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16 COMMUNITIES FOR A BETTER ENVIRONMENT

17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION**

20 COMMUNITIES FOR A BETTER
21 ENVIRONMENT, a non-profit
22 corporation,
23 Plaintiff,

24 vs.

25 EVERPORT TERMINAL
26 SERVICES INC., a corporation,
27 Defendant.

Case No. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

28 Plaintiff Communities for a Better Environment (“CBE”), by and through its
counsel, alleges as follows:

1 1. This is a civil suit brought suit under brought under the citizen suit
2 enforcement provisions of the Federal Water Pollution Control Act, 33 U.S.C. § 1251,
3 *et seq.* (the “Clean Water Act” or “the Act”) against Everport Terminal Services
4 Inc. (“Everport” or “Defendant”) arising out of operations at Everport’s facility
5 located at 389 Terminal Way, San Pedro, CA 90731 (the “Facility”).
6

7 2. This action addresses Everport’s unlawful discharge of pollutants from the
8 Facility into the Los Angeles Harbor and the overall San Pedro Bay Watershed. The
9 Facility is discharging storm water pursuant to National Pollutant Discharge
10 Elimination System (“NPDES”) Permit No. CA S000001, State Water Resources
11 Control Board (“State Board”) Order No. 97-03-DWQ (“1997 Permit”) as renewed by
12 Order No. 2015-0057-DWQ (“2015 Permit”). The 1997 Permit was in effect between
13 1997 and June 30, 2015, and the 2015 Permit went into effect on July 1, 2015. As
14 explained below, the 2015 Permit maintains or makes more stringent the same
15 requirements as the 1997 Permit. As appropriate, CBE refers to the 1997 and 2015
16 Permits in this Complaint collectively as the “General Permit.”
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21 3. With every significant rainfall event, millions of gallons of polluted storm
22 water originating from industrial operations, such as those conducted by Defendant,
23 pour into storm drains and local waterways. The consensus among agencies and water
24 quality specialists is that storm water pollution accounts for more than half of the total
25 pollution entering surface waters each year.
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1 U.S.C. §§ 2201-02 (power to issue declaratory relief in case of actual controversy and
2 further necessary relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a)
3 (injunctive relief); and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).
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5 8. On January 14, 2020, as required by the CWA, 33 U.S.C. § 1365(b)(1)(A),
6 CBE provided notice of intent to file suit against Everport for CWA violations (“Notice
7 Letter”) to the Administrator of the United States Environmental Protection Agency
8 (“EPA”); the United States Attorney General; the Executive Director of the State Water
9 Resources Control Board; the Regional Administrator of EPA Region IX; the Executive
10 Officer of the Regional Water Quality Control Board, Los Angeles Region,
11 (collectively “state and federal agencies”); and Everport.
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14 9. The Notice Letter provided Everport with sufficient information to
15 determine (i) the CWA requirements CBE alleges Everport violated; (ii) the activity
16 alleged to constitute the violation(s); (iii) sufficient information to determine the date,
17 location, and person responsible for the violation(s); and (iv) the contact information
18 for CBE and CBE’s Counsel. A copy of the Notice Letter is attached as Exhibit 1.
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21 10. More than sixty (60) days have passed since notice of the alleged violation
22 was served upon Everport and the state and federal agencies. Plaintiff is informed and
23 believes, and thereupon alleges, that neither the EPA nor the State of California has
24 commenced or is diligently prosecuting a court action to redress the violations alleged
25 herein. No claim in this action is barred by any prior administrative action pursuant to
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1 § 309(g) of the CWA, 33 U.S.C. § 1319(g).

2 11. Venue is proper in the Central District of California pursuant to
3 § 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the source of the violations
4 is located within this judicial district.
5

6 **PARTIES**

7
8 12. Plaintiff CBE is an environmental justice organization organized under the
9 laws of the State of California with a local office in Wilmington, California. CBE has
10 approximately 6,000 members who live, recreate and work in and around waters of the
11 State of California, including the Los Angeles Harbor and San Pedro Bay. Many of its
12 members live and/or recreate in and around Los Angeles County. CBE is dedicated to
13 empowering low-income communities of color that seek a voice in determining the health
14 of their air, water and land. To further these goals, CBE actively seeks federal and state
15 agency implementation of the Act and other laws and, where necessary, directly initiates
16 enforcement actions.
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20 13. CBE has members living in the communities near the Facility and the Los
21 Angeles Harbor Watershed. They enjoy using the Los Angeles Harbor and San Pedro
22 Bay for recreation and other activities. CBE members use and enjoy the waters into
23 which Defendant has caused, is causing, and will continue to cause, pollutants to be
24 discharged. CBE members use those areas to recreate and view wildlife, among other
25 activities. Defendant's discharges of pollutants threaten or impair each of those uses or
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