

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

July 7, 2021

CONSERVATION LAW FOUNDATION,
INC.,

Plaintiff,

v.

GULF OIL LIMITED PARTNERSHIP,

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff Conservation Law Foundation, Inc. (“CLF”), by and through its counsel, hereby alleges:

INTRODUCTORY STATEMENT

1. This is a civil suit brought under the citizen suit enforcement provisions of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq. (“Clean Water Act”), and the Solid Waste Disposal Act, 42 U.S.C. §§ 6901, et seq. (“Resource Conservation and Recovery Act” or “RCRA”). Plaintiff CLF seeks declaratory and injunctive relief, civil penalties, and other relief the Court deems proper to remedy Defendant Gulf Oil Limited Partnership’s (hereinafter “Defendant” or “Gulf”) violations of federal law, which include: (1) Gulf’s past and ongoing failures to comply with Connecticut Industrial Stormwater Permit No. GSI001571 (the “Permit”), and the Clean Water Act; (2) the Gulf facility’s location in a floodplain with improperly managed susceptibility to washout of solid waste that poses a hazard to human life, wildlife, and land and water resources; (3) Gulf’s past and present contribution to handling, storage, treatment, transportation, or disposal of solid and hazardous wastes that may present an imminent and substantial endangerment to health or the environment in violation of RCRA; (4) Gulf’s failure to operate and maintain its facility to minimize the possibility of a fire, explosion, or any unplanned

release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

2. These violations of federal law have occurred, are occurring, and—in the absence of a remedial order from this Court—will continue to occur at Gulf’s New Haven Terminal, a bulk storage and fuel terminal located at 500 Waterfront Street, New Haven, Connecticut (hereinafter “Terminal”).

JURISDICTION AND VENUE

3. CLF brings this civil suit under the citizen suit enforcement provisions of Section 505 of the Clean Water Act, 33 U.S.C. § 1365, and Section 7002 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6972. This Court has subject matter jurisdiction over the parties and this action pursuant to those statutes and 28 U.S.C. § 1331 (providing district courts with original jurisdiction over an action arising under the Constitution and laws of the United States).

4. Venue is proper in the U.S. District Court for the District of Connecticut pursuant to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), and Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), because the source of the violations is located within this judicial district.

5. On July 28, 2020, CLF notified Gulf of its intention to file suit for violations of both (i) the Clean Water Act, in compliance with the statutory notice requirements set forth in 33 U.S.C. § 1365(b)(1), and the corresponding regulations at 40 C.F.R. Part 135, and (ii) RCRA, in compliance with the statutory notice requirements set forth in 42 U.S.C. § 6972(b)(2)(A), and the corresponding regulations at 40 C.F.R. Part 254. CLF’s Notice Letter (Jul. 28, 2020) (hereinafter, “CLF’s Notice Letter”). A true and accurate copy of CLF’s Notice Letter is appended hereto as Exhibit A.

6. More than ninety days have elapsed since CLF’s Notice Letter was served on Gulf, during which time neither the Environmental Protection Agency (“EPA”) nor the Connecticut Department

of Energy and Environmental Protection (“CT DEEP”) has commenced and/or diligently prosecuted a court action to redress the Clean Water Act and RCRA violations alleged in this complaint. *See* 33 U.S.C. § 1365(b)(1)(B); 42 U.S.C. § 6972(b)(1)(B).

7. Further, neither EPA nor CT DEEP has taken administrative action to redress the Clean Water Act or RCRA violations alleged in this complaint.

PARTIES

I. Plaintiff

8. Plaintiff CLF is a 501(c)(3) nonprofit, member-supported organization dedicated to the conservation and protection of New England’s public health, environment, and natural resources. It is incorporated under the laws of Massachusetts with its principal place of business at 62 Summer Street, Boston, MA 02110. CLF operates in Connecticut through local actions and out of its Rhode Island office at 235 Promenade Street, Suite 560, Providence, RI 02908. CLF has over 5,000 members, including over 190 members in Connecticut. CLF has long worked to protect the health of New England’s waterways, including addressing the significant water quality impacts of industrial and stormwater pollution.

9. CLF members live near, recreate on, and regularly visit the area and waters near Gulf’s Terminal, including, but not limited to, the New Haven Harbor, the Quinnipiac River, and the Mill River. CLF members use and enjoy these waters for recreational and aesthetic purposes, including, but not limited to, boating, swimming, fishing, observing wildlife, and sightseeing; they intend to continue to engage in these activities in the future.

10. CLF and its members are harmed and threatened by Gulf’s acts and omissions at the Terminal and its violations of environmental laws and regulations.

11. CLF and its members are also concerned about, and have an interest in, eliminating the risk from the discharge and/or release of pollutants from the Terminal into the New Haven Harbor, the Quinnipiac River, and the Mill River, as well as into nearby communities and ecosystems.

12. CLF and its members are affected by, and concerned with, pollutant discharges and/or releases resulting from Gulf's failure to satisfy its obligations under the Clean Water Act and RCRA.

13. Further, in addition to pollutant discharges and/or releases due to precipitation, the Terminal has not been designed or modified to address pollutant discharges and/or releases due to flooding; specifically, the Terminal is likely to discharge and/or release pollutants into surrounding surface waters, groundwater, the community, and the air because it has not been designed to withstand flooding associated with storm events and storm surge, tides, sea level rise, and increasing sea surface temperatures.

14. The substantial risk of pollutant discharges and/or releases at the Terminal is due to factors including, but not limited to, inadequate infrastructure design and Gulf's failure to sufficiently prepare for precipitation and/or flooding, which is exacerbated by storms and storm surge, sea level rise, and increasing sea surface temperatures, as discussed in Section IV.A, *infra*.

15. CLF and its members are placed directly in harm's way by Gulf's pollutant discharges, releases, and/or risk of releases and have no assurance that they will be protected from pollutants released and/or discharged from the Terminal. Gulf is not in compliance with the Permit, the Clean Water Act, or RCRA for, at a minimum, the reasons set forth herein, including, but not limited to, Gulf's (i) failure to eliminate non-stormwater discharges; (ii) activity inconsistent with Connecticut's Coastal Management Act, which is causing adverse impacts to coastal resources; (iii) unlawful certification of its Stormwater Pollution Prevention Plan ("SWPPP"); (iv) failure to

identify sources of pollution reasonably expected to affect the quality of stormwater discharges; (v) failure to describe and implement practices to reduce pollutants and assure permit compliance; (vi) failure to implement measures to manage runoff; (vii) failure to minimize the potential for leaks and spills; (viii) failure to submit required facts or information to CT DEEP; (ix) failure to amend or update the SWPPP; (x) failure to identify discharges to impaired waters in the SWPPP; (xi) failure to conduct monitoring for discharges to impaired waters; (xii) failure to identify outfalls in the SWPPP; (xiii) failure to monitor discharges from all outfalls; (xiv) illegal infiltration of stormwater; (xv) failure to maintain an impervious containment area; (xvi) open dumping of waste in violation of RCRA; (xvii) creation of an imminent and substantial endangerment to health or the environment in violation of RCRA; and (xviii) failure to comply with state and federal RCRA regulations applicable to generators of hazardous wastes.

II. Defendants

16. Defendant Gulf Oil Limited Partnership is headquartered in Wellesley Hills, Massachusetts. Gulf is primarily a refined petroleum products terminaling, storage, and logistics business, as well as a distributor of motor fuels.

17. Gulf Oil Limited Partnership was formed in 1993 as a joint venture between Cumberland Farms, Inc. and Catamount Petroleum Limited Partnership.

18. In 2015, full ownership of Gulf Oil Limited Partnership was acquired by subsidiaries of ArcLight Capital Partners.

19. Upon information and belief, Gulf owns approximately 14 million barrels of oil storage capacity.

20. Gulf owns and operates the bulk petroleum storage terminal located at 500 Waterfront Street, New Haven, Connecticut 06512.

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