

AX-15-001-2793



McGILLIVRAY  
WESTERBERG  
& BENDER LLC  
ATTORNEYS

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U.S. DEPT. OF JUSTICE  
EPA JUNE 2015

August 10, 2015

By Certified Mail- Return Receipt Requested

Administrator Gina McCarthy  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington D.C. 20460

**Re: Notice of Intent to Sue Pursuant to § 304(a)(2) (failure to perform nondiscretionary duty) of the Clean Air Act for Failure to Respond to a Petition to Object Filed Pursuant to § 505(b)(2).**

Dear Administrator McCarthy:

This firm represents the Midwest Environmental Defense Center (MEDC), a not for profit organization working to protect clean air, clean water, and our natural heritage in the Midwest.

This letter constitutes formal notice pursuant Clean Air Act 304(a)(2), 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Part 54 that MEDC intends to file a citizen suit pursuant to Clean Air Act 304(a), 42 U.S.C. § 7604(a). The Clean Air Act permits a citizen action “against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.” 42 U.S.C. § 7604(a)(2). By this letter MEDC puts you on notice that it intends to file a citizen suit actions against you for your failure to grant or deny a petition

filed on October 28, 2013, by MEDC and others pursuant to Clean Air Act § 505(b)(2) and 40 C.F.R. § 70.8(d), regarding the Title V Operating Permit issued by the Wisconsin Department of Natural Resources to Appleton Coated, LLC, for a plant in Wisconsin (Wisconsin Permit No. 445031290-P10).

Pursuant to Clean Air Act section 505(b)(2), 42 U.S.C. § 7661d(b)(2), "The Administrator shall grant or deny such petition within 60 days after the petition is filed." Sixty days expired December 27, 2013. The Administrator has not granted or denied the petition.

Pursuant to the requirement of 40 C.F.R. § 54.3, the persons giving notice are:

Midwest Environmental Defense Center, Inc.  
P.O. Box 2443  
Madison, WI 53701

However, I request that you direct all correspondence to me, as counsel for MEDC.

Sincerely,  
MCGILLIVRAY WESTERBERG & BENDER LLC



David C. Bender