Confined Animal Feeding Operation/Clean Water Act Citizen Suit: Federal Court Addresses Notice Issue

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

02/18/2026

Co-Author Trish Boyd

The United States District Court for the Northern District of California ("District Court") addressed in a January 27th Order an issue arising out of a Clean Water Act ("CWA") citizen suit. *See Californians for Alternatives to Toxics v. Travis Moreda Dairy*, 2026 WL 207274.

The issue considered was whether adequate notice was provided to the citizen suit defendant.

This was argued to be a basis for dismissing the citizen suit.

The District Court considered a Motion for Judgement on the Pleadings ("Motion") filed by Moreda Dairy ("Defendant"). Defendant asked that the District Court find that Californians for Alternatives to Toxics ("Plaintiff") did not provide an appropriate Notice Letter as required by the CWA before filing the suit.

The Plaintiff filed a suit in September 2024 alleging that the Defendant, a medium concentrated animal feeding operation ("CAFO"), is violating the CWA by discharging pollutant contaminated liquid manure into waters of the United States without a National Pollutant Discharge Elimination System ("NPDES") permit when there is heavy rainfall.

The Plaintiff provided a Notice of Violations Letter ("Notice Letter") to the Defendant in July 2024 prior to filing the citizen suit. The Defendant argued that the Plaintiff's suit should be dismissed because the Notice Letter failed to provide the necessary information required by the CWA.

The CWA requires that a citizen suit Plaintiff give notice to an alleged violator sixty (60) days before filing the action. The Notice Letter is mandatory and allows the alleged violator the opportunity to address the alleged violation before legal action is taken. The notice must include "sufficient information to permit the recipient to identify the specific… violat[ion]," including the activity, persons responsible, location, and date of the alleged violations.

Defendant argued that the Plaintiff's notice was insufficient because the letter:

- Included the date of all significant rain events which "blurs the date of violation."
- Did not give notice of what waters of the United States were impacted by the alleged discharges.

The District Court held that the Notice Letter provided by the Plaintiff was adequate. The Defendant's Motion was denied.

The District Court found that the Notice Letter provided the Defendant dates of the violations by including a rainfall table in the notice letter. This was held to provide sufficient notice of the alleged violation dates.

The Order also held that if violations are ongoing, the Notice Letter does not need to allege all specific dates of a violation. Further, the District Court held that the Notice Letter adequately gave notice of waters of the United States because the letter referred to discharges entering specific adjacent surface waters.

The District Court stressed that factual disputes over whether the waters qualified as "waters of the United States" with "continuous surface connections" was not appropriate to be determined at this stage of the action.

Because the Plaintiff provided a Notice Letter that gave adequate information to the Defendant about the alleged violations of the CWA more than sixty (60) days before the suit was filed, the District Court denied the Defendant's Motion for Judgement on the Pleadings, and the suit will continue.

A copy of the Order can be found here.