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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COLUMBIA RIVERKEEPER,

Plaintiff,

v.

NORTH PACIFIC PAPER COMPANY, LLC,

Defendant.

Case No. 3:22-cv-05123

COMPLAINT

I. INTRODUCTION.

1. This action is a citizen suit brought under section 505 of the Clean Water Act (“CWA”), 33 U.S.C. § 1365, as amended. Plaintiff Columbia Riverkeeper (“Riverkeeper”) seeks declaratory and injunctive relief, the imposition of civil penalties, and the award of costs, including attorneys’ and expert witness fees for Defendant North Pacific Paper Company, LLC’s (“NORPAC”) repeated and ongoing violations of the terms and conditions of its National

1 Pollutant Discharge Elimination System (“NPDES”) permit authorizing discharges of pollutants
2 from NORPAC’s facility to waters of the United States, and of the requirements of the
3 Washington Department of Ecology (“Ecology”) Administrative Order No. 18227 issued to
4 NORPAC on August 7, 2020 (“Ecology Order”).

5 **II. JURISDICTION AND VENUE.**

6
7 2. This Court has subject matter jurisdiction under section 505(a) of the CWA, 33
8 U.S.C. § 1365(a) (CWA citizen suit provision), and 28 U.S.C. § 1331 (federal question).
9 NORPAC is in violation of an “effluent standard or limitation” as defined by section 505(f) of
10 the CWA, 33 U.S.C. § 1365(f), and “an order issued by . . . a State with respect to such a
11 standard or limitation,” 33 U.S.C. § 1365(a)(1). The relief requested herein is authorized by
12 sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d) and 1365, and 28 U.S.C. §§ 2201
13 and 2202.
14

15 3. In accordance with section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A),
16 Riverkeeper notified NORPAC of its violations of the NPDES permit and the Ecology Order and
17 of Riverkeeper’s intent to sue under the CWA by letter dated and postmarked December 21,
18 2021 (“Notice Letter”). A copy of the Notice Letter is attached to this complaint as Exhibit 1.
19 Riverkeeper also notified the Administrator of the United States Environmental Protection
20 Agency (“EPA”), the Administrator of EPA Region 10, and the Director of Ecology by mailing
21 copies of the Notice Letter to those officials on December 21, 2021.
22

23 4. At the time of the filing of this complaint, more than sixty days have passed since
24 the Notice Letter and copies thereof were issued in the manner described in the preceding
25 paragraph.

26 5. The violations complained of in the Notice Letter are continuing and/or
27 reasonably likely to recur. NORPAC is in violation of its NPDES permit and the Ecology Order.
28

1 6. At the time of the filing of this complaint, neither the EPA nor Ecology has
2 commenced any action constituting diligent prosecution to redress the violations alleged in the
3 Notice Letter.

4 7. The source of the violations complained of is located in Cowlitz County,
5 Washington, within the Western District of Washington, and venue is therefore appropriate in
6 the Western District of Washington under section 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1).
7

8 III. PARTIES.

9 8. Plaintiff Columbia Riverkeeper is suing on behalf of itself and its members.
10 Riverkeeper is a 501(c)(3) non-profit corporation registered in the State of Washington.
11 Riverkeeper's mission is to restore and protect the water quality of the Columbia River and all
12 life connected to it, from the headwaters to the Pacific Ocean. To achieve these objectives,
13 Riverkeeper implements scientific, educational, and legal programs aimed at protecting water
14 quality and habitat in the Columbia River Basin. This lawsuit is part of Riverkeeper's effort to
15 improve water quality in the Columbia River Basin for purposes including recreation; habitat
16 quality; and subsistence, recreational, and commercial fishing.
17

18 9. Riverkeeper has representational standing to bring this action. Riverkeeper has
19 over 16,000 members, many of whom reside in the vicinity of waters affected by NORPAC's
20 discharges of pollutants. Members of Riverkeeper use and enjoy the waters and the surrounding
21 areas that are adversely affected by NORPAC's discharges. Riverkeeper's members use these
22 areas for, *inter alia*, fishing, swimming, hiking, walking, photography, boating, and observing
23 wildlife. NORPAC has consistently violated the conditions of its NPDES permit, exceeded the
24 permit's benchmark pollutant discharge levels, and violated the conditions of the Ecology Order
25 aimed at ameliorating the NPDES permit violations. Riverkeeper has serious concerns about the
26 impacts of NORPAC's operations and pollution discharges on the Columbia River because the
27
28

1 discharges degrade water quality in the Columbia River Basin. The environmental, health,
2 aesthetic, and recreational interests of Riverkeeper's members have been, are being, and will be
3 adversely affected by NORPAC's violations of the NPDES permit and Ecology Order addressed
4 herein and by the members' reasonable concerns related to the effects of the violations and
5 pollutant discharges. These injuries are fairly traceable to the violations and redressable by this
6 Court.
7

8 10. Defendant NORPAC is a corporation organized and existing under the laws of the
9 State of Delaware, authorized to conduct business in Washington, and has a principal place of
10 business at 3001 Industrial Way, Longview, Washington, 98632-1057.

11 11. NORPAC owns and operates its industrial facility at or near 3001 Industrial Way,
12 Longview, Washington, 98632-1057 (hereinafter "the Facility").
13

14 IV. LEGAL BACKGROUND.

15 12. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of
16 pollutants by any person unless authorized under certain provisions of the CWA, including an
17 NPDES permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342.

18 13. The State of Washington has established a federally approved state NPDES
19 program administered by Ecology. Wash. Rev. Code § 90.48.260; Wash. Admin. Code ch. 173-
20 220. This program was approved by the Administrator of the EPA pursuant to section 402(b) of
21 the CWA, 33 U.S.C. § 1342(b).
22

23 14. Section 505(a) of the CWA, 33 U.S.C. § 1365(a), provides that any citizen may
24 commence a civil action against any person alleged to be in violation of an effluent standard or
25 limitation, or an order issued by a State with respect to such a standard or limitation. Section
26 505(f), 33 U.S.C. § 1365(f), defines "effluent standard or limitation" to include an NPDES
27 permit or condition of an NPDES permit. *See* 33 U.S.C. § 1341.
28

V. FACTS.

15. On July 17, 2019, Ecology issued to NORPAC an NPDES permit, no. WA0991016 (“the Permit”), which became effective on August 1, 2019. The Permit imposes terms and conditions, including numeric effluent limits on discharges of process wastewater, discharge benchmarks and adaptive management requirements for discharges of stormwater associated with industrial activities, monitoring and sampling requirements, reporting and recordkeeping requirements, and prohibitions on certain discharges. The Permit also requires that NORPAC develop and implement a Stormwater Pollution Prevention Plan (“SWPPP”) that includes appropriate best management practices (“BMPs”) and that applies all known and reasonable methods of pollution prevention, control, and treatment (“AKART”) to discharges of stormwater associated with industrial activity.

16. NORPAC discharges process wastewater to a wastewater treatment plant owned and operated by Nippon Dynawave Packing Company, which discharges to the Columbia River.

17. NORPAC discharges stormwater associated with industrial activity and other pollutants to the Columbia River and/or to Ditch No. 3 of the Consolidated Diking Improvement District No. 1, which discharges to the Columbia River, via stormwater conveyance systems.

18. NORPAC has violated the terms and conditions of its Permit. NORPAC’s violations of the Permit are set forth in section II of the Notice Letter, attached hereto as Exhibit 1 at 2–20, and are incorporated herein by this reference. In particular, and among the other violations described in the Notice Letter, NORPAC has violated the Permit by exceeding the Permit’s numeric effluent limitations, failing to complete the required corrective actions after triggering specific benchmark exceedances, discharging process wastewater, failing to properly monitor and report discharges, failing to develop and implement a SWPPP with adequate BMPs to control stormwater quality, and failing to timely submit complete and accurate reports.

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