

Michael R. Lozeau (State Bar No. 142893)  
Victoria A. Yundt (State Bar No. 326186)  
LOZEAU DRURY LLP  
1939 Harrison Street, Suite 150  
Oakland, CA 94612  
Tel: (510) 836-4200  
Fax: (510) 836-4205  
E-mail: [michael@lozeaudrury.com](mailto:michael@lozeaudrury.com)  
[victoria@lozeaudrury.com](mailto:victoria@lozeaudrury.com)

Atorneys for Plaintiff  
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

THE CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE, a non-profit  
corporation,

Plaintiff,

V.

**CLOVER FLAT LAND FILL INC., a California corporation**

Defendant.

Civil No.

COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND CIVIL  
PENALTIES

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

Plaintiff THE CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (“CSPA”), by and through its counsel, alleges as follows:

## INTRODUCTION

1. This is a civil suit brought under the citizen suit enforcement provision of the Federal Pollution Control Act (the “Clean Water Act” or “the Act”), 33 U.S.C. § 1365(a)(1), to address

1 violations of the Act by Defendant Clover Flat Land Fill Inc. (“Defendant”) arising out of discharges of  
 2 polluted storm water from Defendant’s Clover Flat Resource Recovery Park and Landfill industrial  
 3 facility located at 4380 Silverado Trail in Calistoga, California (“Facility”). Since January 1, 2021,  
 4 Defendant has violated the Act and the General Industrial Stormwater Permit issued by the State of  
 5 California, National Pollutant Discharge Elimination System (“NPDES”) General Permit No.  
 6 CAS000001, State Water Resources Control Board Water Quality Order No. 97-03-DWQ, as renewed by  
 7 Order No. 2014-0057-DWQ, as amended by Order No. 2015-0122-DWQ on August 4, 2015, and further  
 8 amended on November 6, 2018 (collectively, the “General Permit”). Defendant’s violations of the  
 9 discharge, treatment technology, monitoring requirements, and other procedural and substantive  
 10 requirements of the Permit and the Act are ongoing and continuous. CSPA seeks declaratory relief,  
 11 injunctive relief, civil penalties, and the award of costs, including attorney and expert witness fees, for  
 12 Defendant’s repeated and ongoing violations of the Act.  
 13

14 **JURISDICTION AND VENUE**

15 2. This Court has subject matter jurisdiction over the parties and the subject matter of this  
 16 action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an  
 17 action arising under the laws of the United States). The relief requested is authorized pursuant to 28  
 18 U.S.C. §§ 2201-02 (power to issue declaratory relief in case of actual controversy and further necessary  
 19 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33 U.S.C. §§  
 20 1319(d), 1365(a) (civil penalties).  
 21

22 3. On February 18, 2022, Plaintiff provided notice of Defendant’s violations of the Act,  
 23 and of Plaintiff’s intention to file suit against Defendant, to the U.S. Attorney General; Administrator of  
 24 the United States Environmental Protection Agency (“EPA”); the Administrator of EPA Region IX; the  
 25 Executive Director of the State Water Resources Control Board (“State Board”); the Interim Executive  
 26 Officer of the California Regional Water Quality Control Board, San Francisco Bay Region (“Regional  
 27

Board"); and to Defendant, as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of CSPA's notice letter is attached as Exhibit A, and is incorporated by reference.

4. More than sixty (60) days have passed since notice was served on Defendant and the State and federal agencies. Plaintiff is informed and believes, and thereupon alleges, that neither the EPA nor the State of California has commenced or is diligently prosecuting a court action to redress the violations alleged in this complaint. This action's claim for civil penalties is not barred by any prior administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

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

## **INTRADISTRICT ASSIGNMENT**

6. Intradistrict assignment of this matter to the San Francisco Division of the Court is appropriate pursuant to Civil Local Rule 3-2(d). The events or omissions which give rise to CSPA's claims occurred in Napa County, which is under the jurisdiction of the San Francisco Division of the Northern District of California.

## **PARTIES**

7. Plaintiff CSPA is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Stockton, California. CSPA's members live and/or recreate in and around waters of the San Francisco Bay, including the Napa River and its tributary downstream from the Facility, also referred to as the unnamed creek. CSPA is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of all waters of California. To further these goals, CSPA actively seeks federal and state agency implementation of the Act, and, where necessary, directly initiates enforcement actions on behalf of itself and its members.

8. Members of CSPA, including citizens, taxpayers, property owners, and residents, live,

1 work, and travel near, and recreate in the Napa River and the unnamed creek which flows to the Napa  
 2 River, into which Defendant discharges pollutants. CSPA members use and enjoy San Francisco Bay and  
 3 its tributaries, including the Napa River, for recreational, educational, scientific, conservation, aesthetic,  
 4 spiritual, and other purposes. For example, CSPA members use those areas to fish, boat, kayak, bird  
 5 watch, view wildlife, and engage in scientific study including monitoring activities, among other things.  
 6 Defendant's discharges of storm water containing pollutants threaten or impair each of these uses or  
 7 contribute to such threats and impairments. Thus, the interests of CSPA's members have been, are being,  
 8 and will continue to be adversely affected by Defendant's failure to comply with the Act and the General  
 9 Permit. The relief sought herein will redress the harms to Plaintiff caused by Defendant's activities.  
 10

11 9. Continuing commission of the acts and omissions alleged below will irreparably harm  
 12 Plaintiff and one or more of its members, for which harm they have no plain, speedy, or adequate remedy  
 13 at law.  
 14

15 10. Defendant CLOVER FLAT LAND FILL INC. ("Clover Flat") is a California  
 16 corporation that owns and/or operates the Facility that is at issue in this action.  
 17

### **REGULATORY BACKGROUND**

#### **The Problem of Storm Water Pollution**

18 11. Storm water runoff is one of the most significant sources of water pollution in the nation  
 19 and has been recognized as a leading cause of significant and cumulative harmful impacts to the water  
 20 quality of San Francisco Bay and its tributaries. With every rainfall event, hundreds of millions of gallons  
 21 of polluted rainwater flow from local industrial facilities, such as the Facility, and pour into storm drains,  
 22 local tributaries, and San Francisco Bay. The Regional Board has stated that storm water pollution is the  
 23 major source of pollution entering San Francisco Bay and Bay area surface waters each year.  
 24  
 25

26 12. Storm water runoff from industrial sites such as the Facility causes harm to humans and  
 27 aquatic life. In particular, storm water can contain heavy metal pollutants such as aluminum and iron, as  
 28

1 well as high concentrations of suspended solids and nitrate and nitrite. Exposure and ingestion of heavy  
2 metals can cause health problems in people and aquatic animals, including neurological, physiological,  
3 and reproductive effects. Heavy metals have been shown to alter activity in the tissue and blood of fish.

4 13. High concentrations of total suspended solids (“TSS”) degrade optical water quality by  
5 reducing water clarity and decreasing light available to support photosynthesis. TSS have been shown to  
6 alter predator-prey relationships (for example, turbid water might make it difficult for fish to see their  
7 prey). Deposited solids alter habitat for fish, aquatic plants, and benthic organisms. TSS can also be  
8 harmful to aquatic life because numerous pollutants, including metals and polycyclic aromatic  
9 hydrocarbons (“PAHs”), are adsorbed onto TSS. Thus, higher concentrations of TSS mean higher  
10 concentrations of toxins associated with those sediments. Inorganic sediments, including settleable matter  
11 and suspended solids, have been shown to negatively impact species richness, diversity, and total  
12 biomass of filter feeding aquatic organisms on bottom surfaces.

13 14. Per- and polyfluoroalkyl substances (“PFAS”), a large group of human-made substances  
15 that do not occur naturally in the environment and are resistant to heat, water, and oil, including  
16 perfluorooctane sulfonic acid (“PFOS”) and perfluorooctanoic acid (“PFOA”), have been found to enter  
17 surface and groundwater, and subsequently drinking water, through contaminated storm water runoff  
18 from industrial sites and landfills. PFAS are persistent in the environment, can accumulate within the  
19 human body over time, and are toxic at relatively low concentrations. The State Board lists industrial  
20 sites and landfills as two of the four major sources of PFAS. PFAS can get into drinking water when  
21 storm water discharge from industrial sites and landfills containing PFAS flows into rivers and lakes used  
22 for drinking water or seeps into groundwater. Once in groundwater, PFAS are easily transported large  
23 distances and can contaminate drinking wells. Exposure to unsafe levels of PFAS, including  
24 PFOA/PFOS, has been shown to cause adverse health effects, including developmental effects to fetuses  
25 during pregnancy, immune effects, thyroid effects, and other effects, such as changes in cholesterol.

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