, nondiscretionary 90-day period.

CLF states that unless EPA cures the violations within 60 days it reserves the right to bring a civil action to compel the federal agency to comply with the Clean Water Act to protect the referenced waterbodies.

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