

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RICKY J. KAWCZYNSKI,

Plaintiff,

v.

RITCHIE LAKELAND OIL INC.
and JOE RITCHIE,

Defendants.

MEMORANDUM

14-cv-125-bbc

In this civil action, pro se plaintiff Ricky J. Kawczynski has filed a citizen suit alleging that defendants Ritchie Lakeland Oil Co., Inc. and Joe Ritchie have been violating the Clean Water Act by failing to follow the requirements of their discharge permit. On November 18, 2014, I issued an order for plaintiff to show cause why his case should not be dismissed for failure to plead that he had satisfied the Clean Water Act's notice and waiting period provision, which requires that plaintiff send notice of intent to sue letters to the administrator of the Environmental Protection Agency, the state in which the violation occurred and the violators and wait 60 days before filing suit. 33 U.S.C. § 1365(b)(1)(A). Dkt. #22.

In his response to that order, plaintiff alleges that he satisfied these requirements by sending notice of intent to sue letters more than 60 days before filing suit and by certified mail to Lisa Jackson at the EPA, Cathy Stepp at the Wisconsin Department of Natural

Resources and defendants. Dkt. #23. (I note that at the time plaintiff sent the letters, Lisa Jackson was no longer the administrator of the EPA, but plaintiff alleges that the mail was delivered. Further, the regulations require only that plaintiff send the notice to “Administrator, Environmental Protection Agency, Washington, DC 20460,” 40 C.F.R. § 135.2(b), so I conclude that plaintiff’s allegations are sufficient.) I construe plaintiff’s response as a supplement to his amended complaint, and I conclude that he has alleged sufficient facts with respect to the Clean Water Act’s notice provision. Accordingly, plaintiff’s case may proceed.

Entered this 15th day of December, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge