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CALIFORNIA RIVER WATCH

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 CALIFORNIA RIVER WATCH, an IRC  
Section 501(c)(3), non-profit, public benefit  
13 corporation,

Plaintiff,

14 v.

15 DONALD J. MOREDA, JR., DEBORAH  
MOREDA, STEPHANIE MOREDA-AREND,  
16 and DOES 1 - 10, Inclusive,

17 Defendants.

Case No.: 3:21-cv-00045

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

(Environmental - Clean Water Act  
33 U.S.C. § 1251 *et seq.*)

18  
19 Plaintiff CALIFORNIA RIVER WATCH, an Internal Revenue Code § 501(c)(3), non-profit,  
20 public benefit corporation, (“RIVER WATCH”) hereby brings this civil action pursuant to the Federal  
21 Water Pollution Control Act, also known as the Clean Water Act (“CWA”), 33 U.S.C. §§ 1251 *et seq.*

22 **I. INTRODUCTION**

23 1. This action is a citizens’ suit for injunctive relief, civil penalties, and remediation brought against  
24 Defendants DONALD MOREDA, JR., DEBORAH MOREDA, STEPHANIE MOREDA-AREND, and  
25 DOES 1 - 10, Inclusive, (collectively, “MOREDA”) for routinely draining Moreda Lake<sup>1</sup>, a water of the  
26 United States, and the discharging of its contents to San Antonio Creek, which drains to the Petaluma

27  
28 <sup>1</sup> Note that the use of the name Moreda Lake, also labeled as Moreda Laguna and Lake Laguna in published mapping, is used here to ensure uniformity throughout the Complaint.

1 River, which empties to San Francisco Bay, all waters of the United States, without a National Pollutant  
2 Discharge Elimination (“NPDES”) permit as required by CWA § 301(a), 33 U.S.C. § 1311(a), and CWA  
3 §§ 402(a) and 402(b), 33 U.S.C. §§ 1342(a) and 1342(b).

4 2. On or about March 11, 2020, RIVER WATCH provided notice of MOREDA’s violations of the  
5 CWA to the (1) Administrator of the United States Environmental Protection Agency (“EPA”), (2)  
6 EPA’s Regional Administrator for Region Nine, (3) Executive Director of the State Water Resources  
7 Control Board (“State Board”), (4) Donald J. Moreda, Jr., (5) Deborah Moreda and (6) Stephanie  
8 Moreda-Arend as required by the CWA, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of RIVER  
9 WATCH’s 60-Day Notice of Violations (“Notice”) is attached as **EXHIBIT A** and incorporated by  
10 reference. Donald J. Moreda, Jr., Deborah Moreda, Stephanie Moreda-Arend, the State Board, the  
11 Regional and National Administrators of EPA all received this Notice.

12 3. More than sixty days have passed since RIVER WATCH’s Notice was served on Donald J.  
13 Moreda, Jr., Deborah Moreda, Stephanie Moreda-Arend, the State Board, and the Regional and National  
14 EPA Administrators. RIVER WATCH is informed and believes, and thereupon alleges, that neither the  
15 EPA nor the State of California has commenced or is diligently prosecuting a court action to redress the  
16 violations alleged in this Complaint. This action’s claim for civil penalties is not barred by any prior  
17 administrative penalty under section 309(g) of the CWA, 33 U.S.C. § 1319(g).

## 18 **II. JURISDICTION and VENUE**

19 4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal  
20 question), and 33 U.S.C. § 1365(a) (CWA citizen suit jurisdiction). The relief requested is authorized  
21 pursuant to 28 U.S.C. §§ 2201-2202 (declaratory relief), 33 U.S.C. §§ 1319(b), 1365(a) (injunctive  
22 relief), and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

23 5. Venue is proper because MOREDA, and the events or omissions giving rise to RIVER  
24 WATCH’s claims occurred, in this District. 28 U.S.C. § 1391(b)(1),(2). Venue is also proper because  
25 MOREDA’s CWA violations have occurred and are occurring within the District. 33 U.S.C. §  
26 1365(c)(1).

## 27 **III. PARTIES**

28 6. RIVER WATCH is, and at all times relevant to this Complaint was, an Internal Revenue Code

1 § 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California,  
2 with headquarters located in Sebastopol, California and mailing address of 290 S. Main Street, #817,  
3 Sebastopol, California 95472. The specific purpose of RIVER WATCH is to protect, enhance and help  
4 restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools,  
5 aquifers and associated environs, biota, flora and fauna, and to educate the public concerning  
6 environmental issues associated with these environs. Members of RIVER WATCH have interests in the  
7 waters and watersheds which are adversely affected by MOREDA's discharges and violations of the  
8 CWA as alleged herein. Said members use the effected waters and watershed areas for fishing, hiking,  
9 photography, nature walks and/or the like. Furthermore, the relief sought will redress the injury in fact,  
10 likelihood of future injury, and interference with the interests of said members. MOREDA's ongoing  
11 violations of the CWA will cause irreparable harm to members of RIVER WATCH for which they have  
12 no plain, speedy, or adequate remedy. The relief requested will redress the ongoing injury in fact to  
13 RIVER WATCH's members.

14 7. RIVER WATCH is informed and believes, and on such information and belief alleges, that  
15 Defendant DONALD MOREDA, JR. is now, and at all times relevant to this Complaint was, an  
16 individual residing in Sonoma County, California, and a person both holding an ownership interest in  
17 and conducting agricultural operations on, that multi-acre parcel of agricultural real property located  
18 at 3286 Chileno Valley Road, Petaluma, California and designated in the office of the Sonoma County  
19 Assessor as Assessor's Parcel No. 020-090-005-000 (the "SITE").

20 8. RIVER WATCH is informed and believes, and on such information and belief alleges, that  
21 Defendant DEBORAH MOREDA is now, and at all times relevant to this Complaint was, an individual  
22 residing in Sonoma County, California, and a person both holding an ownership interest in and  
23 conducting agricultural operations on, the SITE.

24 9. RIVER WATCH is informed and believes, and on such information and belief alleges, that  
25 Defendant STEPHANIE MOREDA-AREND is now, and at all times relevant to this Complaint was,  
26 an individual residing in Sonoma County, California, and a person who serves as the representative of  
27 MOREDA in correspondence with RIVER WATCH regarding the conduct of agricultural operations  
28 on the SITE.

1 10. DEFENDANTS DOES 1 - 10, Inclusive, respectively are persons, partnerships, corporations or  
2 entities, who are, or were, responsible for, or in some way contributed to, the violations which are the  
3 subject of this Complaint or are, or were, responsible for the maintenance, management, supervision,  
4 operations, or insurance coverage of the SITE. The names, identities, capacities, or functions of  
5 DEFENDANTS DOES 1 - 10, Inclusive are presently unknown to RIVER WATCH. RIVER WATCH  
6 shall seek leave of court to amend this Complaint to insert the true names of said DOES Defendants  
7 when the same have been ascertained.

8 **IV. FACTUAL ALLEGATIONS WHICH GIVE RISE TO CLAIMS**

9 11. RIVER WATCH incorporates by reference all the foregoing including **EXHIBIT A** as though  
10 the same were separately set forth herein. RIVER WATCH takes this action to ensure compliance with  
11 the CWA, which regulates the discharge of pollutants into navigable waters. The statute is structured  
12 in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory  
13 provisions. One such exception authorizes a discharger, who has been issued a permit pursuant to CWA  
14 § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions.  
15 The effluent discharge standards or limitations specified in an NPDES permit define the scope of the  
16 authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition, such that violation of a  
17 permit limit places a discharger in violation of the CWA.

18 12. The CWA provides that authority to administer the NPDES permitting system in any given state  
19 or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the  
20 applicable state or regional regulatory scheme under which the local agency operates satisfies certain  
21 criteria (*see* CWA § 402(b), 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to  
22 a state regulatory apparatus comprised of the State Water Resources Control Board and several  
23 subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for  
24 issuing NPDES permits and otherwise regulating MOREDA's operations in the region at issue in this  
25 Complaint is the Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB").

26 13. While delegating authority to administer the NPDES permitting system, the CWA provides that  
27 enforcement of permitting requirements under the statute relating to effluent standards or limitations  
28 imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision

1 of the statute (*see* CWA § 505, 33 U.S.C. § 1365). RIVER WATCH is exercising such citizen  
2 enforcement to enforce compliance by MOREDA with the CWA.

3 14. RIVER WATCH has identified the draining and dewatering of Moreda Lake, a water of the  
4 United States located on the SITE, and the discharging of its contents to San Antonio Creek, which  
5 drains to the Petaluma River, which empties to San Francisco Bay, all waters of the United States, and  
6 farming (e.g. planting corn, silage) at the SITE without an NPDES permit, in violation of CWA § 301(a),  
7 33 U.S.C. 1311(a), which states in relevant part, “Except as in compliance with this section and sections  
8 302, 306, 307, 318, 402, and 404 of this Act [33 U.S.C. §§ 1312, 1316, 1317, 1328, 1342, 1344], the  
9 discharge of any pollutant by any person shall be unlawful.” The act defines “discharge of a pollutant”  
10 as (A) any addition of any pollutant to navigable waters from any point source...”. 33 U.S.C. 33 U.S.C.  
11 § 1362(12). Each and every discharge is a separate violation of the CWA. These enumerated violations  
12 are based upon RIVER WATCH’s own investigations, review of the RWQCB files for the SITE,  
13 interviews with area residents, and review of other files publicly available.

14 This Complaint includes any and all violations evidenced by records and monitoring data for the  
15 SITE which MOREDA, or those in its behalf, have submitted (or failed to submit) to the RWQCB  
16 and/or other regulatory agencies during the period March 1, 2015 to March 1, 2020. This Complaint also  
17 includes any and all violations which may have occurred but for which data may not have been available  
18 or submitted or apparent from the face of the reports or data submitted by MOREDA to the RWQCB  
19 or other regulatory agencies. Observations indicate that the discharge from the SITE is continuous and  
20 therefore the violations of the CWA are continuous.

21 15. RIVER WATCH alleges that for the period March 1, 2015 to the present, MOREDA has  
22 violated the Act as described herein. RIVER WATCH alleges these violations are continuing or have  
23 a likelihood of occurring in the future.

## 24 **V. STATUTORY AND REGULATORY BACKGROUND**

25 16. CWA § 301(a), 33 U.S.C. § 1311(a) prohibits discharges of pollutants or activities not authorized  
26 by, or in violation of, an effluent standard or limitation or an order issued by the EPA or a State with  
27 respect to such a standard or limitation including a NPDES permit issued pursuant to CWA § 402, 33  
28 U.S.C. § 1342. Additional sets of regulations are set forth in the Basin Plan, California Toxics Rule, the

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