

ANDREW L. PACKARD (State Bar No. 168690)
 WILLIAM N. CARLON (State Bar No. 305739)
 LAW OFFICES OF ANDREW L. PACKARD
 245 Kentucky Street, Suite B3
 Petaluma, CA 94952
 Tel: (707) 782-4060
 Fax: (707) 782-4061
 andrew@packardlawoffices.com
 wncarlon@packardlawoffices.com

Attorneys for Plaintiff
 CALIFORNIA SPORTFISHING
 PROTECTION ALLIANCE

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA SPORTFISHING
 PROTECTION ALLIANCE,

Plaintiff,

v.

CANYON ROCK, CO., INC., and WENDEL
 TRAPPE,

Defendants.

Case No.

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

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

CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (“CSPA”), by and through its
 counsel, hereby alleges:

I. JURISDICTION AND VENUE

1. This is a civil suit brought under the citizen suit enforcement provision of the Federal
 Water Pollution Control Act, 33 U.S.C. §§ 1251–1387 (the “Clean Water Act”, the “CWA” or “the
 Act”) against Canyon Rock, Co., Inc. and Wendel Trappe (“Defendants”). This Court has subject matter
 jurisdiction over the parties and the subject matter of this action pursuant to Section 505(a)(1) of the Act,
 33 U.S.C. § 1365(a), and 28 U.S.C. § 1331 (an action arising under the laws of the United States).
 Specifically, this action arises under Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A) (citizen
 suit to enforce effluent standard or limitation). The relief requested is authorized pursuant to 33 U.S.C.

§1365(a) (injunctive relief), 1319(d) (civil penalties), and 28 U.S.C. §§ 2201–2202 (power to issue declaratory relief in case of actual controversy and further necessary relief based on such a declaration).

2. On November 26, 2019, Plaintiff provided written notice to Defendants, via certified mail, of Defendants’ violations of the Act (“Notice Letter”), and of its intention to file suit against Defendants, as required by the Act. *See* 33 U.S.C. § 1365(b)(1)(A); 40 C.F.R. § 135.2(a)(1). Plaintiff mailed a copy of the Notice Letter to the Administrator of the United States Environmental Protection Agency (“EPA”); the Administrator of EPA Region IX; the Executive Director of the State Water Resources Control Board (“State Board”); and the Executive Officer of the Regional Water Quality Control Board, North Coast Region (“Regional Board”), pursuant to 40 C.F.R. § 135.2(a)(1). A true and correct copy of the Notice Letter is attached hereto as **Exhibit A**, and is incorporated by reference.

3. More than sixty days have passed since Plaintiff served the Notice Letter on Defendants and the agencies. Plaintiff is informed and believes, and thereupon alleges, that neither the EPA nor the State of California has commenced nor is diligently prosecuting a court action to redress the violations alleged in this Complaint. This action’s claims for civil penalties are not barred by any prior administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

4. 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 sources of the violations are located within this District. Venue is also proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this District. Intra-district venue is proper in either San Francisco or Oakland, California, because the sources of the violations are located within Sonoma County.

II. INTRODUCTION

5. This Complaint seeks relief for Defendants’ violations of the CWA at the approximately 80-acre aggregate and rock processing facility located at 7525 Highway 116, in Forestville, California (the “Forestville Facility”), and at the approximately 120-acre aggregate and rock processing facility located at 600 Austin Creek Road, in Cazadero, California (the “Cazadero Facility” and together with the Forestville Facility, the “Facilities”). Defendants discharge pollutant-contaminated storm water

1 from the Forestville Facility into storm water conveyances that discharge to Green Valley Creek, which
2 drains to the Russian River. Defendants also discharge pollutant-contaminated storm water from the
3 Cazadero Facility into storm water conveyances that discharge into Austin Creek, which drains to the
4 Russian River. Green Valley Creek, Austin Creek and the Russian River (the “Impacted Waters”) are
5 waters of the United States within the meaning of the Clean Water Act. Defendants are in violation of
6 both the substantive and procedural requirements of the CWA.

7 6. Defendants’ discharges of polluted storm water from the Facilities violate Section 301 of
8 the Act, which prohibits the discharge of storm water associated with industrial activities to waters of
9 the United States except in compliance with the terms of a National Pollutant Discharge Elimination
10 System (“NPDES”) permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342. These
11 violations are ongoing and continuous.

12 7. Defendants’ discharges of polluted storm water from the Facilities violate the State of
13 California’s General Industrial Permit for storm water discharges, State Water Resources Control Board
14 (“State Board”) Water Quality Order No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-
15 DWQ, Water Quality Order No. 97-03-DWQ, and Water Quality Order No. 14-0057-DWQ, NPDES
16 General Permit No. CAS000001 (hereinafter “General Permit” or “Permit”). Defendants’ violations of
17 the permitting, filing, monitoring, reporting, discharge and management practice requirements, and other
18 procedural and substantive requirements of the General Permit and the Act are ongoing and continuous.

19 8. The failure on the part of industrial facility operators, such as Defendants, to apply for
20 and comply with the General Permit is recognized as a significant cause of the continuing decline in
21 water quality of receiving waters, such as the Russian River. The general consensus among regulatory
22 agencies and water quality specialists is that storm water pollution amounts to more than half the total
23 pollution entering the aquatic environment each year. With every rainfall event, hundreds of thousands
24 of gallons of polluted storm water originating from industrial facilities discharge to the impacted waters.

25 **III. PARTIES**

26 9. Defendant Canyon Rock Co., Inc. is a California corporation doing business as Canyon
27 Rock, Austin Creek Quarry, and River Ready Mix.

10. Defendant Wendel Trappe is the owner of Canyon Rock Co., Inc. and is identified as the Legally Responsible Person under the General Permit for both Facilities.

11. Defendants own and operate the Forestville Facility, an approximately 80-acre aggregate and rock processing facility located at 7525 Highway 116, in Forestville, California.

12. Defendants' primary industrial activities at the Forestville Facility include aggregate and rock material crushing, processing, screening, stockpiling and recycling, and producing ready-mix concrete. The Forestville Facility also includes a rock quarry, as well as a shop, fueling area, and a network of roads that provide connectivity between the various industrial areas.

13. The industrial activities at the Forestville Facility fall under Standard Industrial Classification ("SIC") Code 1442 ("Construction Sand and Gravel") and 3273 ("Ready-Mixed Concrete").

14. Defendants own and operate the Cazadero Facility, and approximately 120-acre aggregate and rock processing facility located at 600 Austin Creek Road, in Cazadero, California.

15. Defendants' primary industrial activities at the Cazadero Facility include aggregate and rock material crushing, and processing, screening, stockpiling and recycling. Industrial activities at the Cazadero Facility also include rock quarrying on the open faces of rock east of Austin Creek Road, as well as a shop, fueling area, and a network of roads that provide connectivity between the various industrial areas.

16. The industrial activities at the Cazadero Facility fall under SIC Code 1442 ("Construction Sand and Gravel").

17. Plaintiff CSPA is a non-profit public benefit corporation organized under the laws of California, with its main offices in Stockton, California. CSPA is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of California waters, including the waters into which Defendants discharge polluted storm water. To further its goals, CSPA actively seeks federal and state agency implementation of state and federal water quality laws, including the CWA, and as necessary, directly initiates enforcement actions on behalf of itself and its members.

18. Members of CSPA, including citizens, taxpayers, property owners, and residents, live, work, travel and recreate on and near the Impacted Waters, into which Defendants cause pollutants to be discharged. These members of CSPA use and enjoy the Impacted Waters for recreational, educational, scientific, conservation, aesthetic and spiritual purposes. Defendants' discharges of storm water containing pollutants impairs each of those uses. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by Defendants' failure to comply with the Clean Water Act and the General Permit.

19. Members of CSPA reside in California and use and enjoy California's numerous rivers for recreation and other activities. Members of CSPA use and enjoy the Impacted Waters, into which Defendants have caused, are causing, and will continue to cause, pollutants to be discharged. Members of CSPA use these areas to fish, boat, kayak, swim, bird watch, view wildlife, and engage in scientific study, including monitoring activities, among other things. Defendants' discharges of pollutants threaten or impair each of those uses or contribute to such threats and impairments. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by Defendants' ongoing failure to comply with the Clean Water Act. The relief sought herein will redress the harms to Plaintiff caused by Defendants' activities because that relief will significantly reduce pollution discharged from Defendants' Facilities into the Impacted Waters.

20. Continuing commission of the acts and omissions alleged above will irreparably harm Plaintiff and the citizens of the State of California, for which harm they have no plain, speedy or adequate remedy at law.

IV. LEGAL BACKGROUND

A. Clean Water Act

21. Congress enacted the CWA to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). The CWA establishes an "interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water" 33 U.S.C. § 1251(a)(2). To these ends, Congress developed both a water quality-based and a technology-based approach to regulating discharges of

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