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Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MONTANA - BUTTE DIVISION

COTTONWOOD)
ENVIRONMENTAL LAW CENTER;)
MONTANA RIVERS; and)
GALLATIN WILDLIFE)
ASSOCIATION,)

Plaintiffs,

vs.

RON EDWARDS, in his official)
capacity as Manager of the Big Sky)
Water and Sewer District; and BIG)
SKY WATER AND SEWER)
DISTRICT,)

Defendants.

Case No. _____

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

INTRODUCTION

1. Cottonwood Environmental Law Center (Cottonwood), Montana Rivers, and Gallatin Wildlife Association (collectively; Community Groups) bring this action against the Big Sky Water and Sewer District Water Resources Recovery Facility (WRRF) for their ongoing violations of the Clean Water Act (CWA) by discharging pollutants into the West Fork of the Gallatin River without a National Pollutant Discharge Elimination System (NPDES) permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a). The CWA requires that the Montana Department of Environmental Quality issue permits before it allows any discharge of pollutants into Montana's waterways.

2. The Big Sky Water and Sewer District manages the Water Resources Recovery Facility, a treatment center and set of holding ponds in Big Sky, Montana, adjacent to the West Fork of the Gallatin River (West Fork). Wastewater from a pipe near a holding pond is discharging directly into the West Fork of the Gallatin River. The wastewater is contaminated with pharmaceuticals, chloride, nitrate, calcium, fluoride, iron, lithium, magnesium, potassium, sodium and sulfate and other pollutants.

3. The discharge exposes the West Fork of the Gallatin River, the Gallatin River, and all water bodies to which the Gallatin River is a tributary to pollutants. The West Fork is already listed as an impaired water body by MTDEQ, and further

unregulated discharge exacerbates the problem and does not comply with the applicable Water Quality Improvement Plan. The unlawful discharge harms plaintiffs' members' recreational, scientific and aesthetic interests in the water quality, aquatic species, and the health of the Gallatin River watershed. Plaintiffs' members do not want to recreate in treated waste water.

4. Plaintiffs seek declaratory and injunctive relief prohibiting Defendant from discharging pollutants without obtaining and complying with an NPDES permit, as well as an award of litigation costs, Cottonwood's attorney fees, and expert witness fees.

JURISDICTION AND VENUE

5. This court has subject matter jurisdiction over the claims for violations of the CWA set forth in this Complaint pursuant to the CWA, 33 U.S.C. § 1365(a)(2). This cause of action arises under 33 U.S.C § 1365 (f)(1) as a violation of 33 U.S.C. § 1311(a).

6. Defendant is in violation of the CWA by discharging pollutants without a NPDES permit. The requested relief is proper under the CWA, 33 U.S.C 1365(a).

7. Venue in the United States District Court for the District of Montana is proper under 33 U.S.C. § 1365 (c) because defendant WRRF is located at 561 Little Coyote Road, Big Sky, Montana, 59716, and is thus within this district.

8. As required by the CWA, 33 U.S.C. § 1365(b)(1)(A), Cottonwood provided Defendant with notice of its intent to sue more than sixty (60) days before filing this Complaint. Cottonwood also notified the Administrator of the United States Environmental Protection Agency (EPA), and the Montana DEQ (MTDEQ) of its intent to sue. Each recipient received notice on April 27th, 2020. Neither EPA nor DEQ have commenced any enforcement action to correct Defendant's CWA violation.

PARTIES

9. Plaintiff Cottonwood Environmental Law Center (Cottonwood) is a conservation organization with members throughout the West dedicated to protecting the people, forests, water, and wildlife in the American West. Cottonwood's goal is to enforce environmental regulations on behalf of its members. Cottonwood's members use the Gallatin River watershed for fishing, swimming, rafting, photography, guiding, and consumption. Cottonwood's members are concerned about water quality of the Gallatin River watershed and are adversely affected by unlawfully discharged pollution into this waterbody.

10. Pollution discharges from the WRRF degrades water quality and, thereby, harms fish and other aquatic life and diminish the aesthetic quality of the watershed.

11. Community Groups and their staff, members, and supporters have suffered and continue to suffer injury-in-fact on account of WRRF's CWA violations as alleged herein. The injury-in-fact is traceable to WRRF's conduct and would be redressed by the relief Plaintiffs seek.

12. Community groups' members use and enjoy the West Fork for recreational purposes on an ongoing basis. Members recreate in the Gallatin River watershed and fish in the West Fork. Illegal discharge of wastewater harms their recreational, aesthetic and conservation interests by degrading water quality. Members are concerned the discharge will impact their use of the West Fork, and have refrained from recreational activities on the West Fork and Gallatin Rivers upon learning about wastewater flowing into the river. Members float on the Gallatin River and are concerned about swimming in pharmaceutical wastewater.

13. Community Groups also suffer injury-in-fact because they have devoted time, energy, and money to protecting water quality and fisheries, and monitoring the West Fork. Over the last five months, Community Groups closely monitored discharges from the WRRF site, and have sent staff and contractors to visit the area, observe and document illegal discharges, and evaluate water quality impacts.

14. Defendant RON EDWARDS is sued in his official capacity as Manager of Big Sky Water and Sewer District Water Resources Recovery Facility. As Manager, Mr. Edwards is in the highest position at the facility, where he has the

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