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7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 ALESHA DAVIS, ) Civil No.  
11 )  
12 Plaintiff, )  
13 vs. ) **COMPLAINT FOR DECLARATORY**  
14 CALIFORNIA METAL-X (CMX), ) **AND INJUNCTIVE RELIEF AND**  
15 ) **CIVIL PENALTIES**  
16 Defendant. ) (Federal Water Pollution Control Act, 33  
17 ) U.S.C. § 1251 et seq.)  
18 ) **JURY TRIAL DEMAND**  
19 )

20 Plaintiff Alesha Davis (“Plaintiff”), by and through her counsel, alleges as  
21 follows:

22 1. This is a citizen suit, brought pursuant to the section 505(a)(1) of the  
23 Federal Water Pollution Control Act (the “Clean Water Act” or “CWA”), 33 U.S.C.  
24 § 1365(a)(1), to address violations of the CWA by defendant California Metal-X  
25 (CMX) (“California Metal X” or the “Defendant”) arising out of operations at Blair  
26 Adhesives’ facility located at 366 East 58th St., Los Angeles, CA 90011 (the  
27 “Facility”).

1 2. Since at least December 6, 2014, Defendant has been discharging and  
2 continues to discharge polluted stormwater from the Facility in violation of the  
3 express terms and conditions of Sections 301 and 402 of the Clean Water Act, 33  
4 U.S.C. §§ 1311, 1342, and in violation of the General Industrial Stormwater Permits  
5 issued by the State of California (NPDES General Permit No. CAS000001 [State  
6 Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended  
7 by Order No. 97-03-DWQ) (“1997 Permit”) and Order No. 2014-0057-DWQ (“2015  
8 Permit”) (collectively, the “Industrial Stormwater Permit” or “IGP”).

9 3. Plaintiff seeks a declaratory judgment, injunctive relief, the imposition  
10 of civil penalties, and the award of costs, including attorneys’ and expert witness  
11 fees, for Defendant’s repeated and ongoing violations of the Clean Water Act.

12 **JURISDICTION AND VENUE**

13 4. This Court has subject matter jurisdiction over the parties and subject  
14 matter of this action pursuant to section 505(a)(1) of the CWA, 33 U.S.C. §  
15 1365(a)(1), 28 U.S.C. § 1331 (an action arising under the laws of the United States),  
16 and 28 U.S.C. § 2201 (declaratory relief).

17 5. On December 6, 2019, as required by the CWA, 33 U.S.C. §  
18 1365(b)(1)(A), Plaintiff provided notice of intent to file suit against Defendant for  
19 CWA violations (“NoV”) to the Administrator of the United States Environmental  
20 Protection Agency (“EPA”); the Regional Administrator of EPA Region IX; the  
21 Executive Director of the State Water Resources Control Board (“State Board”); the  
22 Executive Officer of the Regional Water Quality Control Board, Los Angeles  
23 Region (“Regional Board”) collectively, “state and federal agencies”) and  
24 Defendant.

25 6. The NoV provided Defendant with sufficient information to determine  
26 (i) the CWA requirements Plaintiff alleges Defendant violated, (ii) the activity  
27 alleged to constitute the violation(s), (iii) sufficient information to determine the

1 date, location, and person responsible for the violation(s), and (iv) the contact  
2 information for the Plaintiff and Plaintiff's Counsel. A copy of the NoV is attached  
3 as Exhibit 1.

4 7. More than sixty (60) days have passed since the NoV was served upon  
5 Defendant and the state and federal agencies. During this time, neither the EPA, nor  
6 the State of California, has commenced or is diligently prosecuting a court action to  
7 redress the violations alleged herein. No claim in this action is barred by any prior  
8 administrative action pursuant to section 309(g) of the CWA, 33 U.S.C. § 1319(g).

9 8. Venue is proper in the Central District of California pursuant to section  
10 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the source of the violations  
11 is located within this judicial district.

12 **PARTIES**

13 9. Plaintiff is a citizen of the State of California who, through her  
14 recreational activities, uses and enjoys the waters of the Los Angeles River, its  
15 inflows, outflows, and other waters of the overall Los Angeles River Watershed, of  
16 which the Los Angeles River is a part. Plaintiff's use and enjoyment of these waters  
17 is negatively affected by the pollution caused by Defendant's operations. Plaintiff  
18 is dedicated to protecting the water quality of the Los Angeles River, and the overall  
19 Los Angeles River Watershed, for the benefit of its ecosystems and communities.  
20 To further these goals, Plaintiff actively seeks federal and state agency  
21 implementation of the CWA, and, where necessary, directly initiates enforcement  
22 actions on behalf of herself and for her community.

23 10. Plaintiff, like other citizens, taxpayers, property owners, and residents  
24 of her community, lives, works, travels near, and recreates in, the Los Angeles River,  
25 its inflows, outflows, and other waters of the overall Los Angeles River Watershed,  
26 of which the Los Angeles River is a part, into which Defendant discharges  
27 pollutants. Plaintiff, like other citizens, taxpayers, property owners, and residents,

1 uses and enjoys the Los Angeles River, its inflows, outflows, and other waters of the  
2 overall Los Angeles River Watershed, of which the Los Angeles River is a part, for  
3 recreational, educational, scientific, conservation, aesthetic, spiritual, and other  
4 purposes. Defendant's discharges of stormwater containing pollutants impairs each  
5 of these uses. Thus, Plaintiff's interests have been, are being, and will continue to  
6 be adversely affected by Defendant's failure to comply with the CWA and the  
7 Industrial Stormwater Permit.

8 11. Plaintiff enjoys going to the Dominguez Gap Wetlands Park (the  
9 Park"). Plaintiff enjoys relaxing in the park and walking along the paths located in  
10 the Park.

11 12. The Los Angeles River runs immediately adjacent to the Park, and the  
12 Los Angeles River is accessible from the Park by Park goers to recreate and fish in.  
13 While at the Park, Plaintiff has witnessed the polluted nature of the Los Angeles  
14 River. She has observed that the Los Angeles River appears both brown and dirty.  
15 In addition to her visual observation of the water, Plaintiff has also noticed an  
16 unpleasant smell coming from the water.

17 13. Plaintiff is aware that Defendant's Facility is upstream from the Park  
18 and that the pollution from the Facility flows downstream through the Los Angeles  
19 River and the Park before ultimately reaching the Pacific Ocean. Plaintiff believes  
20 that this has degraded the beauty of the Park and curtailed her enjoyment of the Park.

21 14. Plaintiff intends to return to the Park in the future and believes that  
22 reducing Defendant's pollution of the Los Angeles River will improve the water  
23 quality in the Los Angeles River and allow her the opportunity to better enjoy the  
24 recreational and aesthetic interests in the Los Angeles River and the Park.

25 15. Defendant is a California Corporation with headquarters at 366 East  
26 58th St., Los Angeles, CA 90011.

1 16. Defendant owns and operates the Facility, located at 366 East 58th St.,  
2 Los Angeles, CA 90011.

3 17. The Facility operates as a manufacturer of brass and bronze engineered  
4 alloys and ingots for foundry mill customers. Industrial activities carried out at the  
5 Facility include (i) aluminum shredding; (ii) metal shredding; (iii) wire chopping;  
6 (iv) radiator processing; (v) magnetic separation of metals; (vi) sierra shell casing  
7 separator operation; (vii) sierra shear operation; (viii) materials storage; and (ix)  
8 equipment storage. Repair and maintenance activities carried out at the Facility  
9 include, but are not limited to, electrical, plumbing, roofing, asphalt, concrete, and  
10 utilities repairs as well as janitorial duties.

11 18. The Facility's industrial activities fall under Standard Industrial  
12 Classification ("SIC") Code 3341, relating to Secondary Smelting and Refining of  
13 Nonferrous Metals and SIC Code 5093, relating to Scrap and Waste Recycling.  
14 Defendant applied for and received coverage under the California Industrial General  
15 Permit since at least March 23, 1992, and was issued WDID No. 4 19I000881.  
16 Defendant reapplied for coverage under the 2015 Industrial Stormwater Permit on  
17 July 1, 2015, and was granted the continued use of its previously issued WDID No.  
18 These "Notice of Intents" for the Facility to comply with the terms of the Industrial  
19 Stormwater Permit list "California Metal X" and "CA Metal X" as the Operator and  
20 Facility name, respectively. Plaintiff is therefore informed and believes and thereon  
21 alleges that Defendant owns and/or operates the Facility.

## 22 REGULATORY BACKGROUND

### 23 *The Problem of Stormwater Pollution*

24 19. Stormwater runoff is one of the most significant sources of water  
25 pollution in the nation and has been recognized as a leading cause of significant and  
26 cumulative harmful impacts to the water quality of the Los Angeles River, its  
27 inflows, outflows, and other waters of the overall Los Angeles River Watershed, of  
28

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