

Maura C. Fahey, OSB No. 133549  
[maura@crag.org](mailto:maura@crag.org) - (503) 525-2722  
Christopher G. Winter, OSB No. 984355  
[chris@crag.org](mailto:chris@crag.org) - (503) 525-2725  
Crag Law Center  
917 SW Oak Street, Suite 417  
Portland, OR 97205  
Fax: (503) 296-5454

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**BEAR CREEK RECOVERY**, an Oregon  
non-profit corporation, and  
**SUSAN HANSEN**, an individual

Plaintiffs,

v.

**CITY OF MOLALLA**, an Oregon  
municipal corporation.

Defendant.

**Case No.: 3:14-cv-513**

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

**(Pursuant to Clean Water Act § 505(a)(1);  
33 U.S.C. § 1365(a)(1))**

**INTRODUCTION**

1. This is a Complaint for injunctive and declaratory relief and civil penalties under the federal Clean Water Act, 33 U.S.C. § 1365. Bear Creek Recovery and Susan Hansen (collectively “BCR” or “Plaintiffs”) bring this civil action pursuant to Section 505(a)(1) of the

**COMPLAINT - 1**

*Crag Law Center  
917 SW Oak St., Suite 417  
Portland, OR 97205  
Tel. (503) 525-2722*

Federal Water Pollution Control Act, commonly known as the Clean Water Act (“CWA”), 33 U.S.C. § 1365(a)(1), against the City of Molalla (“City” or “Defendant”) for past and continuing violations of the National Pollutant Discharge Elimination System Permit (“NPDES Permit” or “Permit”) issued to the City by the Oregon Department of Environmental Quality (“DEQ”) pursuant to § 402(b) of the CWA, 33 U.S.C. § 1342(b).

2. Defendant City of Molalla is currently operating its municipal wastewater treatment facility (“Facility”) under a general NPDES permit issued by Oregon DEQ in 2009. Plaintiff alleges that the City has violated and continues to violate the terms of its Permit in violation of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*

### **JURISDICTION**

3. Jurisdiction over this action is conferred by 28 U.S.C. § 1331, because the claims present a federal question, and 33 U.S.C. § 1365, creating jurisdiction over citizen enforcement of the Clean Water Act. Plaintiffs’ claims arise under the Clean Water Act, 33 U.S.C. § 1251 *et seq.* A present, actual and justiciable controversy exists between the parties. The requested relief is proper under 28 U.S.C. § 2201 (declaratory relief) and § 2202 (injunctive relief), and 33 U.S.C. § 1365(a) (civil penalties).

4. As required by CWA § 505(b)(1)(A), 33 U.S.C. § 1365(b)(1)(A), on January 24, 2014, Plaintiffs sent the City of Molalla a sixty-day notice of intent to sue for violations of its NPDES Permit. Exhibit A (the “Notice Letter”). More than sixty days have elapsed since this notice was properly served on the City. Plaintiffs also sent copies of the sixty-day notice letter to officers of the Oregon Department of Environmental Quality and the United States Environmental Protection Agency (“EPA”) Administrator, Gina McCarthy, and EPA Region 10 Administrator’s Office.

5. Pursuant to CWA § 505(b)(1)(B), 33 U.S.C. § 1365(b)(1)(B), jurisdiction remains proper as neither the State nor EPA has commenced and is diligently prosecuting a civil action in a court of the United States or a state to require compliance with the NPDES Permit and the Clean Water Act.

### **VENUE**

6. Venue is proper in this Court pursuant to 33 U.S.C. § 1365(c)(1), because the events giving rise to this claim occurred at the City's facility and nearby lands outside the City of Molalla, which are located within this judicial district, in Clackamas County, Oregon.

### **PARTIES**

7. Plaintiff Bear Creek Recovery ("BCR") is an Oregon non-profit conservation organization based in Molalla, Oregon. Bear Creek Recovery was formed to advocate for and protect the environment of the Bear Creek watershed and the surrounding community.

8. Members of BCR reside in and around the Bear Creek watershed area that is impacted by the City's wastewater operations. Members regularly use and enjoy Bear Creek and the surrounding lands for recreational and aesthetic purposes, including swimming, picnicking, walking and birdwatching and they intend to do so on a regular basis in the future. Their use and enjoyment of Bear Creek is or may be adversely affected by Defendant's operation of the sewage treatment facility and its reclaimed water irrigation practices. In particular, the fields that the City has used to dispose of its reclaimed wastewater, in violation of its NPDES Permit, border reaches of Bear Creek and contain wetland and hydric soil features that contribute flow to Bear Creek. Members of Bear Creek Recovery are concerned that ongoing violations of the City's NPDES Permit could result in degradation of the Bear Creek watershed and harm to water quality and wildlife habitat.

9. Plaintiff BCR also has members that use and enjoy the Pudding River for recreational, scientific, and aesthetic purposes, including birdwatching, swimming, and other recreational and/or scientific purposes. Bear Creek flows into the Pudding River and is or may be adversely affected by the City's wastewater irrigation practices. The City's violations cause a reasonable fear of pollution in Bear Creek and the Pudding River, which reduces some of Bear Creek Recovery's members' ability to enjoy these waterways for a variety of activities. Bear Creek Recovery members intend to use and enjoy the Pudding River on a regular basis in the future.

10. Bear Creek Recovery has members that use and enjoy the Molalla River for recreational and aesthetic purposes, including birdwatching, swimming, and other recreational and/or scientific purposes and who intend to continue doing so on a regular basis in the future. The City discharges its treated sewage wastewater into the Molalla River during the "wet-weather" months. The City's violations of the effluent limitations in its NPDES Permit degrades or threatens to degrade BCR members' use and enjoyment of the Molalla River because the pollutants adversely affect water quality and aquatic and wildlife species in the River.

11. The water quality of Bear Creek and the Pudding and Molalla Rivers directly affects the health, recreational, aesthetic and environmental interests of the members of Bear Creek Recovery. The interests of BCR members have been, are being, and will continue to be adversely affected by Defendant's failure to comply with the CWA and the Permit unless this Court grants the requested relief. The requested relief would redress these injuries.

12. For the reasons described above, Plaintiff Bear Creek Recovery has suffered and continues to suffer injury-in-fact on account of Defendant's failure to comply with the CWA as

alleged herein. The injury-in-fact is traceable to Defendant's conduct and would be redressed by the relief Plaintiff seeks in this action.

13. Plaintiff Susan Hansen is an individual who resides at 33381 S. Sawtell Rd, Molalla, Oregon, 97038. Ms. Hansen is a member of Bear Creek Recovery. Ms. Hansen and her husband maintain their property as a wildlife habitat pursuant to an Oregon Department of Fish and Wildlife ("ODFW") Wildlife Habitat Conservation and Management Plan. Ms. Hansen's property is located to the south of Bear Creek and is located along Kaiser Creek, which runs parallel to Bear Creek. Ms. Hansen's use and enjoyment of her property has been adversely affected by the irrigation practices of the City. Specifically, Ms. Hansen is concerned about the risk posed to the viability of the habitat and ecosystem features on her property by the spraying of treated sewage effluent onto nearby riparian and upland habitats of the Bear Creek watershed.

14. Ms. Hansen regularly uses and enjoys Bear Creek and the Molalla River for recreational purposes including walking, swimming and birdwatching and intends to do so on a regular basis in the future. The City's irrigation of municipal sewage on lands surrounding Bear Creek and the discharge of municipal sewage into the Molalla River threatens to harm Ms. Hansen's interest in Bear Creek and the Molalla River, and all of these injuries are traceable to Defendant's conduct and may be redressed by the requested relief.

15. Defendant City of Molalla is an Oregon municipal corporation that operates a sewage treatment facility at 12424 Toliver Road, Molalla, Oregon, 97038 (the "Facility").

### **FACTS**

16. DEQ issued National Pollutant Discharge Elimination System Permit number 101514 ("NPDES Permit" or "Permit") to the City on December 19, 1997. DEQ last renewed

the Permit on December 11, 2009. Exhibit B. The NPDES Permit allows the Facility to discharge municipal sewage wastewater into the Molalla River.

17. The Facility was constructed in 1980. The Facility receives water through a collection system consisting of approximately 100,000 feet of piping. Once the wastewater reaches the treatment facility, it flows into an aeration basin. A pump station then moves the water from the aeration basin to the first of two facultative lagoons, which provide treatment and storage. The wastewater is then disinfected using calcium hypochlorite. Dry-weather (i.e. June 1 to October 31) effluent is disposed of by irrigating farmland adjacent to or near property owned, occupied and/or used by Plaintiffs. Wet-weather (November 1 to May 31) effluent is further treated by using dissolved air flotation (“DAF”) and gravity filters prior to discharge to the Molalla River.

18. In order to discharge into a water of the United States, the Facility must comply with all terms and conditions of the NPDES Permit. 33 U.S.C. § 1311(a). Any violation of the Permit is a violation of the CWA.

19. In order to irrigate wastewater during the dry-weather months, the Facility must comply with a Reclaimed Water Use Plan (“RWUP”), approved by the Oregon DEQ pursuant to the terms and conditions of the NPDES Permit. Any violation of the RWUP is a violation of the Permit and thus, a violation of the CWA.

20. The City’s current RWUP was approved by Oregon DEQ in August 2004. Exhibit C. Under an earlier Effluent Reuse Plan from May 2000, the City was authorized to apply reclaimed wastewater to land at the facility property and on a property referred to as the “Jorgeson property,” located adjacent to the facility. Exhibit C at 1. The 2004 RWUP approved an additional 190 acres of land referred to as the “Coleman Ranch” (“South Coleman Ranch”)

property. *Id.*, Figure 3. No additional reclaimed water application sites have been approved since 2004.

21. Pursuant to the CWA, each violation of the CWA is punishable by fines up to \$37,500 per day for each violation after January 12, 2009. 33 U.S.C. § 1319(d); adjusted by 40 C.F.R. § 19.2, 19.4.

22. The NPDES Permit sets maximum effluent limits for pollutants, including biological oxygen demand (“BOD5”), total suspended solids (“TSS”), pH, E. coli bacteria, ammonia, total residual chlorine, and temperature. Exhibit B at 2.

23. The Permit requires that gauged streamflow in the Molalla River exceed 350 cubic feet per second (cfs) prior to any effluent discharge. It further provides that the discharge must cease when the average stream flow for the previous seven days is less than 350 cfs. *Id.*

24. The Permit also provides, “no wastes shall be discharged and no activities shall be conducted that will violate water quality standards.” *Id.* Water quality standards set the level of water quality in a river necessary to protect designated uses, such as fishing, swimming, and survival of fish and wildlife. Ideally, effluent limitations in an NPDES Permit are set so compliance with the effluent limits ensures the facility will not violate water quality standards. However, if the NPDES Permit is too weak or is not comprehensive, a facility could comply with the NPDES effluent limits, while still causing a violation of water quality standards.

25. The NPDES Permit prohibits any discharge to the Molalla River from June 1 to October 31 (the “dry season”) unless approved in writing by DEQ. Exhibit B at 2. During the dry season, the City is permitted to discharge wastewater via irrigation sprinklers to approved private pastures in accordance with the RWUP. Exhibit B at 3. The dry season discharge in the form of irrigation must meet, at minimum, DEQ’s “Class C” treatment criteria. *Id.*

26. The Permit requires that reclaimed water be irrigated so as to prevent ponding of reclaimed water on ground surface and any surface runoff. *Id.*

27. The Permit requires the City to notify DEQ within 24 hours of any reclaimed wastewater being used in a manner not in compliance with the RWUP. Exhibit B at 9. The Permit also requires the City to give advanced notice to DEQ of any anticipated noncompliance or activity that may result in noncompliance with the terms of the NPDES Permit. Exhibit B at 17. The City must also report any noncompliance at the time monthly monitoring reports are submitted to DEQ. Exhibit B at 18. Such reports are to include a description of the noncompliance and the cause, the time and date of noncompliance, an estimate of how long noncompliance will continue, and steps the City will take to reduce, eliminate, and prevent reoccurrence of the noncompliance. *Id.*

28. The Permit requires the City to submit an annual report to DEQ detailing the ability of the wastewater treatment system to comply with the Permit. Exhibit B at 6. This report is due by January 15<sup>th</sup> of each year. *Id.*

29. The Permit requires the City to have a program in place to identify and reduce inflow and infiltration (“I&I”) into the sewage collection system. Exhibit B at 6. Inflow and Infiltration refers to the stormwater, underground springs, and/or groundwater that seep into the sewer system through cracks in pipes or faulty connections. Increases in the volume of influent to the plant caused by I&I can create problems for operating plants in meeting the retention times needed at different stages in the process. The City must submit an annual report by March 1<sup>st</sup> each year describing maintenance activities that have been completed to reduce I&I and those activities planned for the current year. *Id.*

30. The Permit contains general conditions that the City must comply with to ensure the proper maintenance and operation of the facility. Specifically, the Permit requires the City to take “all reasonable steps to minimize or prevent discharge or sludge use or disposal in violation of [the] permit that has a reasonable likelihood of adversely affecting human health or the environment.” Exhibit B at 12. The City must also “properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the [City] to achieve compliance with the conditions of [the] permit.” Exhibit B at 13.

### **Permit and Effluent Limit Violations**

31. The City’s failure to properly maintain and operate the Facility has resulted in hundreds of violations of the NPDES Permit since 2009. A series of violations are set forth in the Notice Letter that was sent to Defendant on January 24, 2014. Exhibit A. The violations set forth in the Notice Letter include violations of the effluent limit for Residual Chlorine, BOD5, TSS, and Ammonia. At least four (4) effluent violations and (4) dilution limitation violations have occurred since 2009. In addition, Plaintiffs provided notice of two hundred and seventy-four (274) violations for irrigation of reclaimed water on unpermitted fields since 2009 and at least eighteen (18) violations of irrigation practices during the last irrigation season alone. Plaintiffs also provided notice of numerous reporting violations that have occurred since 2009.

32. Plaintiffs also gave notice of the City’s failure to properly maintain and operate the Facility and to mitigate violations of the Permit. The violations set forth in the Notice Letter include failure to adequately manage the level of biosolids that accumulate in the Facility’s lagoon system and a failure to identify and reduce inflow and infiltration to the system. These violations are ongoing and there is at least a reasonable likelihood of continued violations in the future.

### **Discharge Violations**

33. The City violated the Permit by discharging in violation of the 350 cfs dilution limitation for the Molalla River. On September 16, 2013, the City requested a variance from the Permit requirements for an early discharge to the Molalla River because the Facility's storage lagoons were at risk of overtopping. DEQ granted the City a variance from the Permit limitations to discharge to the Molalla River on September 25, 2013, once the river reached 350 cfs. The City violated the Permit by failing to cease the discharge when the 7-day average stream flows fell below 350 cfs. The 7-day average did not exceed 350 cfs until September 29, 2013. The City was in violation of the permit each of the four (4) days it continued to discharge during inadequate flows. Because the City has not resolved the underlying problems that caused these violations there is at least a reasonable likelihood of continuing violations in the future.

### **Irrigation Violations**

34. Plaintiffs allege that the City irrigated reclaimed wastewater in violation of the Permit on at least 274 occasions in the time period between July 2009 and September 2013. These violations include the application of reclaimed water on unauthorized sites labeled as "Nursery," "Cemetery," "Stevens," and "North Coleman," as referenced in the Notice Letter. Exhibit A, Table 1.

35. Defendant also violated the irrigation provisions of the NPDES Permit on at least eighteen (18) occasions in the time period between July and September 2013. The violations include: violation of perimeter buffer and overspray onto adjacent land; ponded water on the surface of fields; and runoff into wetland features of irrigation site. On one occasion the overspray of reclaimed water on the North Coleman field caused the spraying of a bicyclist, cars, and Ms. Hansen while present on Freyer Park Road.

36. The irrigated wastewater contains a level of E. coli bacteria from human feces that is unsafe for human contact.

37. The City's extensive irrigation violations result, in part, from discharging more water than the pastures can absorb. The standing water and runoff violations occur because the City over-irrigates saturated soils.

38. Several of the sites used to irrigate reclaimed wastewater are located upland, bordering, or near the banks of Bear Creek. Excessive irrigation discharge run-off has flowed and will continue to flow into Bear Creek from the saturated fields or directly from the spray guns.

39. Oregon DEQ sent two separate warning letters to the City detailing these violations. The first letter, sent on September 23, 2013, warned the City that reclaimed water application had occurred at sites not identified in the RWUP and at levels exceeding the ability of the soil to absorb. The second letter, sent on October 7, 2013, warned the City that DEQ had become aware of reclaimed water application at unauthorized sites for the past several years.

40. The continuous nature of the irrigation violations and the outlook of no viable solutions demonstrate at least a reasonable likelihood of continued violations in the future.

### **Reporting Violations**

41. The City has violated the Permit by failing to notify DEQ within 24 hours of treated effluent being used in violation of the Permit conditions and RWUP on each of the above referenced irrigation violations. Thus, the City has violated the Permit at least 292 times since 2009 for not reporting instances of irrigation noncompliance.

42. The City violated the Permit by failing to notify DEQ in advance of any anticipated noncompliance. DEQ files indicate that no notice was given prior to any of the

above referenced irrigation violations. Each failure to give notice is a separate violation of the Permit and the CWA.

43. The City has also violated the Permit by failing to submit required annual reports detailing the ability of the facility to comply with the RWUP and the Permit. These reports are due on January 15 of each year. The City has failed to submit these reports each year since 2009, except for a one-page report submitted in 2010, which fails to include details required by the Permit. Each day these reports are late is a separate violation of the Permit and the CWA.

44. The continuous nature of the reporting violations demonstrates at least a reasonable likelihood of continued violations in the future.

#### **Inflow & Infiltration Violations**

45. Defendant has violated and continues to violate the Permit by failing to implement a program aimed at identifying and reducing inflow and infiltration (“I&I”) into the collection system. A Permit Evaluation Report completed by DEQ for the City’s 2013 NPDES Permit renewal application indicates that an estimated 500,000 gallons per day are entering the system through I&I.

46. Defendants have been aware that the system has a major I&I problem since at least 1997. DEQ indicated concern over the lack of attention the City was giving to the I&I problem in a 1997 Permit Evaluation Report. The City has failed to take any meaningful steps toward identifying and reducing the I&I problem, despite these long-standing concerns.

47. Defendants have also violated the permit by failing to submit annual reports to DEQ that detail sewer collection maintenance activities aimed at reducing I&I. Reports are due by March 1 each year. The City failed to submit reports from 2011, 2012, and 2013. Each day that the reports are late is a separate violation of the Permit.

48. Because Defendants have failed to adequately implement a program to identify and reduce inflow and infiltration there is a reasonable likelihood of continued violations in the future.

#### **Facility Maintenance & Operation Violations**

49. Plaintiffs provided notice of Defendant's failure to properly maintain and operate the Facility in compliance with the Permit. Defendant has failed to take steps to minimize or prevent discharges in violation of the permit and has failed to maintain and operate the collection and treatment systems in order to achieve compliance with the conditions of the Permit. Defendant's failure to comply with general operation and maintenance conditions has resulted in the repeated violations of the RWUP, the NPDES Permit, and the Clean Water Act detailed in the preceding paragraphs.

50. Over the last 15 years the City has failed to adequately manage the level of biosolids that accumulate in the Facility's lagoon system. Records indicate that the City has only removed biosolids from the lagoons once since 1999 and that only 55 tons were successfully removed at that time. Over time the solids in the lagoons have built up and caused problems for the operation of the Facility. Specifically, the build-up of solids in the lagoons has resulted in continued difficulty for facility operators in keeping the levels of the lagoons low enough to handle regular inflow and wet weather conditions.

51. The continued build-up of solids in the lagoons, in combination with the failure to reduce the I&I problems and the lack of approved reclaimed water irrigation sites, has created a need for Defendants to continue to violate the Permit by discharging at unauthorized times and in unauthorized locations in order to keep lagoon levels low enough to continue operations at the facility.

52. Defendant's persistent and extensive Clean Water Act violations result from mismanagement of the wastewater system as a whole. In managing its wastewater, the City has been unwilling or technically unable to comply with the terms of its permit, which has led to hundreds of known violations. Mismanagement as well as an alarming disregard for the permit conditions are the links that connect the City's wastewater irrigation violations, Molalla River effluent violations, reporting violations, and the City's continuing failure to maintain and operate the Facility as necessary to comply with the Clean Water Act. Specifically, the City has blatantly disregarded the Permit by irrigating reclaimed water on unauthorized sites. The City has mismanaged the irrigation discharge by over-spraying treated wastewater onto adjacent roads and bystanders, and spraying more water than the fields can handle, causing run-off and ponding. The City has mismanaged the discharge system by failing to comply with effluent limits, failing to cease discharge as required by the Molalla River dilution standard, and by failing to properly maintain storage lagoon levels. The City has mismanaged its monitoring and reporting duties by failing to notify DEQ of anticipated and past violations of the Permit and RWUP. The City has mismanaged its facility by failing to implement an adequate program to identify and reduce inflow and infiltration in the collection system. Overall, there is a likelihood of continuing violations due to the City's long-term mismanagement and continuing mismanagement of its wastewater system.

53. Defendants were subject to a citizen suit for the same or similar violations of its NPDES Permit and the Clean Water Act in 2006. (*Molalla Irrigation Co., et al. v. City of Molalla*, D.Or., Case No. 06-CV-773-JO). A consent decree was entered in April 2007 and expired in 2009. (Case No. 06-CV-773-PK). Despite the prior lawsuit and settlement terms, the

City has continued to violate the terms and conditions of the Permit and the Clean Water Act and is likely to continue to violate in the future.

### **FIRST CLAIM FOR RELIEF**

#### **(Violation of Permit Conditions and Effluent Limits for Discharge to Surface Water and Land Application of Effluent)**

54. Plaintiffs reallege and incorporate by reference every allegation made in paragraphs 1 through 53 above.

55. The Facility and collection system suffer from numerous deficiencies that render it inadequate to handle the municipal sewage generated by the City of Molalla.

56. On several occasions since 2009, the deficiencies in the Facility have caused Defendant to discharge pollutants into the Molalla River in violation of the effluent limits and conditions set forth in the NPDES Permit 101514. Because the problems at the Facility have not been adequately corrected at this time, Defendant's violations resulting from discharge to the Molalla River are at least reasonably likely to recur again in the future in the absence of the requested relief.

57. On numerous occasions since 2009, the deficiencies in the Facility have also caused Defendant to irrigate farmland with reclaimed municipal sewage water in violation of the conditions set forth in the NPDES Permit 101514. Because the problems at the Facility have not been adequately corrected at this time, Defendant's violations of the irrigation requirements are at least reasonably likely to recur again in the future in the absence of the requested relief.

### **SECOND CLAIM FOR RELIEF**

#### **(Violation of Reporting Requirements)**

58. Plaintiffs reallege and incorporate by reference every allegation made in paragraphs 1 through 57 above.

**COMPLAINT - 15**

*Crag Law Center  
917 SW Oak St., Suite 417  
Portland, OR 97205  
Tel. (503) 525-2722*

59. On numerous occasions since 2009, Defendant has failed to comply with the reporting requirements of NPDES Permit 101514.

60. Defendant's violations are at least reasonably likely to continue in the future in the absence of the requested relief.

### **THIRD CLAIM FOR RELIEF**

#### **(Violation of Permit Conditions for Facility Maintenance and Operation)**

61. Plaintiffs reallege and incorporate by reference every allegation made in paragraphs 1 through 60 above.

62. Since 2009, Defendant has continuously failed to comply with the permit conditions and requirements for the proper operation and maintenance of the facility set forth in NPDES Permit 101514. Because the problems at the facility have not been corrected at this time, Defendant's violations are at least reasonably likely to continue in the future in the absence of the requested relief.

### **REQUEST FOR RELIEF**

**WHEREFORE, Plaintiffs respectfully request that this Court:**

1. Declare that Defendant has violated the Clean Water Act resulting from:
  - a. The discharge of pollutants to surface water in violation of applicable permit conditions in NPDES Permit 101514;
  - b. Land application of municipal sewage wastewater to unauthorized fields and in a manner that violated the terms and conditions of NPDES Permit 101514;
  - c. Failure to comply with reporting requirements of NPDES Permit 101514;
  - d. Failure to properly operate and maintain the Facility in violation of NPDES Permit 101514.

2. Temporarily and permanently enjoin Defendant from:
  - a. Discharging pollutants to the Molalla River except as expressly authorized by the Clean Water Act and the limitations and conditions of the applicable NPDES Permit;
  - b. Land application of reclaimed wastewater except as expressly authorized by the Clean Water Act and the limitations and conditions of the NPDES Permit and Reclaimed Water Use Plan.
3. Assess civil penalties against the Defendant for each violation of the Clean Water Act pursuant to 33 U.S.C. § 1319(d), adjusted by 40 C.F.R §§ 19.2, 19.4, which subjects the violator to a penalty of up to \$37,500 per day for each violation.
4. Award Plaintiffs their costs and expenses, including attorneys fees, incurred in bringing this action.
5. Such other relief as the Court may deem just and proper.

DATED this 31st day of March, 2014

Respectfully submitted,

s/ Maura C. Fahey

Maura C. Fahey, OSB # 133549

[maura@crag.org](mailto:maura@crag.org)

Christopher G. Winter, OSB # 984355

[chris@crag.org](mailto:chris@crag.org)

Crag Law Center

917 SW Oak St., Suite 417

Portland, Oregon 97205

(503) 525-2722

Fax (503) 296-5454

*Attorneys for Plaintiffs*