

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

CONSERVATION LAW FOUNDATION,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
GENERAL ALUM NEW ENGLAND)	
CORPORATION,)	
Defendant.)	

COMPLAINT

Plaintiff, the Conservation Law Foundation (CLF), through its undersigned attorney, alleges as follows:

INTRODUCTION

1. This is a civil action brought against the General Alum New England Corporation pursuant to section 505(a)(1) of the Federal Clean Water Act (CWA or Act), 33 U.S.C. § 1365(a)(1).

2. General Alum New England Corporation (GAC) owns and operates a chemical manufacturing and distribution facility in Searsport, Maine. At this facility, GAC manufactures aluminum sulfate, ammonium sulfate, sodium aluminate, and distributes sulfuric acid. The claims arise from GAC's failure to comply with the CWA in the operation of its chemical manufacturing and distribution facility in Searsport, Maine. Specifically, GAC discharges pollutants into Stockton Harbor, a water of the United States, from one point source without a National Pollutant Discharge Elimination System (NPDES) permit, discharges pollutants from a second point source in violation of an existing NPDES permit, discharges storm water in

violation of the federal multi-sector industrial storm water discharge permit, has spilled, and may again spill, oil and hazardous waste (sulfuric acid) that reached the shores and waters of Stockton Harbor, and operates its facility without having completed and implemented federally required storm water pollution prevention plans and spill control and countermeasure plans, all in violation of the CWA. On information and belief, GAC's egregious, long-standing, and continuing failure to comply with the CWA has contributed to the decline of Stockton Harbor's water quality, and the habitat and marine species that depend upon that water quality.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to section 505(a)(1) of the CWA, 33 U.S.C. § 1365(a)(1) and 28 U.S.C. § 1331.

4. Venue is proper in this district pursuant to section 505(c) of the CWA, 33 U.S.C. § 1365(c), because GAC's facility which is the subject of this action is located within this District.

5. Pursuant to section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), plaintiffs gave notice of the violations alleged in this complaint more than 60 days prior to the commencement of this action to: (a) GAC, (b) the United States Environmental Protection Agency (U.S. EPA), and (c) the State of Maine Department of Environmental Protection (ME DEP).

PLAINTIFFS

6. Plaintiff CLF is a private, not-for-profit organization incorporated in Massachusetts and authorized to carry on activities in Maine. CLF is dedicated to solving environmental problems that threaten the people, communities, and natural resources in New

England, including marine wildlife and their habitats, and coastal and ocean resources. To further these goals, CLF undertakes litigation and other legal advocacy on behalf of its members' interests; promotes public awareness, education, and citizen involvement in the conservation of marine wildlife and resources; and supports programs for the conservation of marine wildlife and their habitats. CLF has approximately 15,000 members throughout New England, including members living on and near Stockton Harbor and Penobscot Bay in Maine. CLF's members consume locally harvested seafood including shellfish and use and enjoy marine areas including Stockton Harbor and Penobscot Bay for recreational, navigational, commercial, scenic/aesthetic, educational, and scientific purposes. CLF and its members have a direct interest in healthy seafood and a healthy marine ecosystem, free from pollutants harmful to human health and the environment. Members of CLF include worm diggers, clammers, fishers, consumers of locally harvested seafood, scientists, boaters, birders, and local citizens who enjoy Stockton Harbor and Penobscot Bay for its scenic and aesthetic qualities. GAC's discharge of pollutants including hazardous materials to Stockton Harbor, and its long-term and continuing inattention to environmental compliance directly affects the ability of CLF's members to pursue their interests. Among the specific concerns of CLF and its members is the fact that the waters in and around Stockton Harbor were once an extremely productive worm and shellfish harvesting area that has lost much of its previous vitality. CLF believes that GAC's egregious and long-standing inattention to environmental compliance has contributed to the decline of Stockton Harbor's water quality, and the habitat and marine species that depend upon that water quality. These interests have been, and – unless the relief sought in this complaint is granted – will continue to be adversely affected and irreparably injured by defendants' continuing illegal discharge of pollutants and continuing failure to comply with the requirements of the CWA.

DEFENDANT

7. GAC is a domestic for-profit corporation incorporated under the laws of the State of Indiana and registered to conduct business in Maine.

8. GAC owns and operates a chemical manufacturing and distribution facility in Searsport, Maine where it manufactures aluminum sulfate, ammonium sulfate, sodium aluminate, and distributes sulfuric acid.

9. GAC is a person within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).

Count 1: NPDES Permit Effluent Limit, Sampling, Monitoring and Reporting Violations

10. The CLF realleges and incorporates by reference the allegations of paragraphs 1 through 9 above as though fully set forth herein.

11. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the United States except in compliance with the terms and conditions of an NPDES permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the Act, 33 U.S.C. § 1342, provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of any pollutant into the navigable waters of the U.S. upon such specific terms and conditions as the Administrator may prescribe.

12. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, NPDES Permit No. ME0001830 was issued to GAC for discharges of “uncontaminated cooling water” from its facility from a single outfall (Outfall 001) to receiving waters named Stockton Harbor subject to certain specific effluent limitations, monitoring requirements, and quarterly reporting requirements.

13. At all times material to this complaint, GAC's NPDES permit for Outfall 001 has contained effluent limits, monitoring requirements, and quarterly reporting requirements for pH, flow, and temperature.

14. At all times material to this complaint, GAC has discharged and continues to discharge waste water from Outfall 001 every day that it operates its facility.

15. During every quarter beginning with the first calendar quarter of 1997 for which GAC has submitted the required discharge monitoring reports and continuing through the most recent quarterly report, specifically the second, third, and fourth quarters of 1997, and all four quarters of 1998, 1999, 2000, and 2001, GAC's reported discharge of waste water from Outfall 001 has exceeded the discharge limitation for pH range in violation of the requirements of its NPDES permit.

16. During every quarter referred to in paragraph 15, GAC's pH range exceedences reflected pH measurements that were too low (acidic), however, during other quarters including the second and third quarters of 2000, GAC also reported exceedences of the upper limit for pH range (too high or alkaline).

17. During the fourth quarter 2001, specifically on or about the December 4, 2001 expiration date for of the 60-day notice period required by section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), GAC began to operate a single stage waste water treatment system for Outfall 001 which can automatically add caustic to waste water that is too acidic in order to attempt to control the pH of its discharges from this Outfall.

18. On information and belief, CLF states that the technology employed by GAC to remedy its violations at Outfall 001 is not adequate to prevent ongoing violations of its permit. The treatment system is not implemented such that acid is automatically added to treat waste

water that is too alkaline despite the recent violations of its pH range effluent limitation as described in paragraph 16. In addition, the treatment system is designed to sound an alarm in a facility operations building several hundred yards away from the treatment system when the effluent discharge exceeds or is on the verge of exceeding the effluent limitation for pH range, however, there is no second stage to the treatment system that would actually treat, contain, or otherwise prevent a discharge from the single stage treatment system that is in violation of the permit's effluent limitation for pH range from reaching Stockton Harbor.

19. GAC's fourth quarter 2001 discharge monitoring report (the most recent report) indicates that GAC continues to violate its effluent limitation for pH range at Outfall 001 by discharging wastewater that exceeds its pH range effluent limitation as too acidic. GAC violated its pH range during this quarter both prior to and even after installation of the Outfall 001 single stage treatment system. GAC continues to violate its effluent discharge limit for pH range because the Outfall 001 single stage treatment system malfunctions and the system provides no secondary controls to prevent discharges of waste water exceeding the pH range effluent limitation from reaching Stockton Harbor. In addition, as noted there is also a reasonable likelihood that GAC will violate its pH range effluent limitation because the system is not being implemented to treat discharges that are too alkaline.

20. During the third quarter of 1999, GAC also discharged wastewater exceeding the daily maximum discharge limitation in GAC's NPDES permit for Outfall 001 for Temperature in violation of the requirements of its NPDES permit.

21. The Outfall 001 treatment system is not designed nor does it contain a process for controlling the temperature of its discharges.

22. Beginning with the first quarter of 1997 and continuing for each quarter through and including the second quarter of 2000, GAC failed to comply with the monitoring and reporting requirements of its NPDES permit by failing to sample, monitor and report the actual range of its pH samples taken at the point of discharge to the Stockton Harbor as required by NPDES permit No. ME0001830. Because GAC reported only a single value that was below the pH range effluent limitation, instead of the actual range of its samples, it is impossible from these reports to tell if there were exceedences of its pH range limit during this period as a result of discharges that were too alkaline.

23. By discharging process waste water from Outfall 001 to Stockton Harbor in violation of its NPDES permit, GAC has violated section 301(a) of the CWA, 33 U.S.C. § 1311(a), during at least the last nineteen consecutive quarters for which it has filed required quarterly monitoring reports. GAC will continue, or at minimum there is a reasonable likelihood that GAC will continue, to illegally discharge waste water in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), after the date of commencement of this action.

Count 2: Unauthorized Discharges of Waste Water From Outfall 001

24. CLF realleges and incorporates by reference the allegations of paragraphs 1 through 9 above as though fully set forth herein.

25. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the U.S. except in compliance with the terms and conditions of a National Pollution Discharge Elimination System (NPDES) permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342.

26. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, NPDES Permit No. ME0001830 was issued to GAC for discharges of only “uncontaminated cooling water” from its facility from a single outfall (Outfall 001) to receiving waters named Stockton Harbor subject to certain specific effluent limitations, monitoring requirements, and quarterly reporting requirements.

27. At all times relevant to this complaint, GAC’s operations at its facility have included various activities which generate waste waters containing pollutants including softener regeneration effluent (Brine), stormwater, steam condensate, DM regeneration water, and boiler blowdown waste water.

28. These waste waters cause and contribute to unpermitted discharges of a number of pollutants presently being monitored and reported by GAC including, but not limited to, ammonia, total suspended solids, and oil and grease.

29. At all times material to this complaint, GAC has discharged and continues to discharge pollutants in waste water other than uncontaminated cooling water, including softener regeneration effluent (Brine), stormwater, and steam condensate, from Outfall 001 every day that it operates its facility.

30. Over a period including April 19th and April 20th of 2001, GAC discharged sulfuric acid with an extremely low pH resulting from an approximately 800 gallon sulfuric acid spill at a truck loading station which flowed through a storm water catch basin and Outfall 001 directly to Stockton Harbor.

31. GAC does not have a permit authorizing these discharges.

32. The waste waters and sulfuric acid GAC discharges to Stockton Harbor contain “pollutants” within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

33. Outfall 001 is a “point source” within the meaning of section 502(14) of the CWA, 33 U.S.C. § 1362(14).

34. Stockton Harbor is a navigable water of the U.S. within the meaning of section 503(7), 33 U.S.C. § 1362(7).

35. By discharging waste waters containing pollutants and directly discharging sulfuric acid from its Searsport Facility to Stockton Harbor without a NPDES permit, GAC violated section 301(a) of the CWA, 33 U.S.C. § 1311(a). GAC will continue to illegally discharge waste water and sulfuric acid in violation of section 301(a) of the CWA, 33 U.S.C. §1311(a), after the date of commencement of this action.

**Count 3: Unauthorized Discharges of Waste
Water From an Outfall Identified by GAC as Outfall 002**

36. CLF realleges and incorporates by reference the allegations of paragraphs 1 through 9 above as though fully set forth herein.

37. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the U.S. except in compliance with the terms and conditions of a National Pollution Discharge Elimination System (NPDES) permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342.

38. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, NPDES Permit No. ME0001830 was issued to GAC for discharges of only “uncontaminated cooling water” from its facility from a single outfall (Outfall 001) to receiving waters named Stockton Harbor subject to certain specific effluent limitations, monitoring requirements, and quarterly reporting

requirements. No NPDES permit has ever been issued for any discharges from any other outfall at GAC's facility.

39. At all times material to this complaint, GAC's operations at its facility have included various activities which generate waste waters containing pollutants including softener regeneration effluent (Brine), steam condensate, demineralizer (DM) regeneration water, and boiler blowdown waste waters.

40. These waste waters cause and contribute to unpermitted discharges of a number of pollutants presently being monitored and reported by GAC to the State of Maine including, but not limited to, ammonia, total suspended solids, oil and grease and pH from an outfall it has identified as "Outfall 002."

41. At all times material to this complaint, GAC has discharged and continues to discharge these pollutants in waste water from Outfall 002 every day that it operates its facility.

42. Section 301(a) of the CWA provides that the discharge of pollutants into navigable waters of the United States is illegal except pursuant to a NPDES permit issued under Section 402 of the Act. GAC does not, nor has it ever had, an NPDES permit authorizing these discharges.

43. These unpermitted discharges of waste waters and the pollutants contained therein are continuing violations of the CWA for every day GAC has operated and discharged, and continues to operate and discharge, waste water from Outfall 002 since at least the first quarter of 1997.

44. The unpermitted discharges of pollutants from Outfall 002 often violate the pH standard for marine waters contained in state water quality standards, and would be in violation of the federal NPDES permit limit for pH at Outfall 001 if those limitations were applied to

Outfall 002. These exceedences continue to occur as reported during GAC's fourth quarter 2001 discharge monitoring report filed with the State of Maine (the most recent report) which indicates that GAC's discharges from Outfall 002 would be too acidic if the pH range effluent limit from Outfall 001 were applied.

45. GAC does not have, nor has it ever had, a treatment system for discharges at Outfall 002 that could control the discharges of pollutants including pH from Outfall 002.

46. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil or hazardous substances into or upon navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful. For purposes of Section 311, oil is defined broadly as "oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil." 33 U.S.C. 1321(a)(1). For purposes of Section 311(b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines.

47. Over a period including the dates on or about April 1st to April 3rd of 2001, GAC discharged oil or oil sludge in its waste water discharge from Outfall 002 which caused a film or sheen upon or discoloration of the surface water or shoreline adjacent to Stockton Harbor within the meaning of 311(b)(4) and 40 C.F.R. § 110.3 of the CWA from Outfall 002.

48. Oil and oil sludge are "pollutants" within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

49. Pursuant to Section 311(j)(1) of the CWA, 33 U.S.C. §1321(j)(1), EPA promulgated the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112. GAC is the “owner” and “operator” within the meaning of Section 311(a)(6), 33 U.S.C. § 1321(a)(6), of “onshore facilities” within the meaning of Section 311(a)(10), 33 U.S.C. § 1321(a)(10). GAC has oil storage capacity subjecting it to the requirements of the Oil Pollution Prevention regulations at 40 C.F.R. Part 112, and its facility could reasonably be expected to discharge oil in harmful quantities into or upon Stockton Harbor, a navigable water within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7). Pursuant to 40 C.F.R. § 112.3, the owner or operator of an onshore facility that has discharged or, due to its location, could reasonably be expected to discharge, oil in harmful quantities into or upon the navigable waters shall prepare a Spill Prevention Control and Countermeasure (SPCC) Plan meeting all CWA requirements by no later than July 10, 1974, or within six months of beginning operations. The requirements for preparation and implementation of SPCC plans are found at 40 C.F.R. § 112.3. Pursuant to 40 C.F.R. § 112.5(b) the owner and operator of the facility shall complete a review and evaluation of the SPCC plan at least once every three years.

50. GAC has failed to complete a valid SPCC plan meeting CWA requirements. Therefore, GAC has operated and continues to operate its facility in violation of Section 311(j)(1) of the CWA and 40 C.F.R. Part 112 every day it has operated its facility since at least six months after beginning operations. A valid and fully implemented SPCC plan is critical given the nature of GAC’s business and its proximity to Stockton Harbor, and may have prevented the unauthorized discharges of oil or oil sludge to Stockton Harbor.

51. GAC does not have a NPDES permit authorizing any of these discharges from Outfall 002.

52. The waste waters GAC discharged and continues to discharge from the Stockton Harbor Facility contain “pollutants” within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

53. Outfall 002 is a “point source” within the meaning of section 502(14) of the CWA, 33 U.S.C. § 1362(14).

54. Stockton Harbor is a navigable water of the U.S. within the meaning of section 503(7), 33 U.S.C. § 1362(7).

55. By discharging waste waters containing pollutants from its facility to Stockton Harbor without a NPDES permit, GAC violated section 301(a) of the CWA, 33 U.S.C. § 1311(a). GAC will continue to illegally discharge waste waters containing pollutants in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), after the date of commencement of this action.

Count 4: Discharging Storm Water
In Violation of GAC's NPDES Stormwater Permit

56. CLF realleges and incorporates by reference the allegations of paragraphs 1 through 9 above as though fully set forth herein.

57. Under sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, the Administrator of EPA on November 16, 1990, promulgated regulations relating to the control of storm water discharges, at 40 C.F.R. § 122.26. Section 122.26(c)(1), 40 C.F.R., provides that dischargers of storm water associated with industrial activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a general permit. Pursuant to 40 C.F.R. § 122.26(e), the deadline for individual and group permit applications was October 1, 1992. Pursuant to the NPDES Baseline General Permit available for dischargers of storm water associated with industrial activity located in Maine (hereinafter the Baseline General Permit), dischargers seeking coverage under the Baseline General Permit were required to file a NOI to be covered by October 1, 1992. 57 Fed. Reg. 41,306 (September 9, 1992).

58. Effective September 29, 1995, EPA issued a final NPDES Storm Water Multi-Sector General Permit for Industrial Activities (60 Fed. Reg. 50804, September 29, 1995) (the 1995 Multi-Sector Permit), available for certain facilities, including chemical and allied products manufacturing facilities (Section C). To be covered under the 1995 Multi-Sector Permit, facilities discharging storm water associated with industrial activity were required to submit a NOI by March 29, 1996. (61 Fed. Reg. 5254, February 9, 1996).

59. Effective October 30, 2000, EPA reissued the final NPDES Storm Water Multi-Sector General Permit for Industrial Activities (65 Fed. Reg. 64747, October 30, 2000) (the 2000

Multi-Sector Permit). To be covered under the 2000 Multi-Sector Permit, facilities discharging storm water associated with industrial activity were required to submit a NOI by January 29, 2001. (65 Fed. Reg. 64758).

60. Under 40 C.F.R. § 122.26(b)(14)(ii), storm water associated with industrial activity includes storm water discharges associated with industrial activity from facilities identified under Standard Industrial Classification (SIC) 28 (except 283). GAC's facility conducts activities associated with manufacturing chemical and allied products manufacturing facilities and is identified under SIC 2819 within the meaning of 40 C.F.R. § 122.26(b)(14)(ii).

61. Since at least July 18, 1994, GAC has discharged "storm water associated with industrial activity" within the meaning of 40 C.F.R. § 122.26 from its facility to Stockton Harbor. Storm water from GAC discharges to Stockton Harbor through storm drains and eroded channels in the banks of Stockton Harbor.

62. The storm drains and eroded channels are all "point sources" within the meaning of section 502(14) of the Clean Water Act, 33 U.S.C. §1362(14).

63. GAC submitted a NOI for coverage under the 1995 Multi-Sector Permit, for discharges of storm water from its facility on December 21, 1995 and received permit coverage under the 1995 Multi-Sector Permit for discharges to Penobscot Bay (Stockton Harbor) on December 23, 1995.

64. GAC submitted a NOI for coverage under the 2000 Multi-Sector Permit, for discharges of storm water from its facility on January 29, 2001 and received permit coverage under the 2000 Multi-Sector Permit on January 31, 2001.

65. The 1995 and 2000 Multi-Sector Permits contain many terms and conditions designed to ensure implementation of practices designed to reduce the pollutants in storm water

discharges associated with industrial activity at the facility.¹ The 1995 Multi-Sector Permit required GAC to develop and implement a SWPPP for the facility in accordance with requirements specified in the permit on or before September 25, 1996. (60 Fed. Reg. 51,115). The 2000 Multi-Sector Permit required all permittees previously covered by the 1995 Multi-Sector Permit to update their SWPPP for the facility to comply with any new requirements specified in the permit on or before the date they submit their new NOIs. (65 Fed. Reg. 64,766).

66. During the period beginning December 23, 1995 through today, GAC failed to develop and implement a SWPPP in violation of the conditions of its 1995 and 2000 Multi-Sector Permits. Discharges in violation of permit conditions constitute violations of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

67. The 1995 Multi-Sector Permit also required GAC to conduct analytical monitoring and reporting for each outfall at least quarterly during years two and four of the Permit, specifically the period October 1, 1996, through September 30, 1997, and the period October 1, 1998, through September 30, 1999. (60 Fed. Reg. 51,137-38). The permit required GAC to record the monitoring results on quarterly monitoring report forms, and to submit the forms to EPA, postmarked no later than March 31, 1998, and March 31, 2000, respectively. (60 Fed. Reg. 51,139).

68. The 2000 Multi-Sector Permit requires GAC to conduct benchmark monitoring and reporting for each outfall at least quarterly during years two and four of the Permit, specifically beginning with the period October 1, 2001, through September 30, 2002. (65 Fed.

¹ Among the conditions contained in the 1995 and 2000 Multi-Sector Permits for SWPPPs are conditions requiring that GAC identify potential sources of pollution that could affect the quality of its storm water discharges, describe and ensure implementation of practices to decrease pollutants in storm water, identify areas where potential spills

Reg. 64,816-17). The permit requires GAC to record the monitoring results on quarterly monitoring report forms, and to submit the forms to EPA. (65 Fed. Reg. 64,852).

69. During the period October 1, 1996, through September 30, 1997, the period October 1, 1998, through September 30, 1999, and the period October 1, 2001 through today, GAC discharged and is continuing to discharge storm water associated with industrial activity without conducting analytical (benchmark) monitoring of its storm water discharges or reporting the results to EPA, in violation of its 1995 and 2000 Multi-Sector Permits and section 301(a) of the CWA, 33 U.S.C. § 1311(a).

70. The 1995 Multi-Sector Permit also required GAC to conduct visual monitoring and reporting for each outfall at least quarterly throughout the permit period, and to maintain the results of such monitoring on site in the SWPPP. (60 Fed. Reg. 51,139). The 2000 Multi-Sector Permit requires GAC to conduct visual monitoring and reporting for each outfall at least quarterly throughout the permit period, and to maintain the results of such monitoring on site in the SWPPP. (65 Fed. Reg. 64,816).

71. Upon information and belief, during the period December 23, 1995, through today, GAC discharged and is continuing to discharge storm water associated with industrial activity without conducting quarterly visual monitoring of its storm water discharges and without maintaining the results of such monitoring on site in a SWPPP, in violation of its 1995 and 2000 Multi-Sector Permits and section 301(a) of the CWA, 33 U.S.C. § 1311(a).

RELIEF SOUGHT

Wherefore, Plaintiff CLF respectfully requests that the Court grant the following relief:

and leaks can occur and develop hazardous material spill prevention and response procedures, and conduct routine inspections and annual comprehensive site evaluations of the facility. (65 Fed. Reg. 64,812-14).

1. Declare GAC to have violated and to be in continuing violation of the Clean Water Act;
2. Permanently enjoin GAC from discharging waste water, storm water, or any other pollutant from any point source not authorized by a NPDES permit or in violation of the terms of any NPDES permit;
3. Order GAC to comply with all applicable requirements of the Clean Water Act and its implementing regulations;
4. Permanently enjoin GAC from storing oil at its facility that could reasonably be expected to discharge oil in harmful quantities into or upon surface waters except in compliance with the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112.
5. Order GAC to remediate the harm caused by its violations, to the extent possible;
6. Order GAC to pay a civil penalty not to exceed twenty-seven thousand five hundred dollars (\$27,500) for each day of each violation of the Clean Water Act occurring on or after February 8, 1997;
7. Order GAC to pay reasonable attorney's fees and costs as provided by 33 U.S.C. § 1365(d); and

8. Grant such other relief as the Court deems just and proper.

For the Conservation Law foundation,

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Conservation Law Foundation
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Dated: _____