

1 Michael R. Lozeau (State Bar No. 142893)  
 2 Douglas J. Chermak (State Bar No. 233382)  
 3 E-mail: michael@lozeaudrury.com  
 4           doug@lozeaudrury.com  
 5 LOZEAU DRURY LLP  
 6 1939 Harrison Street, Suite 150  
 7 Oakland, CA 94612  
 8 Tel: (510) 836-4200  
 9 Fax: (510) 836-4205

10 Attorneys for Plaintiff  
 11 CENTER FOR COMMUNITY ACTION  
 12 AND ENVIRONMENTAL JUSTICE

13 **UNITED STATES DISTRICT COURT**

14 **CENTRAL DISTRICT OF CALIFORNIA**

15 CENTER FOR COMMUNITY  
 16 ACTION AND ENVIRONMENTAL  
 17 JUSTICE, a non-profit corporation,

18 Plaintiff,

19 vs.

20 AIRGAS USA, LLC, a limited  
 21 liability corporation,

22 Defendant.

Case No. \_\_\_\_\_

COMPLAINT FOR DECLARATORY  
 AND INJUNCTIVE RELIEF AND  
 CIVIL PENALTIES

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

23 CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL  
 24 JUSTICE (“CCA EJ”), a California non-profit corporation, by and through its counsel,  
 25 hereby alleges:

26  
 27  
 28 COMPLAINT

1 **I. JURISDICTION AND VENUE**

2 1. This is a civil suit brought under the citizen suit enforcement provisions  
3 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean  
4 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties  
5 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33  
6 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the  
7 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02  
8 (power to issue declaratory relief in case of actual controversy and further necessary  
9 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);  
10 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

11  
12  
13 2. On November 19, 2020, Plaintiff provided notice of Defendant’s  
14 violations of the Act, and of Plaintiff’s intention to file suit against Defendant, to the  
15 Administrator of the United States Environmental Protection Agency (“EPA”); the  
16 Administrator of EPA Region IX; the Executive Director of the State Water  
17 Resources Control Board (“State Board”); the Executive Officer of the California  
18 Regional Water Quality Control Board, Santa Ana Region (“Regional Board”); and to  
19 Defendant, as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct  
20 copy of CCAEJ’s notice letter is attached as Exhibit A, and is incorporated by  
21 reference.  
22  
23

24 3. More than sixty days have passed since notice was served on Defendant  
25 and the State and federal agencies. Plaintiff is informed and believes, and thereupon  
26 alleges, that neither the EPA nor the State of California has commenced or is  
27

1 diligently prosecuting a court action to redress the violations alleged in this complaint.  
2 This action's claim for civil penalties is not barred by any prior administrative penalty  
3 under Section 309(g) of the Act, 33 U.S.C. § 1319(g).  
4

5 4. Venue is proper in the Central District of California pursuant to Section  
6 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is  
7 located within this judicial district.

8 **II. INTRODUCTION**

9 5. This complaint seeks relief from Defendant's discharges of polluted  
10 storm water from Defendant's industrial facility located at 12550 Arrow Route in  
11 Rancho Cucamonga, California ("Facility"). These discharges are in violation of the  
12 Act and National Pollutant Discharge Elimination System ("NPDES") Permit No.  
13 CAS000001, State Water Resources Control Board Water Quality Order No. 97-03-  
14 DWQ, as renewed by Water Quality Order No. 2014-0057-DWQ ("General Permit").  
15 Defendant's violations of the discharge, treatment technology, monitoring  
16 requirements, and other procedural and substantive requirements of the General  
17 Permit and the Act are ongoing and continuous.  
18  
19

20 6. With every significant rainfall event, millions of gallons of polluted  
21 storm water originating from industrial operations, such as those conducted by  
22 Defendant, pour into storm drains and local waterways. The consensus among  
23 agencies and water quality specialists is that storm water pollution accounts for more  
24 than half of the total pollution entering surface waters each year.  
25

26 7. Industrial facilities, like Defendant's, that are discharging polluted storm  
27

1 water and non-storm water contribute to the impairment of downstream waters and  
2 aquatic-dependent wildlife. These contaminated discharges can and must be  
3 controlled for the ecosystem to regain its health.  
4

5 **III. PARTIES**

6 8. Plaintiff CCAEJ is a non-profit public benefit corporation under the laws  
7 of the State of California with its main office in Jurupa Valley, California. CCAEJ is  
8 dedicated to working with communities to advocate for environmental justice and  
9 pollution prevention. CCAEJ and its members are deeply concerned with protecting  
10 the environment in and around their communities, including the Santa Ana River  
11 Watershed. To further these goals, CCAEJ actively seeks federal and state agency  
12 implementation of the Act and other laws and, where necessary, directly initiates  
13 enforcement actions on behalf of itself and its members.  
14

15 9. CCAEJ has members living in the communities near the Facility and the  
16 Santa Ana River Watershed. They enjoy using the Santa Ana River for recreation and  
17 other activities. Members of CCAEJ use and enjoy the waters into which Defendant  
18 has caused, is causing, and will continue to cause, pollutants to be discharged.  
19 Members of CCAEJ use those areas to recreate and view wildlife, among other things.  
20 Defendant's discharges of pollutants threaten or impair each of those uses or contribute  
21 to such threats and impairments. Thus, the interests of CCAEJ's members have been,  
22 are being, and will continue to be adversely affected by Defendant's failure to comply  
23 with the Clean Water Act and the Permit. The relief sought herein will redress the  
24 harms to Plaintiff caused by Defendant's activities.  
25  
26  
27

1           10. CCAEJ brings this action on behalf of its members. CCAEJ’s interest in  
2 reducing Defendant’s discharges of pollutants into the Santa Ana River and its  
3 tributaries and requiring Defendant to comply with the requirements of the General  
4 Permit are germane to its purposes. Litigation of the claims asserted and relief  
5 requested in this Complaint does not require the participation in this lawsuit of  
6 individual members of CCAEJ.  
7

8           11. Continuing commission of the acts and omissions alleged above will  
9 irreparably harm Plaintiff and one or more of its members, for which harm they have no  
10 plain, speedy or adequate remedy at law.  
11

12           12. Defendant AIRGAS USA, LLC (“Airgas”) is a limited liability  
13 corporation that owns and/or operates the Facility that is at issue in this action.  
14

#### 15 **IV. STATUTORY BACKGROUND**

##### 16 **Clean Water Act**

17           13. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of  
18 any pollutant into waters of the United States, unless such discharge is in compliance  
19 with various enumerated sections of the Act. Among other things, Section 301(a)  
20 prohibits discharges not authorized by, or in violation of, the terms of an NPDES  
21 permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.  
22

23           14. Section 402(p) of the Act establishes a framework for regulating  
24 municipal and industrial storm water discharges under the NPDES program. 33  
25 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by  
26 Section 402(p) to regulate industrial storm water discharges through individual  
27

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