

1 Jason R. Flanders (Bar No. 238007)
2 Erica A. Maharg (Bar No. 279396)
3 Aqua Terra Aeris (ATA) Law Group
4 4030 Martin Luther King Jr. Way
5 Oakland, California 94609
6 Telephone: (510) 473-8793
7 Email: jrf@atalawgroup.com
8 Email: eam@atalawgroup.com

9 Drevet Hunt (Bar No. 240487)
10 California Coastkeeper Alliance
11 1100 11th Street, 3rd Floor
12 Sacramento, California 95814
13 Phone: (415) 606-0864
14 Fax: (415) 520-6125
15 Email: dhunt@cacoastkeeper.org

16 Daniel Cooper (Bar No. 153576)
17 Sycamore Law
18 1004 O'Reilly Ave
19 San Francisco CA 94129
20 Phone: (415) 360-2962
21 Email: daniel@sycamore.law

22 Attorneys for Plaintiff
23 CALIFORNIA COASTKEEPER ALLIANCE

24 UNITED STATES DISTRICT COURT
25 EASTERN DISTRICT OF CALIFORNIA
26 SACRAMENTO DIVISION

27 CALIFORNIA COASTKEEPER ALLIANCE, a
28 California non-profit corporation,

29 Plaintiff,

30 v.

31 COUNTY OF SACRAMENTO, a municipality,
32 SACRAMENTO AREA SEWER DISTRICT, a
33 California county sanitation district, and
34 SACRAMENTO COUNTY DEPARTMENT OF
35 WATER RESOURCES,

36 Defendants.

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

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

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

3 **I. INTRODUCTION**

4 1. This is a civil action brought under the citizen suit enforcement provisions of the Federal
5 Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (“Clean Water Act” or “CWA”), to address the
6 unlawful point source discharges by the County of Sacramento (“County”) and/or the Sacramento Area
7 Sewer District (“SASD”) to waters of the United States without a permit. This action further addresses
8 the County’s violations of National Pollutant Discharge Elimination System Permit and Waste
9 Discharge Requirements MS4 Permit for Discharges from Municipal Separate Storm Sewer Systems,
10 NPDES Permit No. CAS0085324, Order No. R5-2016-0040 (“MS4 Permit”). The Alliance seeks a
11 declaratory judgment, injunctive relief, the imposition of civil penalties, and an award of costs, including
12 attorney and expert witness fees, for these violations.
13

14 **II. JURISDICTION AND VENUE**

15 2. This Court has subject matter jurisdiction over the parties and this action pursuant to 33
16 U.S.C. § 1365(a)(1) (the Clean Water Act citizen suit provision), 28 U.S.C. § 1331 (an action arising
17 under the laws of the United States), and 28 U.S.C. § 2201 (declaratory relief).
18

19 3. On August 13, 2021, the Alliance provided notice of intent to file suit against the County
20 and SASD for their violations of the Clean Water Act (“Notice Letter”) pursuant to 33 U.S.C. § 1365(b).
21 The Notice Letter is attached hereto as Attachment 1 and is incorporated herein by reference.
22

23 4. As required by 40 C.F.R. § 135.2(a)(2), the Alliance sent the Notice Letter to the County
24 of Sacramento as owner/operator of the County’s municipal separate storm sewer system MS4 (“MS4”),
25 and to the County and the SASD as the owners and/or operators of the SASD sewage collection system
26 (“Collection System”); specifically, the County Executive, the District Engineer, the Board of Directors
27 of the SASD, the Director of Sacramento County Department of Water Resources, and the
28

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.

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.

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

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

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

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

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

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

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

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

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

11 **B. The Collection System**

12 23. The Collection System consists of approximately 4,682 miles of pipeline, including
13 3,074 miles of gravity sewer, 1,527 miles of lateral sewer, and 81 miles of force mains. The system has
14 approximately 299,000 service connections,
15

16 24. The Alliance is informed and believes, and thereon alleges, that the Collection System
17 collects and conveys sewage from residential, commercial, industrial, and agricultural sources. Sewage
18 from these sources includes without limitation human and animal waste, household chemicals, wastes
19 from restaurants, wastes from hospitals, and wastes from industrial manufacturing and processing.
20

21 25. The Collection System serves a population of approximately 1.2 million people in the
22 Sacramento region.
23

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

26 27. The Collection System conveys sewage from within Sacramento County and the cities of
27
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.