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**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

COMMUNITY ENVIRONMENTAL  
ADVOCATES FOUNDATION,

Plaintiff,

v.

RISE GRASS VALLEY, INC. and RISE  
GOLD CORP.,

Defendants.

Case No.:

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

**[Violations of the Clean Water Act]**

1 Plaintiff, Community Environmental Advocates Foundation, by and through its  
2 undersigned attorneys, brings this civil action for declaratory and injunctive relief and civil  
3 penalties, and alleges as follows:

#### 4 **INTRODUCTION**

5 1. Federal law prohibits the discharge of pollutants into waters of the United States  
6 without a valid permit. Defendants Rise Grass Valley, Inc. and Rise Gold Corp. (collectively,  
7 “Rise” or “Defendants”) own the defunct and long-abandoned Idaho-Maryland Mine in the  
8 Sierra Nevada foothills. For years, Defendants have knowingly allowed numerous harmful  
9 pollutants from the Mine’s flooded underground workings to discharge from surface drains  
10 directly to Wolf Creek, an important tributary in the Feather River watershed. This discharge has  
11 occurred without any permit under the Clean Water Act. Plaintiff Community Environmental  
12 Advocates Foundation brings this lawsuit to put an end to Defendants’ ongoing illegal conduct.

13 2. The historical Idaho-Maryland Mine was one of the most productive gold mines in  
14 the United States. From its opening in the 1860s, the Mine yielded over 2.4 million ounces of  
15 gold, collected from over 70 miles of underground tunnels and shafts. When the Mine  
16 permanently halted operations in the mid-1950s, those miles of subsurface workings were  
17 allowed to flood. Over the next seven decades, a steady stream of Mine water mixed with  
18 arsenic, iron, manganese, ammonia, and other chemicals has flowed from the flooded  
19 underground workings to surface drains, and then on to waterbodies like Wolf Creek.

20 3. Wolf Creek is a perennial stream that flows through Grass Valley, California. The  
21 Creek and its surrounding watershed provides habitats for a range of plant and animal species,  
22 including species listed on the federal and state Endangered Species Acts. Wolf Creek also hosts  
23 a range of recreational uses, such as hiking, swimming, and fishing. The heavy metals and other  
24 chemical pollutants that are discharged directly into Wolf Creek from the Idaho-Maryland Mine  
25 impair the aquatic ecosystems of the Wolf Creek watershed, are harmful to its animal and plant  
26 species, pose risks to human health, and impair the use of the stream’s water for irrigation.

27 4. In 2017, Rise Grass Valley, Inc. purchased the Idaho-Maryland Mine site with  
28 ambitions of restarting large-scale gold mining operations there. Rise commissioned an expert

hydrology and water quality report in connection with its proposal to reopen the Mine. That 2021 report explained that polluted water from the Mine’s flooded underground workings was flowing from several surface drains directly into Wolf Creek. It further concluded that these ongoing discharges have an adverse impact on the water quality of Wolf Creek itself. An earlier study commissioned by the U.S. Environmental Protection Agency reached similar conclusions. Despite knowing of this ongoing pollution and its impacts to Wolf Creek, Rise has not attained a valid permit to cover the discharges—and has not taken any other steps to put an end to the pollution—in the more than seven years that it has owned the Idaho-Maryland Mine site.

5. The discharge of heavy metals and other pollutants into Wolf Creek causes harm to Plaintiff and its members and officers. Plaintiff’s members and officers live near, recreate in, and use the waters of Wolf Creek and downstream waterbodies.

6. Defendants’ conduct is ongoing. Pollutants have flown constantly from the Mine drains to Wolf Creek since Defendants have owned the property. Absent declaratory and injunctive relief, this unpermitted pollution will continue to occur, Plaintiff and its members and officers will continue to be harmed, and the Wolf Creek watershed will continue to be degraded.

7. Defendants’ conduct violates federal law, and this Court can and should enjoin the unpermitted discharge of polluted Mine water into Wolf Creek.

8. Plaintiff seeks a declaratory judgment, injunctive relief, the imposition of civil penalties, and the award of costs, including attorney and expert witness fees, for Defendants’ longstanding, knowing, and ongoing violations.

### **JURISDICTION AND VENUE**

9. This is a civil suit brought under the citizen suit enforcement provision of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (“Clean Water Act” or “Act”). *See* 33 U.S.C. § 1365(a). This Court has subject matter jurisdiction over the parties and this action pursuant to 33 U.S.C. section 1365(a)(1) and 28 U.S.C. sections 1331 and 2201 (an action for declaratory and injunctive relief arising under the Constitution and laws of the United States).

10. On September 5, 2024, Plaintiff sent a 60-day notice letter (“Notice Letter”) to

1 Defendants. The Notice Letter informed Defendants of their violations under the Clean Water  
2 Act in connection with the discharges to Wolf Creek from the Mine and of Plaintiff's intention  
3 to file suit. A copy of the Notice Letter is attached as Exhibit A and is incorporated herein by  
4 reference.

5 11. The Notice Letter was sent by certified mail to the registered agents for Rise Grass  
6 Valley, Inc. and Rise Gold Corp. and to the Grass Valley, California, offices of Joseph Mullin,  
7 President of Rise Grass Valley, Inc. and President and Chief Executive Officer of Rise Gold  
8 Corp.

9 12. In addition, a copy of the Notice Letter was sent by mail to the Administrator of  
10 the U.S. Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA for  
11 Region 9, the State Water Resources Control Board, and the Central Valley Regional Water  
12 Quality Control Board (collectively, "Federal and State Agencies"), as required by the Clean  
13 Water Act, 33 U.S.C. § 1365(b)(1)(A).

14 13. More than sixty (60) days have passed since the Notice Letter was served on  
15 Defendants and the Federal and State Agencies.

16 14. Plaintiff is informed and believes, and thereon alleges, that neither the EPA nor  
17 the State of California has commenced or is diligently prosecuting an action to redress the  
18 violations alleged in the Notice Letter and in this Complaint. No claim in this action is barred by  
19 any prior administrative action under section 309(g) of the Act, 33 U.S.C. § 1319(g).

20 15. Venue is proper in the Eastern District of California pursuant to section 505(c)(1)  
21 of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located  
22 within this judicial district.

23 16. Pursuant to Eastern District of California Local Rule 120(d), intradistrict venue is  
24 proper in Sacramento, California, because the events or omissions that give rise to Plaintiff's  
25 claims occurred in Nevada County, California.

**PARTIES**

**A. Plaintiff Community Environmental Advocates Foundation**

17. Plaintiff Community Environmental Advocates (“CEA”) Foundation is a non-profit 501(c)(3) organization based in Nevada County, California, with a mailing address of P.O. Box 972, Cedar Ridge, California, 95924. CEA Foundation’s mission is to carry out research, education, and advocacy to promote public policy and actions resulting in responsible land use and environmental protection in Nevada County and the Sierra Nevada region, with the overall goal of preserving the area’s natural, rural, and cultural resources. CEA Foundation and its members and officers have participated in the administrative process for several development projects in Nevada County, including Rise’s proposed reopening of the Idaho-Maryland Mine and other proposed commercial and residential projects. CEA Foundation has also joined with other community organizations to conduct public outreach campaigns regarding the use of herbicides to manage vegetation growth in water distribution canals in Nevada County.

18. Members and officers of CEA Foundation live in Grass Valley, California, as well as in many of the surrounding communities. These members and officers live, work, and travel near Wolf Creek and downstream waterbodies, into which Defendants discharge pollutants. CEA Foundation’s members and officers use and enjoy Wolf Creek and downstream waterbodies for various recreational and educational purposes. CEA Foundation’s members’ and officers’ use and enjoyment of these waters is negatively affected by the pollutants that the Mine drains discharge to Wolf Creek.

19. Specifically, members and officers affiliated with CEA Foundation wade, swim, and fish in Wolf Creek and generally use Wolf Creek for aesthetic enjoyment. Others recreate along Wolf Creek Trail, a public recreational trail that runs alongside portions of Wolf Creek. These individuals affiliated with CEA Foundation that currently recreate in Wolf Creek are worried about the ongoing pollution of the Creek linked to discharge from the Idaho-Maryland Mine and would use the Creek more or in additional ways were it not for this ongoing pollution. For example, at least one individual would fish in Wolf Creek were it not for the discharge of polluted drainage from the Mine.

1           20.    The interests of Plaintiff and its members and officers have been, are being, and  
2 will continue to be adversely affected by the Mine's historic and ongoing discharges of  
3 pollutants into Wolf Creek and Defendants' failure to comply with the Clean Water Act. The  
4 relief sought herein will redress the harms to Plaintiff caused by Defendants' violations.

5           21.    Plaintiff has one or more members or officers who use, explore, and recreate in  
6 areas impacted by the pollution herein at issue and could sue in their own right.

7           22.    Plaintiff brings this action on behalf of itself and its members and officers. None  
8 of the claims brought by Plaintiff nor the relief Plaintiff requests requires the participation of  
9 those individual members and officers.

10          23.    Plaintiff's injuries-in-fact are fairly traceable to Defendants' conduct and would be  
11 redressed by the requested relief.

12          24.    CEA Foundation's work includes collecting information on and investigating  
13 reports of environmental harms in the Nevada County region, participating in the administrative  
14 processes for projects or activities that cause or threaten to cause such harm, and filing or  
15 participating in litigation to address these environmental issues.

16          25.    Defendants' ongoing pollution from the Mine drains has frustrated this mission by  
17 requiring CEA Foundation to divert its limited resources and time to researching this pollution  
18 and consulting with experts and regulatory agencies regarding it. At the time CEA Foundation  
19 undertook its initial investigation into the ongoing pollution from the Mine drains, the resources  
20 spent were not related to any litigation. CEA Foundation would have used—and would continue  
21 to use—its limited resources addressing other matters were it not for Defendants' challenged  
22 conduct.

23          26.    Continuing commission of the acts and omissions alleged herein will cause  
24 irreparable harm to Plaintiff and its members and officers, for which there is no adequate  
25 remedy at law.

26           **B.    Defendants Rise Gold Corp. and Rise Grass Valley, Inc.**

27          27.    Defendant Rise Gold Corp. is a Nevada corporation with principal executive  
28 offices in Vancouver, British Columbia, Canada. Joseph Mullin is President and Chief

Executive Officer of Rise Gold Corp.

28. Defendant Rise Grass Valley, Inc. is a Nevada corporation headquartered in Grass Valley, California. Rise Grass Valley, Inc. is registered to do business in California. Its main office is located at 345 Crown Point Circle, Suite 600, Grass Valley, California, 95945. Joseph Mullin is the President of Rise Grass Valley, Inc. Rise Grass Valley, Inc. is a wholly owned operating subsidiary of Rise Gold Corp.

29. Defendant Rise Grass Valley, Inc. purchased most of the Idaho-Maryland Mine property (“Mine property”) in January 2017. At the time of Rise’s purchase, the Mine property included an approximately 2,585-acre subsurface estate in unincorporated Nevada County. The Mine property also included two surface parcels that overlie the subsurface estate and totaled approximately 175 acres—the 56-acre “Centennial Industrial Site” (acquired in January 2017), and the 119-acre “Brunswick Industrial Site” (consisting of a 37-acre parcel acquired in January 2017 and an 82-acre parcel acquired in May 2018). In November 2024, Rise sold a 66-acre portion of the Brunswick Industrial Site. Rise retains ownership of the remaining approximately 109 acres of surface property and the entire 2,585-acre subsurface estate.

30. Defendants’ subsurface estate includes approximately 73 miles of underground tunnels, several raises, 4 inclined shafts, and 2 vertical shafts that remain from the historical subsurface gold mining operations on the Mine property. Currently, the underground workings within Defendants’ subsurface estate are flooded with water.

31. The Centennial Industrial Site borders Idaho Maryland Road and Centennial Drive, immediately south and east of the city limits of Grass Valley, California. Wolf Creek flows from east to west across the northern portion of the Centennial Industrial Site. Three surface drains near the intersection of Idaho Maryland Road and Centennial Drive in the immediate vicinity of the Centennial Industrial Site discharge water from the flooded underground workings in Defendants’ subsurface estate directly to Wolf Creek. These drains are known as “Eureka Drain” (or “ED-1”), “East Eureka Shaft Drain” (or “IMD-1”), and “East Eureka Shaft” (or “IMD-2”).

32. After acquiring the Mine property, Defendants announced plans to reinitiate large-



scale subsurface gold mining at the site. Defendants sought discretionary approvals for the mining project from Nevada County, which then carried out an environmental analysis of the project pursuant to the California Environmental Quality Act (“CEQA”), Cal. Pub. Res. Code §§ 21000 *et seq.* The Nevada County Board of Supervisors ultimately denied the discretionary approvals and declined to approve the environmental analysis prepared for the project.

33. Defendants also petitioned Nevada County to recognize that Defendants hold a vested right to carry out mining operations on the Mine property. The County’s Board of Supervisors denied the Petition. Defendants have filed a petition for a peremptory writ of mandate challenging the County’s denial of their vested rights petition and the discretionary approvals. That challenge is currently pending before the Superior Court of the State of California for the County of Nevada.

34. When, in this Complaint, reference is made to any act or omission of a Defendant, such allegations shall be deemed to mean that the officers, directors, agents, employees, or representatives of said Defendant did, or authorized such acts, or failed to adequately or properly supervise, control, or direct their employees and agents while engaged in the management, direction, operation, or control of the affairs of said business organization, and did so while acting in the scope of their employment or agency.

### **LEGAL BACKGROUND**

#### **A. Basic Principles of Clean Water Act Liability**

35. The Clean Water Act is the primary federal statute protecting surface waters in the United States. The Act aims to prevent, reduce, and eliminate pollution in order to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

36. To accomplish that goal, section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless the discharger complies with other enumerated sections of the Act, including the prohibition on discharges not authorized by, or in violation of, the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to section 402, 33 U.S.C. § 1342(b).



37. The Act requires that all point source discharges of pollutants to waters of the United States be regulated by an NPDES permit. 33 U.S.C. § 1311(a).

38. The “discharge of a pollutant” means, among other things, the addition of a pollutant to “waters of the United States” from a “point source.” 40 C.F.R. § 122.2.

39. The term “pollutant” includes “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar direct and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6); 40 C.F.R. § 122.2. Heavy metals and other chemicals associated with mine drainage—such as iron, manganese, zinc, arsenic, and ammonia—are “pollutants” under the Act. *Sierra Club v. El Paso Gold Mines, Inc.*, 421 F.3d 1133, 1138, 1141 (10th Cir. 2005); *Comm. to Save Mokelumne River v. E. Bay Mun. Util. Dist.*, 13 F.3d 305, 306 (9th Cir 1993).

40. The term “point source” means any “discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14); 40 C.F.R. § 122.2. Shafts, tunnels, and other means of “discernible conveyance” associated with mining operations are “point sources” under the Act. *Trustees for Alaska v. EPA*, 749 F.2d 549, 558 (9th Cir. 1984); *El Paso Gold Mines*, 421 F.3d at 1140 n.4, 1146 n.6.

41. The term “Waters of the United States” includes, among other things, “relatively permanent, standing, or continuously flowing” “[t]ributaries of” all waters that are “[c]urrently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce.” 40 C.F.R. § 120.2; *see also* 33 U.S.C. § 1362(7); 40 C.F.R. § 122.2.

42. Each discharge of a pollutant to waters of the United States without a valid permit is a violation of the Clean Water Act.

43. The Clean Water Act is a strict liability statute. An entity is responsible for any unpermitted discharge of pollutants to waters of the United States from a point source that arises from or occurs on the entity’s property, regardless of whether the entity took some affirmative

act to cause the discharge. *El Paso Gold Mines*, 421 F.3d at 1145; *Comm. to Save Mokelumne River*, 13 F.3d at 308-09.

44. Section 505(a)(1) of the Act provides for citizen enforcement against any “person” who is alleged to be in violation of an “effluent standard or limitation . . . or an order issued by the Administrator of a State with respect to such a standard or limitation.” 33 U.S.C. § 1365(a)(1), 1365(f).

45. A “person” under the Act includes individuals, corporations, partnerships, associations, States, municipalities, commissions, and political subdivisions of a State, or any interstate body. 33 U.S.C. § 1362(5). Defendants Rise Gold Corp. and Rise Grass Valley, Inc. are persons under the Act.

46. “Effluent standard or limitation” is defined to include, among other things, the prohibition in section 301(a) against unpermitted discharges. 33 U.S.C. § 1365(f); *Citizens for a Better Env’t v. Union Oil Co.*, 83 F.3d 1111, 1114 (9th Cir. 1996) (“Private citizens may bring suit pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a). 33 U.S.C. § 1365(f)(1).”).

47. Pursuant to section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate statutory violation subjects the violator to penalties of up to \$66,712 per day per violation for violations occurring after November 2, 2015, where penalties are assessed on or after December 27, 2023.

48. Section 505(a) of the Act authorizes third-party enforcement actions for injunctive relief. 33 U.S.C. § 1365(a). Section 505(d) allows a prevailing or substantially prevailing party in an enforcement action to recover litigation costs, including fees for attorneys, experts, and consultants, where the court finds that such an award is appropriate. 33 U.S.C. § 1365(d).

#### **B. State and Regional Regulation under the Clean Water Act**

49. In California, the State Water Resources Control Board (“State Board”) is charged with regulating pollutants to protect California’s water resources. There are also nine Regional Water Boards within California that exercise rulemaking and regulatory authority within their respective jurisdictions. Nevada County and the Mine property are located within the

jurisdictional boundaries of the Central Valley Regional Water Quality Control Board (“Central Valley Regional Board”).

50. Generally, in California, authorization for discharging pollutants associated with industrial operations is attained either by applying for and receiving a site-specific NPDES permit from the local Regional Water Board or by seeking coverage under and complying with a general permit adopted by a Regional Water Board or the State Board. *See* 33 U.S.C. §§ 1311(a), 1342(b); 40 C.F.R. §§ 122.28, 123.25.

51. Compliance with a general permit generally constitutes compliance with the Act for the purposes of those types of discharge set forth in the general permit. 33 U.S.C. § 1342(k). Conversely, any noncompliance with the terms and conditions of a general permit constitutes a violation of the Clean Water Act.

52. If an entity discharges pollutants that fall under a general permit but does not seek or obtain coverage under that general permit, the entity generally must seek and obtain a site-specific NPDES permit to comply with the Act. 33 U.S.C. § 1311(a).

53. Section 303 of the Clean Water Act, 33 U.S.C. § 1313, requires states to adopt Water Quality Standards, including water quality objectives and beneficial uses for navigable waters of the United States. The Act prohibits discharges from causing or contributing to a violation of such state Water Quality Standards. *See* 33 U.S.C. § 1311(b)(1)(C); 40 C.F.R. §§ 122.4(a), 122.4(d), 122.44(d)(1).

54. In California, each Regional Water Board maintains a separate Water Quality Control Plan, which sets forth Water Quality Standards for the waterbodies within its geographic boundaries.

55. The Central Valley Regional Board has adopted a Water Quality Control Plan (“Basin Plan”) for the Sacramento River Basin and San Joaquin River Basin, which sets forth, among other things, the Water Quality Standards and beneficial uses for the Sacramento River and its tributaries, including the Feather River and Bear River. With limited exceptions not relevant here, under the Basin Plan, the beneficial uses assigned to any specific waterbody apply to its tributary streams.

56. The Basin Plan does not designate beneficial uses for Wolf Creek. The Basin Plan designates the following existing beneficial uses for the Bear River: (1) municipal and domestic supply (MUN); (2) irrigation and stock watering (AGR); (3) power (POW); (4) contact recreation and canoeing and rafting (REC-1); (5) other noncontact recreation (REC-2); (6) warm freshwater habitat (WARM); (7) cold freshwater habitat (COLD); and (8) wildlife management (WILD). The Basin Plan also identifies the following potential beneficial uses for the Bear River: (1) warm and cold migration (MIGR); and (2) warm and cold spawning (SPWN). *See* Basin Plan at Table 2-1. Because Wolf Creek is an immediate tributary of the Bear River, these beneficial use designations apply to Wolf Creek under the Basin Plan.

### **C. Contaminant Levels under the Safe Drinking Water Act and State Law**

57. Under the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*, the U.S. EPA has adopted regulations that set Maximum Contaminant Levels (“MCLs”) for certain types of pollutants. 42 U.S.C. §§ 300f(1)(C)(i), 300g-1(a). MCLs are the maximum permissible levels of contaminants that may be contained in water delivered to any user of a public water system. 42 U.S.C. § 300f(3).

58. For arsenic, the U.S. EPA has adopted an MCL of 0.10 micrograms per liter. 40 C.F.R. § 141.62(b).

59. The U.S. EPA has also adopted regulations setting Secondary Maximum Contaminant Levels (“Secondary MCLs”) for other types of pollutants, including iron and manganese. 42 U.S.C. § 300g-1(c); 40 C.F.R. § 143.1. Secondary MCLs are not federally enforceable but serve primarily as guidelines for supplemental state regulation.

60. For iron, the U.S. EPA has adopted a Secondary MCL of 300 micrograms per liter. 40 C.F.R. § 143.3. For manganese, the U.S. EPA has adopted a Secondary MCL of 50 micrograms per liter. 40 C.F.R. § 143.3.

61. The State Board has adopted regulations that adopt the U.S. EPA’s Secondary MCLs for iron and manganese as enforceable standards for certain drinking water supply systems. Cal. Code Regs. tit. 22, § 64449(a).

62. Some general permits issued by the Central Valley Regional Board have

1 incorporated the U.S. EPA's MCLs and Secondary MCLs as "screening levels" for certain  
2 pollutants. The exceedance of these screening levels requires an applicant for the general permit  
3 to treat its discharge in order to obtain coverage under the permit. *See, e.g.*, Central Valley  
4 Regional Board, "Limited Threat Discharges to Surface Waters" (NPDES CAG995002; Order  
5 R5-2022-0006-02) at Attachment D (D-31).

### 6 **FACTUAL ALLEGATIONS**

#### 7 **A. Historical Operations of the Idaho-Maryland Mine**

8 63. Mining operations at the historical Idaho-Maryland Mine began in the mid-1860s.  
9 Between the mid-1860s and the mid-1950s, extractive operations at the Mine property resulted  
10 in the development of approximately 73 miles of underground tunnels, 4 inclined shafts, and 2  
11 vertical shafts. During this period, the Mine's operators used chemicals like mercury and  
12 cyanide to recover gold from mine ore. The Mine property ultimately produced over 2.4 million  
13 ounces of gold by 1956.

14 64. In 1956, the Idaho-Maryland Mine permanently ceased all operations. The surface  
15 equipment that had been located on the current Brunswick Industrial Site was removed and sold  
16 off between 1956 and 1957. After the Mine closed, its extensive underground workings were  
17 allowed to flood naturally with water.

18 65. Between the end of subsurface mining operations in 1956 and 2017, ownership of  
19 the Mine property passed between several entities. A sawmill and lumberyard operated on the  
20 Brunswick Industrial Site from approximately 1958 to 1994. A rock crushing operation existed  
21 on the Centennial Industrial Site in 1980 and again from approximately 1985 to 2004.

22 66. Soil sampling of the Centennial Industrial Site conducted in 1989, 1990, and 1993  
23 for potential property sales showed elevated concentrations of arsenic, chromium, lead, and  
24 mercury associated with the mine tailings on the Centennial Industrial Site.

25 67. The underground workings within the Mine property's subsurface estate remained  
26 flooded during this period of post-mining operations on the two surface parcels. Although some  
27 prior owners of the Mine property proposed to reinitiate subsurface gold mining operations and  
28 to dewater the Mine's flooded underground workings, these proposals were never carried out.

1 There are now approximately 1,183 acre-feet of water within the underground workings in the  
2 Mine property.

3 **B. Ongoing Discharge of Pollutants from Surface Drains to Wolf Creek**

4 68. Since at least 1994, and potentially starting much earlier, three surface drains near  
5 the intersection of Idaho Maryland Road and Centennial Drive in the immediate vicinity of the  
6 Centennial Industrial Site have discharged water from the Mine property's flooded underground  
7 workings directly into Wolf Creek. These drains are known as the "Eureka Drain" (or "ED-1"),  
8 "East Eureka Shaft Drain" (or "IMD-1"), and "East Eureka Shaft" (or "IMD-2").

9 69. The Eureka Drain (ED-1) is located near the northwest corner of the intersection  
10 of Idaho Maryland Road and Spring Hill Road. Flow from the Eureka Drain enters into a culvert  
11 that crosses beneath Idaho Maryland Road and discharges directly to Wolf Creek. Flows of  
12 water at the Eureka Drain have been measured at approximately 100 gallons per minute ("gpm")  
13 in 1994, "a few" gallons per minute in 2018, and 25 gpm in 2019.

14 70. The East Eureka Shaft Drain (IMD-1) is located near the southeast corner of the  
15 intersection of Idaho Maryland Road and Centennial Drive. A 24-inch galvanized steel culvert  
16 conveys water directly from the drain to Wolf Creek. At the East Eureka Shaft Drain, flows  
17 were measured at approximately 60 gpm in 2007 and 2018 and 100 gpm in 2019.

18 71. The East Eureka Shaft (IMD-2) consists of a small steel pipe near the East Eureka  
19 Shaft Drain, which discharges to Wolf Creek. At the East Eureka Shaft, flows were measured at  
20 approximately 1 to 2 gpm in 2018.

21 72. Wolf Creek is a perennial tributary of the Bear River, which itself is a tributary of  
22 the Feather River. Both the Bear River and the Feather River are navigable. The flows of Wolf  
23 Creek are generally 10 cubic feet per second or less.

24 73. Wolf Creek downstream and in the immediate vicinity of the surface drains is  
25 actively used as a water supply for irrigation, stock watering, power, and recreational activities,  
26 including hiking, wading, swimming, and fishing. There are significant wetland habitats in and  
27 around Wolf Creek downstream of the surface drains, including a contiguous length of  
28 approximately 1,600 feet of wetlands extending from the surface drains to the western boundary



of the Centennial Industrial Site.

74. Wolf Creek, the adjoining wetlands, and other habitats in its watershed around and downstream of the surface drains supply habitat for a range of plant and animal species, including species listed under the federal and state Endangered Species Acts.

**C. Discharges of Pollutants to Wolf Creek under Rise's Ownership**

75. In January 2017, Defendant Rise Grass Valley, Inc. purchased the Mine property. Defendants proposed to restart large-scale, long-term subsurface gold mining operations on the Mine property.

76. In connection with its proposal to restart gold mining at the Mine property, and as part of the environmental review process for the proposed project under CEQA, Rise commissioned EMKO Environmental, Inc. to prepare a groundwater hydrology and water quality analysis report. The final report ("EMKO Report") was published in February 2021. The EMKO Report was included as Appendix K.2 to the Draft Environmental Impact Report that Nevada County prepared for the proposed Mine reopening project pursuant to CEQA.

77. The EMKO Report relied upon water samples of Wolf Creek and the three surface drains that were collected in 2018.

78. The EMKO Report generally compared the concentrations of various pollutants measured in the drains to the U.S. EPA's MCLs or Secondary MCLs for those pollutants.

79. The water sampling recorded iron concentrations in the three surface drains ranging between approximately 1,600 and 4,800 micrograms per liter. These concentrations significantly exceed the relevant U.S. EPA limits for iron of 300 micrograms per liter.

80. The water sampling recorded manganese concentrations in the three surface drains ranging between approximately 200 and 300 micrograms per liter. These concentrations significantly exceed the relevant U.S. EPA limits for manganese of 50 micrograms per liter.

81. The water sampling recorded arsenic concentrations in the three surface drains ranging between approximately 37 and 41 micrograms per liter. These concentrations significantly exceed the relevant U.S. EPA limits for arsenic of 10 micrograms per liter.

82. The water sampling also recorded elevated levels of ammonia in all three surface



1 drains of approximately 50 to 240 micrograms per liter, elevated concentrations of total  
2 suspended solids in the Eureka Drain (ED-1) and East Eureka Shaft (IMD-2), and elevated  
3 concentrations of zinc in the Eureka Drain (ED-1).

4 83. Referencing earlier water quality samples collected in 1991 and 2006, the EMKO  
5 Report concluded that the concentrations of pollutants within the surface drain water did not  
6 appear to have changed significantly in the three decades prior to the 2018 sampling.

7 84. The EMKO Report also concluded that concentrations of various pollutants that  
8 occur in the surface drain water are significantly higher in water samples collected downstream  
9 of the surface drain outflows than in samples collected upstream. For example, iron  
10 concentrations were measured at 310 micrograms per liter immediately downstream of the  
11 drains compared to 240 micrograms per liter upstream; manganese concentrations were 35  
12 micrograms per liter downstream compared to 15 micrograms per liter upstream; and arsenic  
13 concentrations were 4.0 micrograms per liter downstream compared to 1.3 micrograms per liter  
14 upstream.

15 85. The EMKO Report specifically attributed the increased concentrations of iron and  
16 manganese within Wolf Creek downstream of the surface drains to the ongoing discharges from  
17 the drains.

18 86. In 2019, the U.S. EPA commissioned Weston Solutions, Inc. to conduct a Site  
19 Inspection of the Centennial Industrial Site, pursuant to the Comprehensive Environmental  
20 Response, Compensation, and Liability Act. The final report (“Weston Report”) was published  
21 in September 2019.

22 87. To prepare the Weston Report, Weston collected water samples from the “East  
23 Eureka Outflow” in April 2019. The East Eureka Outflow sampling location was located near  
24 where the East Eureka Shaft Drain discharges to Wolf Creek. Water samples were also collected  
25 from Wolf Creek at three locations upstream of the East Eureka Outflow discharge point.

26 88. Based on the April 2019 water sampling, the Weston Report concluded that water  
27 from the Mine property’s underground workings discharged via the East Eureka Shaft Drain  
28 contained arsenic and lead “at concentrations significantly above background” levels. The

1 highest arsenic concentrations within Wolf Creek were collected at the sampling location nearest  
2 downstream of the East Eureka Outflow. The water sampling also indicated elevated  
3 concentrations of chromium, cobalt, copper, lead, nickel, and zinc within the East Eureka  
4 Outflow itself. The Weston Report attributed the elevated arsenic and lead levels in Wolf Creek  
5 in part to the discharge from the East Eureka Outflow.

6 89. The Weston Report also concluded that arsenic, lead, and mercury were present in  
7 concentrations “significantly above background” levels in wetland sediments downstream of the  
8 Mine property’s surface drains. Surface waters within wetlands downstream of the drains  
9 exhibited arsenic and lead concentrations “significantly above background” levels.

10 90. On information and belief, the flow of water and the concentrations of pollutants  
11 discharged from the three surface drains has not changed significantly since the 2018 and 2019  
12 sampling events.

13 91. The discharge of pollutants like iron, manganese, arsenic, and ammonia to Wolf  
14 Creek from the three surface drains has a significant adverse effect on the wetlands and other  
15 habitats in and around the Wolf Creek watershed and the plant and animal species that occur in  
16 those habitats. The discharges also adversely impact the quality and availability of recreational  
17 activities carried out within and near Wolf Creek, like hiking, swimming, wading, and fishing.

18 92. On information and belief, Defendants have not formally applied for or obtained  
19 coverage under any general or site-specific NPDES permit in connection with their ongoing  
20 discharge of pollutants from the Mine property’s surface drains.

## 21 **CLAIMS FOR RELIEF**

### 22 **FIRST CAUSE OF ACTION**

#### 23 **Discharges of Pollutants to Waters of the United States without NPDES Permit Coverage** 24 **in Violation of the Clean Water Act (33 U.S.C. §§ 1311(a), 1365(a), 1365(f))**

25 93. Plaintiff hereby incorporates the allegations in the above paragraphs as though  
26 fully set forth herein.

27 94. Defendants discharged and continue to discharge pollutants from the flooded  
28 underground workings of their Mine property into waters of the United States without NPDES

1 permit coverage, in violation of the Clean Water Act section 301(a), 33 U.S.C. § 1311(a). The  
2 discharges of water from the Mine property into Wolf Creek from the surface drains near the  
3 Centennial Industrial Site constitute discharges of pollutants from a point source into waters of  
4 the United States without a permit.

5 95. Defendants' violations of Clean Water Act section 301(a), 33 U.S.C. § 1311(a),  
6 are ongoing.

7 96. Defendants will continue to be in violation of the Clean Water Act each and every  
8 time pollutants are discharged directly into waters of the United States in violation of section  
9 301(a) of the Act. Each discharge from each surface drain is a separate and distinct violation of  
10 the Act.

11 97. By committing the acts and omissions alleged above, Defendants are subject to an  
12 assessment of civil penalties for each and every violation of the Clean Water Act occurring after  
13 September 2019 of up to \$66,712 per day.

14 98. An action for injunctive relief under the Clean Water Act is authorized under 33  
15 U.S.C § 1365(a). Continuing commission of the acts and omissions alleged above would  
16 irreparably harm Plaintiff and the citizens of the State of California, for which Plaintiff has no  
17 plain, speedy, or adequate remedy at law.

18 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth hereafter.

19 **PRAYER FOR RELIEF**

20 Plaintiff respectfully requests that this Court grant the following relief:

- 21 1. Judgment for Plaintiff in this matter enjoining Defendants' illegal conduct.
- 22 2. A Court order declaring Defendants to have violated and to be in violation of the  
23 Clean Water Act for their unpermitted discharge of pollutants into Wolf Creek.
- 24 3. A Court order enjoining Defendants from violating the substantive and procedural  
25 requirements of sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a), 1342.
- 26 4. A Court order assessing civil monetary penalties for each violation of the Clean  
27 Water Act in the amount of \$66,712 per day per violation.
- 28 5. A Court order awarding Plaintiff its reasonable costs of suit, including attorney,

witness, expert, and consultant fees, as permitted by Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), and any other applicable laws.

6. And any other relief as this Court may deem just and appropriate.

DATED: December 20, 2024

SHUTE, MIHALY & WEINBERGER LLP

By: 

ELLISON FOLK  
RYAN K. GALLAGHER  
Attorneys for COMMUNITY  
ENVIRONMENTAL ADVOCATES  
FOUNDATION

1856793.8

## **EXHIBIT A**



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September 5, 2024

**Via Certified Mail / Return Receipt Requested**

Joseph Mullin  
President, Rise Grass Valley, Inc.  
President and CEO, Rise Gold Corp.  
345 Crown Point Circle, Suite 600  
Grass Valley, CA 95945

Paracorp Incorporated  
(Registered Agent for Rise Grass Valley, Inc.)  
2804 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Nevada Business Center, LLC  
(Registered Agent for Rise Gold Corp.)  
701 South Carson Street, Suite 200  
Carson City, NV 89701

**Re: Notice of Ongoing Violations and Intent to File a Citizen Suit under the Clean Water Act**

Dear Mr. Mullin:

I am writing on behalf of Community Environmental Advocates Foundation ("CEA Foundation") regarding violations of the Clean Water Act<sup>1</sup> ("CWA" or "Act") at the Idaho-Maryland Mine complex in Nevada County, California.<sup>2</sup> The purpose of this

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<sup>1</sup> Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

<sup>2</sup> For the purposes of this Notice Letter, and unless stated otherwise, the term "Idaho-Maryland Mine complex" refers collectively to the approximately 2,585-acre subsurface estate and approximately 175.4 acres of surface properties owned by Rise Gold Corp. in Nevada County, California, and which are described more particularly in K. Elliott & D. Kindermann, *Nevada County Board of Supervisors Board Agenda Memorandum* at 3

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 2

letter (“Notice Letter”) is to put Rise Gold Corp. and its wholly owned subsidiary, Rise Grass Valley, Inc. (collectively, “Rise”), on notice that, at the expiration of sixty (60) days from the date this Notice Letter is served, CEA Foundation intends to file a “citizen suit” against Rise in U.S. federal district court.

The civil action will allege significant and ongoing conduct at the Idaho-Maryland Mine complex resulting in violations of the Act, including but not limited to the continuous discharge of water polluted with arsenic, various heavy metals, and other chemicals directly from the underground workings of the Idaho-Maryland Mine complex into Wolf Creek, via several drains.

### BACKGROUND

This Notice Letter concerns the ongoing discharge of polluted waters from the underground workings of the former Idaho-Maryland Mine complex in Nevada County, California. This mine complex—which consists of several separate historical mines—produced approximately 2.4 million ounces of gold between 1866 and 1956.<sup>3</sup> During the mine complex’s operations, mercury and cyanide were used to recover gold from the mined ore.<sup>4</sup> The underground workings of the complex ultimately grew to include approximately 73 miles of tunnels, several raises, 4 inclined shafts, and 2 vertical shafts.<sup>5</sup> When the Idaho-Maryland Mine ceased operations in 1956, these extensive underground

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(Nov. 28, 2023), available at

<https://www.nevadacountyca.gov/DocumentCenter/View/51714/2-Staff-Report>.

<sup>3</sup> See K. Elliott & D. Kindermann, *supra* note 2, at 5; EMKO Environmental, Inc., *Groundwater Hydrology and Water Quality Analysis Report for the Idaho-Maryland Mine Project – Nevada County, California* at 3 (Feb. 2021), available at [https://www.nevadacountyca.gov/DocumentCenter/View/41645/Appendix-K2\\_Groundwater-Hydrology-and-Water-Quality-Analysis](https://www.nevadacountyca.gov/DocumentCenter/View/41645/Appendix-K2_Groundwater-Hydrology-and-Water-Quality-Analysis).

<sup>4</sup> Weston Solutions, Inc., *Site Inspection Report – Idaho Maryland Mine – Grass Valley, Nevada County, CA* at 1, 5 (Sept. 2019), available at [https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable\\_documents%2F6354388177%2FIMM%20SI%20text%20through%20App%20D%209-24-19.pdf](https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F6354388177%2FIMM%20SI%20text%20through%20App%20D%209-24-19.pdf).

The Weston Solutions report was prepared at the request of Region 9 of the U.S. Environmental Protection Agency (“EPA”).

<sup>5</sup> Elliott & Kindermann, *supra* note 2, at 3; EMKO, *supra* note 3, at 3, 36-37.



Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 3

workings were allowed to flood with water.<sup>6</sup> The workings have remained flooded in the decades following the closure.<sup>7</sup>

Rise currently owns an approximately 2,585-acre subsurface estate, which encompasses the historical Idaho-Maryland Mine complex and its underground workings.<sup>8</sup> Rise also owns two surface properties, which generally overlie the subsurface estate: the approximately 56.41-acre Centennial Industrial Site and the approximately 119-acre Brunswick Site.<sup>9</sup> The Centennial Industrial Site is immediately adjacent to Wolf Creek, a perennial tributary of the Bear River.<sup>10</sup> Portions of Wolf Creek adjacent to and downstream of the Centennial Industrial Site host wetland habitats and are used for fishing.<sup>11</sup>

There are approximately 1,183 acre-feet of water within the underground workings in Rise's subsurface estate.<sup>12</sup> Several drains continuously convey this water from the underground workings to surface waterbodies.<sup>13</sup> These drains have been present for at least thirty years, and likely much longer.<sup>14</sup> In particular, three drains in the immediate vicinity of the Centennial Industrial Site near Idaho Maryland Road discharge between dozens and hundreds of gallons of water per minute from the underground workings into Wolf Creek.<sup>15</sup> Rise's retained hydrological consultants have referred to

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<sup>6</sup> Elliott & Kindermann, *supra* note 2, at 5; EMKO, *supra* note 3, at 3.

<sup>7</sup> EMKO, *supra* note 3, at 28.

<sup>8</sup> Elliott & Kindermann, *supra* note 2, at 3; EMKO, *supra* note 3, at 1.

<sup>9</sup> Elliott & Kindermann, *supra* note 2, at 3.

<sup>10</sup> EMKO, *supra* note 3, at 5, 13-15; Weston, *supra* note 4, at 1.

<sup>11</sup> Weston, *supra* note 4, at 1.

<sup>12</sup> EMKO, *supra* note 3, at 30.

<sup>13</sup> *Id.* at 28-29, 32-33, 59; *see also* Weston, *supra* note 4, at 18 (describing the East Eureka Outflow as a "hazardous substance source," as "water draining from the mine workings through the East Eureka Shaft . . . flow[s] directly into Wolf Creek" and that this water contains arsenic and lead "at concentrations significantly above background").

<sup>14</sup> EMKO, *supra* note 3, at 32 (citing Condor, 1994).

<sup>15</sup> *Id.* at 33 (describing the ED-1 – Eureka Drain, IMD-1 – East Eureka Shaft Drain, IMD-2 – East Eureka Shaft, and D-1 culvert); *see also id.* at 66 (estimating total flow from the drains at approximately 60 to 125 gallons per minute). The EMKO report indicates that there is uncertainty about whether the water discharged from a fourth drain, the D-1 culvert, originates in the underground workings. *Id.* at 33, 39, 55.

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 4

these drains as the “Eureka Drain,” the “East Eureka Shaft Drain,” the “East Eureka Shaft.”<sup>16</sup>

The water conveyed from these drains into Wolf Creek contains high concentrations of several pollutants, including arsenic, assorted heavy metals, and other chemicals.<sup>17</sup> Sampling conducted in early 2018 indicates that at all three of the drains that indisputably discharge water from the underground workings:

- Arsenic concentrations are approximately 4 to 6 times higher than the relevant regulatory standards allow;<sup>18</sup>
- Iron concentrations are approximately 5 to 16 times higher than regulatory standards;<sup>19</sup>
- Manganese concentrations are approximately 4 to 6 times higher than regulatory standards;<sup>20</sup> and
- Ammonia concentrations are approximately 2 to 8 times higher than regulatory standards.<sup>21</sup>

Sampling of the water discharged from the drains in 1991 and 2006 was “consistent with the findings” collected in 2018, and thus “there does not appear to” have been “any significant change in the water quality in the shaft, drains, or creeks over the last two to three decades.”<sup>22</sup> Additional sampling conducted on behalf of the U.S. EPA in 2019

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<sup>16</sup> *Id.* at 33.

<sup>17</sup> *See id.* at 42-43. The relevant regulatory standards are the NPDES effluent limits. *Id.* at 47.

<sup>18</sup> *Id.* at 43 (showing arsenic concentrations between 37 and 41 micrograms/liter; NPDES limit is 10 micrograms/liter).

<sup>19</sup> *Id.* at 43, 46-47 (concentrations between 1,600 and 4,800 micrograms/liter; NPDES limit is 300 micrograms/liter).

<sup>20</sup> *Id.* at 43, 47 (concentrations between 200 and 300 micrograms/liter; NPDES limit is 50 micrograms/liter).

<sup>21</sup> *Id.* at 42 (concentrations between 50 and 240 micrograms/liter; NPDES limit is 25 micrograms/liter); *see also id.* (showing total suspended solid concentrations also exceeded the relevant regulatory standards at ED-1 and IMD-2); *id.* at 43 (showing zinc concentrations exceeded relevant regulatory standard at ED-1).

<sup>22</sup> *Id.* at 47.

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 5

indicated that the drains were releasing both arsenic and other heavy metals into Wolf Creek.<sup>23</sup> Notably, some arsenic concentrations recorded in 2019 were significantly higher than those recorded in 2018 and were approximately 10 times above the relevant NPDES effluent limit.<sup>24</sup>

The drains' discharge of polluted water into Wolf Creek appears to have a significant adverse impact on the Creek's water quality, as concentrations of arsenic, iron, and manganese are much higher downstream of the drain discharges than they are upstream.<sup>25</sup> Indeed, the iron and manganese concentrations in Wolf Creek meet the relevant NPDES effluent limits in the upstream samples but exceed those limits in the downstream samples.<sup>26</sup> Moreover, the 2019 sampling indicated that arsenic concentrations in Wolf Creek were also highest immediately downstream of the drains.<sup>27</sup>

Rise has proposed to resume underground gold mining operations at the Idaho-Maryland Mine complex.<sup>28</sup> Before reinitiating mining, Rise would need to conduct an initial dewatering of the underground workings.<sup>29</sup> Water removed from the underground workings would be treated and discharged to South Fork Wolf Creek.<sup>30</sup> Rise has acknowledged that it would need to attain coverage under an NPDES permit before initiating this discharge.<sup>31</sup> Rise's consultant also acknowledged that after Rise ceased mining operations and the underground workings were allowed to reflood, Rise would

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<sup>23</sup> See Weston, *supra* note 4, at 2, 11 (describing elevated concentrations of chromium, cobalt, copper, lead, nickel, and zinc in East Eureka Outflow samples).

<sup>24</sup> See *id.* at 11 (recording arsenic concentrations of 102 micrograms/liter within one drain and 41.8 micrograms/liter at the point where the drain discharges to Wolf Creek).

<sup>25</sup> See EMKO, *supra* note 3, at 46, 51-52 (showing arsenic concentrations of 4.0 micrograms/liter downstream of the drains and 1.3 micrograms/liter upstream of the drains; iron concentrations of 310 micrograms/liter downstream of the drains and 240 micrograms/liter downstream of the drains; manganese concentrations of 35 micrograms/liter downstream of the drains and 15 micrograms/liter upstream of the drains); see also *id.* (attributing the discrepancy in heavy metal concentrations in the upstream and downstream Wolf Creek samples to the drain discharges).

<sup>26</sup> *Id.* at 46, 53.

<sup>27</sup> Weston, *supra* note 4, at 12-13.

<sup>28</sup> EMKO, *supra* note 3, at 1.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 4-5, 109-11.

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 6

likely require an NPDES permit to cover the water that will once again flow from the drains to Wolf Creek.<sup>32</sup> However, Rise does not hold an NPDES permit that covers the ongoing point source discharges of polluted water from the underground workings within its subsurface estate.<sup>33</sup>

### APPLICABILITY OF THE CWA

The CWA prohibits the “discharge of any pollutant by any person” unless done in compliance with some provision of the Act. 33 U.S.C. § 1341(a). Section 402 of the CWA requires a permit for the discharge of pollutants into navigable waters. *Id.* § 1342(a)(1). As set forth below, Rise is in violation of the CWA because the drains near the Centennial Industrial Site are continuously discharging water laden with pollutants into Wolf Creek from the flooded underground mine workings within Rise’s subsurface estate, and Rise has no NPDES permit covering these discharges.

In fact, Rise and its expert consultants have already effectively conceded this violation. In recognizing that Rise would need an NPDES permit to cover both the active dewatering of the mine<sup>34</sup> and any discharge from the drains that resumes after its mining operations end,<sup>35</sup> Rise has tacitly acknowledged: (1) the arsenic, heavy metals, and chemicals within the water in the mine complex’s underground workings are “pollutants”; (2) Wolf Creek, South Fork Wolf Creek, and other similar tributaries of the Bear River are waters of the United States; (3) the flow of the pollutant-laden mine water into these surface water bodies constitutes “discharge”; and (4) Rise holds no existing NPDES permit that authorizes this discharge.

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<sup>32</sup> See EMKO, *supra* note 3, at 117 (recognizing that “[a]fter mining is completed, water from the underground mine workings would eventually begin to seep from the existing drains or from rockbed fractures if the drains are sealed,” and that “before the mine is allowed to flood, an application could be made with the Regional Water Board for an individual permit to cover the mine drainage); *id.* (acknowledging that under this permit, Rise could dilute the receiving waterbody or “treat[] . . . the water from the drains, prior to discharge to Wolf Creek, similar to the drainage from the inactive Newmont Northstar Mine”).

<sup>33</sup> See Weston, *supra* note 4, at 7 (indicating an NPDES permit issued by the Central Valley Regional Water Quality Control Board in 1995 for an earlier mine dewatering proposal was later cancelled).

<sup>34</sup> EMKO, *supra* note 3, at 4-5, 109-111.

<sup>35</sup> *Id.* at 117.

Rise Grass Valley, Inc.  
 Rise Gold Corp.  
 September 5, 2024  
 Page 7

The only apparent difference between these future discharges—for which Rise acknowledges it would need an NPDES permit—and the current discharges from the Idaho-Maryland Mine complex—for which Rise has none—is the fact that Rise itself has not yet begun mining on the site. But this fact is immaterial for CWA liability. It is well established that the Act is a strict liability statute. Put simply, “if you own the leaky ‘faucet,’ you are responsible for its ‘drips.’” *Sierra Club v. El Paso Gold Mines, Inc.*, 421 F.3d 1133, 1145 (10th Cir. 2005), *cert. denied*, *El Paso Props., Inc. v. Sierra Club*, 547 U.S. 1065 (2006). Thus, in *El Paso Gold Mines*, it did not matter that the current owner of an inactive gold mine had not itself “acted in some way to cause the discharge” of polluted water from the mine’s underground workings. *Id.* It was enough that the company owned the defunct mine shafts from which the pollutants flowed. *See id.* at 1143-45; *see also Comm. to Save Mokelumne River v. East Bay Mun. Util. Dist.*, 13 F.3d 305, 308-09 (9th Cir. 1993) (concluding utility district was liable for ongoing, unpermitted flow of polluted water from “abandoned mine site”). Because Rise now owns the Idaho-Maryland Mine complex, it is liable for any ongoing, unpermitted discharges of pollutants from it.

Moreover, the Central Valley Regional Water Quality Control Board—the state entity responsible for administering the CWA in Nevada County—has concluded that virtually identical discharges require an NPDES permit. In the 1970s, the California Department of Parks and Recreation purchased the defunct Empire Mine in Nevada County and began operating the site as Empire Mine State Historic Park, a recreational facility with no active mining operations.<sup>36</sup> The Empire Mine site is immediately south of the Rise-owned Brunswick Site and roughly one mile south of the Idaho-Maryland Mine complex drains. In 2002, the Regional Water Board determined that the historical “Magenta Drain” on the Empire Mine site was passively discharging water from the flooded underground workings of the Empire Mine to an unnamed tributary of the South Fork of Wolf Creek.<sup>37</sup> Like the discharges from Rise’s drains, the water flowing from the

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<sup>36</sup> *See* Cal. Reg’l Water Quality Control Bd., Central Valley Region (“Regional Water Board”), *Order No. R5-2006-0058 / NPDES No. CA0085171: Waste Discharge Requirements for State of California Department of Parks and Recreation Empire Mine State Historic Park Nevada County* at F-4 (June 23, 2006), available at <https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/CiwqsReportServlet?reportID=5734716&inCommand=displaysubpage&subPage=rmAttachmentPopup&regMeasID=313660>.

<sup>37</sup> *Id.* at F-5 to F-6.



Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 8

Magenta Drain contained elevated levels of arsenic, iron, and manganese, among other chemicals.<sup>38</sup>

The Regional Water Board determined that the flows from the Magenta Drain constituted an unpermitted discharge of pollutants from a point source to a water of the United States.<sup>39</sup> It therefore required the Department of Parks and Recreation to attain an NPDES permit.<sup>40</sup> The Department then developed and implemented a passive water treatment system to ensure that the water discharged from the Magenta Drain satisfied the effluent limits in the NPDES permit.<sup>41</sup> If the Department is liable under the CWA for the Magenta Drain discharges, Rise must be liable for the very similar discharges of pollutants from the Idaho-Maryland Mine complex drains.

#### DISCHARGE OF A POLLUTANT

Under the CWA, a “discharge of a pollutant” is “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). An addition occurs when a point source introduces a pollutant into navigable water from the “outside world.” *Nat’l Wildlife Fed. v. Gorsuch*, 693 F.2d 156, 165 (D.C. Cir. 1982). In this context, “outside world” means any place outside the particular water body into which pollutants are introduced. *Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York*, 273

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<sup>38</sup> *Id.* at F-5, F-22 to F-32. The concentrations of arsenic recorded at the immediate outlet of the Magenta Drain (54.0 to 77.2 micrograms per liter) were similar to the arsenic concentrations that have been recorded at the outlet points of the three Idaho-Maryland Mine complex drains (37 to 59 micrograms per liter). *See id.* at F-33, F-34; EMKO, *supra* note 3, at 43; Weston, *supra* note 4, at 11.

<sup>39</sup> Regional Water Board, *supra* note 36, at 3, F-5 to F-6.

<sup>40</sup> *Id.*

<sup>41</sup> *See* Regional Water Board, *Order R5-2012-0050 / NPDES No. CA0085171: Waste Discharge Requirements for the State of California Department of Parks and Recreation Empire Mine State Historic Park Nevada County* (June 8, 2012), available at <https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/CiwqsReportServlet?reportID=5734716&inCommand=displaysubpage&subPage=rmAttachmentPopup&regMeasID=385621> (describing treatment strategies implemented following issuance of initial NPDES permit in 2006). The Regional Water Board later authorized the Department to continue discharging under a general NPDES permit for “limited threat” discharges. *See* Regional Water Board, *Order R5-2017-0083* at 4-5 (June 9, 2017), available at [https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/rescission/s/r5-2017-0083\\_rec.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/rescission/s/r5-2017-0083_rec.pdf).

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 9

F.3d 481, 491-92 (2d Cir. 2001). Thus, collecting acid drainage seeping from abandoned mine workings and then channeling that drainage into a surface water body constitutes the “discharge of a pollutant.” *Comm. to Save Mokelumne River*, 13 F.3d at 306-09. A “pollutant,” in turn, is broadly defined as including “dredged spoil, solid waste,” “chemical wastes, biological materials,” “rock, sand, . . . and industrial . . . waste discharged into water.” 33 U.S.C. § 1362(6).

It is beyond dispute that the significant quantities of arsenic, iron, manganese, and other heavy metals and chemicals discharged from the Idaho-Maryland Mine complex drains are “pollutants” under the CWA. *See El Paso Gold Mines*, 421 F.3d at 1138, 1141 (indicating “zinc and manganese” that have leached into water within the underground workings of an abandoned mine are “pollutants”); *Comm. to Save Mokelumne River*, 13 F.3d at 306 (indicating “acid mine drainage” with “high concentrations of aluminum, cadmium, copper, zinc, iron, and sulfuric acid” resulting from water seeping into abandoned mine workings is a “pollutant”); *Beartooth All. v. Crown Butte Mines*, 904 F.Supp. 1168, 1172-73 (D. Mont. 1995) (tracing the clear relationship between mining activities and elevated concentrations of chemicals like arsenic, iron, lead, and manganese, and emphasizing that whether these chemicals occurred historically or naturally in some amounts is irrelevant to whether they are “pollutants” under the CWA).

It is also clear that the drains are “discharg[ing]” pollutants by causing the direct “addition” of pollutant-laden water from the Idaho-Maryland Mine complex’s flooded workings directly into Wolf Creek. *See Comm. to Save Mokelumne River*, 13 F.3d at 306-09; *Beartooth All.*, 904 F.Supp. at 1172. The science supporting this is unequivocal. Rise’s own professional consultant and a separate hydrology expert retained by the EPA each recorded significantly elevated concentrations of arsenic, iron, manganese, and other chemicals at the drains near the Centennial Industrial Site.<sup>42</sup> Each of those sets of experts concluded that these drains were discharging between dozens and hundreds of gallons per minute of this pollutant-laden water from the flooded underground workings in Rise’s subsurface estate into Wolf Creek.<sup>43</sup> And each concluded that the concentrations of certain pollutants in Wolf Creek are greater downstream of the drains *because of* the polluted water being discharged from those drains.<sup>44</sup>

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<sup>42</sup> *See EMKO*, *supra* note 3, at 39-47; *Weston*, *supra* note 4, at 11, 18.

<sup>43</sup> *EMKO*, *supra* note 3, at 32-33, 59; *Weston*, *supra* note 4, at 1, 4, 18.

<sup>44</sup> *See EMKO*, *supra* note 3, at 51 (“The increasing concentration [of iron and manganese] from upstream to downstream is indicative of the increasing proportion of groundwater discharge and flow from the drains as Wolf Creek passes through the project



Rise Grass Valley, Inc.  
 Rise Gold Corp.  
 September 5, 2024  
 Page 10

### FROM A POINT SOURCE

The CWA defines a “point source” as “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14). This specifically includes any “pipe, ditch, channel, tunnel, conduit,” or “discrete fissure.” *Id.* It is indisputable that each drain that discharges water from the underground workings of the Idaho-Maryland Mine complex into Wolf Creek is a “point source” under the Act.<sup>45</sup> See *El Paso Gold Mines*, 421 F.3d at 1140 n.4, 1141 n.6 (explaining underground mine shafts and tunnels were “undoubtedly” point sources); *Trustees for Alaska v. EPA*, 749 F.2d 549, 558 (9th Cir. 1984) (concluding that when mining operations lead to the discharge of water “from a discernible conveyance,” they are subject to regulation as point sources); *Beartooth All.*, 904 F.Supp. at 1173-74 (holding various mine adits and pits were point sources and emphasizing both Congress and the EPA intend for the term “point source” to be “interpreted broadly”). Just like the Magenta Drain on the Eureka Mine site and the tunnels and shafts in *El Paso Gold Mines*, the drains associated with the Idaho-Maryland Mine complex and any underground workings conveying water to those drains are discrete conveyances from which pollutants are being discharged.

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site area.”); Weston, *supra* note 4, at 12-13 (reporting highest arsenic concentrations in Wolf Creek immediately downstream of the drains); *id.* at 18 (attributing elevated arsenic and lead levels in Wolf Creek in part to drain outflows).

Although the data and expert reports conclusively show that the drains *are* increasing the concentrations of pollutants in Wolf Creek, Rise would be liable for CWA violations even if this were not so. Under the Act, it is enough to show that there is a “discharge of a pollutant from a point source without a permit”; there is no need to make the additional showing that discharge from the point source is “produc[ing] a net increase in” pollutants in the receiving surface water body. *Comm. to Save Mokelumne River*, 13 F.3d at 309; see also *Beartooth All.*, 904 F.Supp. at 1173 (“The court in *Mokelumne River* explained that the CWA does not impose liability only where a net increase in the level of pollution from a point source discharge is present. . . . Rather, the CWA categorically prohibits any discharge of a pollutant from a point source without a permit.”).

<sup>45</sup> For the same reasons, any underground mine workings within Rise’s subsurface estate that channel the water to the outlet drains are also “point sources” under the Act. See *El Paso Gold Mines*, 421 F.3d at 1141 n.6 (explaining both mine shaft and outlet tunnel to which it connects are point sources). Rise is liable for these discharges irrespective of the identity of the parties that own the surface estates where the drain outlets are located.

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 11

### INTO NAVIGABLE WATERS

Navigable waters are “waters of the United States.” 33 U.S.C. § 1362 (7). Wolf Creek is a perennial tributary of the Bear River, which itself is tributary to the Feather River. The CWA is concerned with the pollution of tributaries as well as with the pollution of navigable streams, as it “it is incontestable that substantial pollution of one not only may but very probably will affect the other.” *Headwaters, Inc. v. Talent Irrigation Dist.*, 243 F.3d 526, 534 (9th Cir. 2001). Thus, even intermittently flowing tributaries of navigable streams are themselves waters of the United States. *Id.*; see also *United States v. Moses*, 496 F.3d 984, 989-91 (9th Cir. 2007) (reaffirming the holding in *Headwaters* following the U.S. Supreme Court’s ruling in *Rapanos v. United States*, 547 U.S. 715 (2006)); 40 C.F.R. § 120.2 (defining “Waters of the United States” to include “relatively permanent, standing, or continuously flowing” “[t]ributaries of” all waters that are “[c]urrently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce”). Because the Bear River is navigable and Wolf Creek is its perennial tributary, Wolf Creek is a water of the United States irrespective of whether Wolf Creek itself is navigable. Indeed, both the Regional Water Board and Rise itself have already acknowledged this.<sup>46</sup>

### RELIEF SOUGHT FOR VIOLATION OF CLEAN WATER ACT

The contaminated water flowing into Wolf Creek from the Idaho-Maryland Mine complex’s drains constitutes a discharge of pollutants into a navigable water from a point source. Therefore, Rise requires an NPDES permit for this ongoing discharge under the CWA. Because Rise does not have an NPDES permit covering its discharge of pollutants into Wolf Creek, it is in violation of section 402 of the CWA.

Pursuant to section 309(d) of the Act, 33 U.S.C. §1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects the violator to penalties of up to \$66,712 per day per violation for violations occurring after November 2, 2015, where penalties are assessed on or after December 27, 2023.<sup>47</sup> In determining the amount of civil penalty to award, a court shall consider (1) the

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<sup>46</sup> See Regional Water Board, *supra* note 36, at F-5 to F-6 (concluding even smaller and more intermittent tributaries of Wolf Creek are waters of the United States); EMKO, *supra* note 3, at 4-5, 109-11, 117 (similar).

<sup>47</sup> For illustrative purposes, were Rise assessed the maximum statutory penalty for each of the three drains for each day between August 5, 2019, and August 5, 2024, the total monetary penalty would be \$365,648,472 (3 drains/violations \* 1,827 days \* \$66,712).

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 12

seriousness of the violations; (2) any economic benefit gained from the violations; (3) the history of such violations; (4) any good-faith efforts to comply with applicable requirements; (5) the economic impact of the penalty on the violator; and (6) any other matters that justice may require. 33 U.S.C. § 1319(d).

In addition to civil penalties, CEA Foundation will seek injunctive relief preventing further violations of the Act pursuant to sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law.

Lastly, pursuant to section 505(d) of the Act, 33 U.S.C. § 1365(d), CEA Foundation will seek to recover its costs, including attorneys' and expert fees, associated with this enforcement action.

#### **NOTICE OF INTENT TO SUE**

If Rise does not act within 60 days to correct this violation of the CWA, by applying to the Central Valley Regional Water Quality Control Board for an NPDES permit, CEA Foundation will seek relief in federal district court under the CWA's citizen suit provision, 33 U.S.C. § 1365(b)(1)(A).

#### **NOTICING PARTY AND ITS LEGAL COUNSEL**

The party giving this notice is:

Community Environmental Advocates Foundation  
P.O. Box 972  
Cedar Ridge, CA 95924-0972  
[info@cea-nc.org](mailto:info@cea-nc.org)

Legal counsel to the party giving this notice is:

Ryan K. Gallagher  
[rgallagher@smwlaw.com](mailto:rgallagher@smwlaw.com)  
Ellison Folk  
[folk@smwlaw.com](mailto:folk@smwlaw.com)  
Shute, Mihaly & Weinberger LLP  
396 Hayes Street  
San Francisco, CA 94102  
(415) 552-7272

Rise Grass Valley, Inc.  
Rise Gold Corp.  
September 5, 2024  
Page 13

All correspondence regarding this Notice Letter should be directed to CEA Foundation's legal counsel.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, appearing to read "Ryan K. Gallagher".

Ryan K. Gallagher, Attorney

**Attachments**

A. Service List

1810732.5

**ATTACHMENT A**

**SERVICE LIST**

**Via Certified Mail / Return Receipt Requested**

Joseph Mullin  
President, Rise Grass Valley, Inc.  
President and CEO, Rise Gold Corp.  
345 Crown Point Circle, Suite 600  
Grass Valley, CA 95945

Paracorp Incorporated  
(Registered Agent for Rise Grass Valley, Inc.)  
2804 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Nevada Business Center, LLC  
(Registered Agent for Rise Gold Corp.)  
701 South Carson Street, Suite 200  
Carson City, NV 89701

**Via U.S. Mail**

Michael Regan, Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Martha Guzman, Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Eric Oppenheimer, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Patrick Pulupa, Executive Officer  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

## CIVIL COVER SHEET

Case 2:24-at-01618 Document 1 Filed 12/20/24 Page 35 of 36

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS****COMMUNITY ENVIRONMENTAL ADVOCATES  
FOUNDATION****(b)** County of Residence of First Listed Plaintiff Nevada County, CA  
(EXCEPT IN U.S. PLAINTIFF CASES)**(c)** Attorneys (Firm Name, Address, and Telephone Number)**Ellison Folk, Shute, Mihaly & Weinberger LLP, 396 Hayes  
Street, San Francisco, CA 94102 (415) 552-7272****DEFENDANTS****RISE GRASS VALLEY, INC. and RISE GOLD CORP.**County of Residence of First Listed Defendant Nevada County, CA  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**Sean Herman, Hanson Bridgett LLP, 425 Market Street, 26th  
Floor, San Francisco, CA 94105 (415) 995-5899****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff  
and One Box for Defendant)

- |  | PTF                        | DEF                        |  | PTF                        | DEF                        |
|--|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State                      | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place<br>of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                   | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place<br>of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a<br>Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Clean Water Act, 33 U.S.C. Section 1365

Brief description of cause:

Discharge of pollutants from point source to water of the United States without a permit in violation of 33 U.S.C. Sections 1311, 1365

**VII. REQUESTED IN  
COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION  
UNDER RULE 23, F.R.Cv.P.**DEMAND \$ Injunctive and  
dec. relief, civil penalties** CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☐ Yes ☐ No**VIII. RELATED CASE(S)  
IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

Dec 20, 2024

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.