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16

15 UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF CALIFORNIA
17 SACRAMENTO DIVISION
18

18 CALIFORNIA COASTKEEPER ALLIANCE, a
19 California non-profit corporation,
20

20 Plaintiff,
21

21 v.
22

23 COUNTY OF SACRAMENTO, a municipality,
24 SACRAMENTO AREA SEWER DISTRICT, a
25 California county sanitation district, and
26 SACRAMENTO COUNTY DEPARTMENT OF
27 WATER RESOURCES,
28

26 Defendants.
27
28

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

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

California Coastkeeper Alliance (“Alliance” or “Plaintiff”), by and through its counsel, hereby alleges:

I. INTRODUCTION

1. This is a civil action brought under the citizen suit enforcement provisions of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (“Clean Water Act” or “CWA”), to address the unlawful point source discharges by the County of Sacramento (“County”) and/or the Sacramento Area Sewer District (“SASD”) to waters of the United States without a permit. This action further addresses the County’s violations of National Pollutant Discharge Elimination System Permit and Waste Discharge Requirements MS4 Permit for Discharges from Municipal Separate Storm Sewer Systems, NPDES Permit No. CAS0085324, Order No. R5-2016-0040 (“MS4 Permit”). The Alliance seeks a declaratory judgment, injunctive relief, the imposition of civil penalties, and an award of costs, including attorney and expert witness fees, for these violations.

II. JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over the parties and this action pursuant to 33 U.S.C. § 1365(a)(1) (the Clean Water Act citizen suit provision), 28 U.S.C. § 1331 (an action arising under the laws of the United States), and 28 U.S.C. § 2201 (declaratory relief).

3. On August 13, 2021, the Alliance provided notice of intent to file suit against the County and SASD for their violations of the Clean Water Act (“Notice Letter”) pursuant to 33 U.S.C. § 1365(b). The Notice Letter is attached hereto as Attachment 1 and is incorporated herein by reference.

4. As required by 40 C.F.R. § 135.2(a)(2), the Alliance sent the Notice Letter to the County of Sacramento as owner/operator of the County’s municipal separate storm sewer system MS4 (“MS4”), and to the County and the SASD as the owners and/or operators of the SASD sewage collection system (“Collection System”); specifically, the County Executive, the District Engineer, the Board of Directors of the SASD, the Director of Sacramento County Department of Water Resources, and the

1 Letter to the Administrator of the United States Environmental Protection Agency (“EPA”), the
2 Administrator of EPA Region IX, the Executive Director of the State Water Resources Control Board
3 (“State Board”), and the Executive Officer of the Regional Water Quality Control Board, Region 5,
4 Central Valley (“Regional Board”) (collectively, “State and Federal agencies”), as required by section
5 505(b) of the CWA, 33 U.S.C. § 1365(b)(1)(A). The Notice Letter is attached as Attachment 1 and is
6 incorporated herein by reference.

7
8 5. More than sixty (60) days have passed since the Notice Letter was mailed to the County,
9 SASD, and the State and Federal agencies.

10 6. The Alliance is informed and believes, and thereon alleges, that neither EPA nor the State
11 of California has commenced or is diligently prosecuting an action to redress the violations alleged in
12 the Notice Letter and in this Complaint. *See* 33 U.S.C. § 1365(b)(1)(B). This action is not barred by any
13 prior administrative penalty under section 309(g) of the CWA, 33 U.S.C. § 1319(g).

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

16 17 **III. INTRADISTRICT ASSIGNMENT**

18 8. Pursuant to L.R. 120(d) intradistrict assignment of this matter to the Sacramento Division
19 of the Court is appropriate because the events or omissions which give rise to Plaintiff’s claims occurred
20 in Sacramento County. In addition, the Alliance maintains its principal place of business in the County
21 of Sacramento. No event or omission giving rise to the Alliance’s claims occurred within the jurisdiction
22 of any other Division of this Court.

23 24 **IV. PARTIES AND FACTUAL BACKGROUND**

25 **A. The Alliance**

26 9. Plaintiff the Alliance is an environmental group, organized as a non-profit corporation in
27 accordance with the laws of the State of California, with its main office in Sacramento.

1 and clean waters. To this end, the Alliance works with local Waterkeepers to develop, implement, and
2 defend policies that meet the needs of California's distinct communities and ecosystems. The Alliance
3 also seeks federal and state agency implementation of the CWA and, where necessary, initiates
4 enforcement actions on behalf of itself and its members.

5 11. The Alliance's office is located at 1100 11th Street, 3rd Floor, Sacramento, CA 95814.

6 12. The Alliance's members use and enjoy the waters receiving the illegal discharges
7 identified herein, including but not limited to the Mokelumne River, Dry Creek, Morrison Creek, the
8 American River, the Sacramento River, and the named and unnamed tributaries thereto ("Receiving
9 Waters").
10

11 13. The Alliance is informed and believes, and thereon alleges, that the County and SASD
12 discharge raw sewage and associated pollutants to the Receiving Waters. These discharges of raw
13 sewage and associated pollutants degrades water quality and harms aquatic life in these waters.

14 14. The Alliance is informed and believes, and thereon alleges, that SASD and the County
15 discharge to area businesses, residents' yards and basements, and municipal sidewalks, streets, gutters,
16 and other paved and unpaved areas, which exposes members of the Alliance and the public to substantial
17 health risks.
18

19 15. The Alliance has members who use and enjoy the Receiving Waters for various
20 recreational, educational, scientific, conservation, aesthetic, spiritual and other purposes.

21 16. The interests of the Alliance's members have been, are being, and will continue to be
22 adversely affected by the County's and/or SASD's failure to comply with the Clean Water Act and the
23 MS4 Permit.
24

25 17. The Alliance has one or more members who use, explore, and recreate in areas impacted
26 by the pollution herein at issue and could sue in their own right. Some of the Alliance's members suffer
27 recreational, aesthetic, or other environmental injuries due to Defendants' pollution. The Alliance's
28

discharges of raw sewage, and would cease should the water quality become too degraded.

18. The County's and SASD's discharges of raw sewage and associated pollutants are ongoing and continuous.

19. The Alliance's injuries-in-fact are fairly traceable to the County's and/or SASD's conduct.

20. The Alliance's injuries-in-fact would be redressed by the requested relief.

21. Continuing commission of the acts and omissions alleged herein will irreparably harm the Alliance's members, for which harm they have no plain, speedy, or adequate remedy at law.

22. Neither the claims brought by the Alliance nor the relief the Alliance requests requires the participation of individual members.

B. The Collection System

23. The Collection System consists of approximately 4,682 miles of pipeline, including 3,074 miles of gravity sewer, 1,527 miles of lateral sewer, and 81 miles of force mains. The system has approximately 299,000 service connections,

24. The Alliance is informed and believes, and thereon alleges, that the Collection System collects and conveys sewage from residential, commercial, industrial, and agricultural sources. Sewage from these sources includes without limitation human and animal waste, household chemicals, wastes from restaurants, wastes from hospitals, and wastes from industrial manufacturing and processing.

25. The Collection System serves a population of approximately 1.2 million people in the Sacramento region.

26. The Collection System consists of pipes and other manmade conveyances that are point sources under the Clean Water Act. *See* 33 U.S.C. § 1362(14).

27. The Collection System conveys sewage from within Sacramento County and the cities of

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