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11 CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 THE CALIFORNIA SPORTFISHING
16 PROTECTION ALLIANCE, a non-profit
17 corporation,

18 Plaintiff,

19 v.

20 CLOVER FLAT LAND FILL INC., a California
21 corporation

22 Defendant.

Civil No.

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND CIVIL
PENALTIES

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

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

25 **INTRODUCTION**

26 1. This is a civil suit brought under the citizen suit enforcement provision of the Federal
27 Water Pollution Control Act (the “Clean Water Act” or “the Act”), 33 U.S.C. § 1365(a)(1), to address
28

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
16 2. This Court has subject matter jurisdiction over the parties and the subject matter of this
17 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
18 action arising under the laws of the United States). The relief requested is authorized pursuant to 28
19 U.S.C. §§ 2201-02 (power to issue declaratory relief in case of actual controversy and further necessary
20 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33 U.S.C. §§
21 1319(d), 1365(a) (civil penalties).
22

23 3. On February 18, 2022, Plaintiff provided notice of Defendant’s violations of the Act,
24 and of Plaintiff’s intention to file suit against Defendant, to the U.S. Attorney General; Administrator of
25 the United States Environmental Protection Agency (“EPA”); the Administrator of EPA Region IX; the
26 Executive Director of the State Water Resources Control Board (“State Board”); the Interim Executive
27 Officer of the California Regional Water Quality Control Board, San Francisco Bay Region (“Regional
28

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

3 4. More than sixty (60) days have passed since notice was served on Defendant and the
4 State and federal agencies. Plaintiff is informed and believes, and thereupon alleges, that neither the EPA
5 nor the State of California has commenced or is diligently prosecuting a court action to redress the
6 violations alleged in this complaint. This action’s claim for civil penalties is not barred by any prior
7 administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
8

9 5. Venue is proper in the Northern District of California pursuant to section 505(c)(1) of
10 the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located within this judicial
11 district.
12

13 INTRADISTRICT ASSIGNMENT

14 6. Intradistrict assignment of this matter to the San Francisco Division of the Court is
15 appropriate pursuant to Civil Local Rule 3-2(d). The events or omissions which give rise to CSPA’s
16 claims occurred in Napa County, which is under the jurisdiction of the San Francisco Division of the
17 Northern District of California.
18

19 PARTIES

20 7. Plaintiff CSPA is a non-profit public benefit corporation organized under the laws of the
21 State of California with its main office in Stockton, California. CSPA’s members live and/or recreate in
22 and around waters of the San Francisco Bay, including the Napa River and its tributary downstream from
23 the Facility, also referred to as the unnamed creek. CSPA is dedicated to the preservation, protection, and
24 defense of the environment, the wildlife, and the natural resources of all waters of California. To further
25 these goals, CSPA actively seeks federal and state agency implementation of the Act, and, where
26 necessary, directly initiates enforcement actions on behalf of itself and its members.
27

28 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.

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.

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.

REGULATORY BACKGROUND

The Problem of Storm Water Pollution

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

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

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.

15 14. Per- and polyfluoroalkyl substances (“PFAS”), a large group of human-made substances
16 that do not occur naturally in the environment and are resistant to heat, water, and oil, including
17 perfluorooctane sulfonic acid (“PFOS”) and perfluorooctanoic acid (“PFOA”), have been found to enter
18 surface and groundwater, and subsequently drinking water, through contaminated storm water runoff
19 from industrial sites and landfills. PFAS are persistent in the environment, can accumulate within the
20 human body over time, and are toxic at relatively low concentrations. The State Board lists industrial
21 sites and landfills as two of the four major sources of PFAS. PFAS can get into drinking water when
22 storm water discharge from industrial sites and landfills containing PFAS flows into rivers and lakes used
23 for drinking water or seeps into groundwater. Once in groundwater, PFAS are easily transported large
24 distances and can contaminate drinking wells. Exposure to unsafe levels of PFAS, including
25 PFOA/PFOS, has been shown to cause adverse health effects, including developmental effects to fetuses
26 during pregnancy, immune effects, thyroid effects, and other effects, such as changes in cholesterol.
27
28

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