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11 LOS ANGELES WATERKEEPER

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 LOS ANGELES WATERKEEPER

15 Plaintiff,

16 v.

17 AMERICAN RECLAMATION, INC., and
18 JOHN R. GASPARIAN,

19 Defendants.

Civil Case No. 21-cv-1140

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

(Federal Water Pollution Control
Act, 33 U.S.C. §§ 1251 et. seq.)

1 Los Angeles Waterkeeper (“LA Waterkeeper” or “Plaintiff”), by and through its counsel,
2 hereby alleges:

3 **I. INTRODUCTION**

4 1. This complaint seeks relief for alleged unlawful discharges of pollutants from the South
5 Coast Recycling Facility located at 4560 Doran Street, Los Angeles, CA 90039 (“the Facility”) into
6 waters of the United States in violation of the Federal Water Pollution Control Act, 33 U.S.C. sections
7 1251, *et seq.* (the “Clean Water Act” or the “CWA”) and the State of California’s National Pollution
8 Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [California State Water
9 Resources Control Board] Water Quality Order No. 97-03-DWQ (“1997 Permit”). The Facility is owned
10 and operated by American Reclamation, Inc. and John R. Gasparian (“Defendants” or collectively,
11 “American Reclamation”). This Complaint further addresses American Reclamation’s violations of the
12 predecessor version of the Industrial Stormwater Permit issued by the California State Water Resources
13 Control Board (“State Board”) by Water Quality Order No. 91-013-DWQ (as amended by Order No. 92-
14 116) in 1991/1992 (“1992 Permit”), the version issued by the State Board in 1997 via Water Quality
15 Order No. 97-03-DWQ (“1997 Permit”) and its violations of the version of Industrial Stormwater Permit
16 issued on April 1, 2014 by State Board Water Quality Order No. 2014-0057-DWQ and effective on July
17 15, 2015 (“2015 Permit”) (note: as context appropriate, the term “Industrial Stormwater Permit” as used
18 herein refers to either of these three versions of the applicable NPDES permit for industrial stormwater
19 discharges in California or collectively to all three versions). All three of these versions of NPDES
20 Permit No. CAS000001 had/have similar terms and conditions. All references to sections of the version
21 of NPDES Permit No. CAS000001 adopted by Water Quality Order No. 2014-0057-DWQ should be
22 construed as equally referring to comparable sections in the State Board’s orders adopting the 1992 and
23 1997 versions of this permit.¹

24 _____
25 ¹ The version of NPDES Permit No. CAS000001 adopted by Water Quality Order No. 2014-0057-DWQ
26 became effective July 1, 2015 and supersedes the version of this permit adopted by Water Quality Order
27 No. 97-03-DWQ “except for Order 97-03-DWQ’s requirement to submit annual reports by July 1, 2015
and except for enforcement purposes.” Water Quality Order No. 2014-0057-DWQ at 1 & § I.6

1 2. Violations of the CWA and the Industrial Stormwater Permit by small industrial sites are
2 recognized as a leading cause of significant, cumulative impacts to the water quality of the Los Angeles
3 River and the Pacific Ocean. With every rainfall event, hundreds of millions of gallons of polluted
4 rainwater flow off of local industrial facilities, such as American Reclamation's, and pour into storm
5 drains and into the Los Angeles River and the Pacific Ocean. The consensus among agencies and water
6 quality specialists is that stormwater pollution accounts for more than half of the total pollution entering
7 the aquatic environment each year.

8 3. Stormwater runoff from the American Reclamation Facility in combination with similar
9 runoff from other industrial facilities is causing or risking harm to humans and aquatic life. In particular,
10 the Facility's stormwater discharges, like other facilities in the watershed, contain suspended sediment
11 and heavy metals such as cadmium, iron, copper, lead, and zinc. Exposure and ingestion of heavy metals
12 can cause health problems in people and aquatic animals, including neurological and reproductive
13 effects. Fish are widely used to evaluate the health of aquatic systems because pollutants accumulate in
14 fish, which are an important part of aquatic food chains. Heavy metals have been shown to alter
15 physiological activity in tissues and blood of fish.

16 4. Stormwater runoff from the American Reclamation Facility, like other industrial facilities
17 in the watershed, further contains high concentrations of total suspended solids ("TSS"). High
18 concentrations of TSS degrade optical water quality by reducing water clarity and decreasing light
19 available to support photosynthesis. Suspended solids have been shown to alter predator-prey
20 relationships (for example turbid water can make it difficult for fish to see their prey). Deposited solids
21 alter habitat for fish, aquatic plants, and benthic organisms. TSS can also be harmful to aquatic life
22 because numerous pollutants, including metals and polycyclic aromatic hydrocarbons ("PAHs"), are
23

24 (Findings). Thus, all requirements imposed by Water Quality Order No. 97-03-DWQ will remain in full
25 force and effect after July 1, 2015. However, the requirements imposed by Water Quality Order No.
26 2014-0057-DWQ also came into effect after July 1, 2015 and American Reclamation's future violations
27 of such Order's imposition of NPDES permit terms essentially identical to those ordered by Water
Quality Order No. 97-03-DWQ are also enforceable.

1 adsorbed onto TSS. Thus, higher concentrations of TSS mean higher concentrations of toxins associated
2 with those sediments.

3 5. Stormwater runoff from the American Reclamation Facility, like stormwater runoff from
4 other sources in the watershed, also contains potentially pathogenic bacteria which poses human health
5 risks and excessive nutrients which can lead to depressed oxygen levels harmful to aquatic life.

6 6. American Reclamation's stormwater discharges contribute to the ongoing stormwater
7 pollution problem and exemplify the epidemic of violations of industrial stormwater permits that LA
8 Waterkeeper is seeking to eliminate or reduce. These pollution discharges can and must be curtailed for
9 the Los Angeles River and the Pacific Ocean to be restored to ecological health.

10 **II. JURISDICTION AND VENUE**

11 7. This is a civil suit brought under the citizen suit enforcement provisions of the CWA.
12 This Court has subject matter jurisdiction over the parties and subject matter of this action pursuant to
13 CWA section 505(a)(1), 33 U.S.C. § 1365(a)(1), and 28 U.S.C. section 1331 (an action for declaratory
14 and injunctive relief arising under the Constitution and laws of the United States).

15 8. Plaintiff mailed, in two parts and by certified mail, the notice letter and supporting
16 documentation outlining Defendants CWA violations that form the basis of this lawsuit and providing
17 all legally required information on November 9, 2020 and November 10, 2020. The recipients of these
18 certified mail mailings included the required recipients under the CWA and its implementing
19 regulations: "the owner or managing agent of the" facility, the Administrator of the Environmental
20 Protection Agency ("EPA"), the EPA Region IX Regional Administrator, the California State Water
21 Resources Control Board, the registered agent for American Reclamation in California, and the Attorney
22 General. 40 C.F.R. § 135.2(a)(1), (b); *see also* 33 U.S.C. § 1365(b)(1)(A). These recipients are deemed
23 to have received notice on the postmark date, *i.e.*, November 10, 2020 at the latest. *See* 40 C.F.R. §
24 135.2(c). Certified mail tracking information indicates that these recipients all in fact received the
25 certified mailings and that receipt occurred between November 12, 2020 and November 17, 2020.

26 9. More than sixty days have elapsed since Plaintiff gave notice of the claims in this lawsuit
27 to Defendants and the relevant state and federal agencies. Neither EPA nor the State of California has

1 commenced or is diligently prosecuting a court action to redress the violations alleged in this Complaint,
2 and no claim in this action is barred by any prior administrative action pursuant to section 309(g) of the
3 CWA, 33 U.S.C. § 1319(g).

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

6 **III. PARTIES**

7 11. Los Angeles Waterkeeper is a 501(c)(3) public benefit corporation, organized and
8 existing under the laws of the State of California with a principal office at 120 Broadway, Suite 105,
9 Santa Monica, California 90401. LA Waterkeeper was founded in 1993 with the mission of preserving,
10 protecting, and defending the inland and coastal waters of Los Angeles County from all sources of
11 pollution and degradation. In pursuit of this mission, LA Waterkeeper actively seeks federal and state
12 implementation of the CWA, and, where necessary, initiates enforcement actions under the CWA on
13 behalf of itself and its members. Members of LA Waterkeeper (including citizens, taxpayers, property
14 owners, and residents) live, work, travel, recreate, own property and homes, and reside in Los Angeles
15 County. They use and enjoy the waters into which American Reclamation causes pollutants to be
16 discharged, including the Los Angeles River, other Los Angeles County waterways, and the ocean and
17 beaches into which those waters flow (hereinafter collectively referred to as “impacted waters”).
18 Members of LA Waterkeeper use these waterways for recreational, educational, aesthetic, and spiritual
19 purposes. Additionally, LA Waterkeeper and its members use these waters to engage in scientific study
20 through pollution and habitat monitoring and conservation activities. American Reclamation’s discharge
21 of stormwater containing pollutants impairs each of those uses. Thus, the interests of LA Waterkeeper’s
22 members have been, are being, and will continue to be adversely affected by the degradation of these
23 waterways resulting from American Reclamation’s failure to comply with the Industrial Stormwater
24 Permit and the CWA.

25 12. Defendant American Reclamation performs recycling and associated activities, including
26 vehicle maintenance and fueling, in Los Angeles, California. Industrial activities at the Facility generate
27 dust; toxic metals such as copper, cadmium, lead, aluminum, iron, and zinc; oil and grease; nitrites and

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