

1 Brian A. Knutsen, WSBA No. 38806
2 KAMPMEIER & KNUTSEN, PLLC
3 1300 SE Stark Street, Suite 202
4 Portland, Oregon 97214
5 Telephone: (503) 841-6515
6 Email: brian@kampmeierknutsen.com

7 Erica L. Proulx, WSBA No. 60155
8 KAMPMEIER & KNUTSEN, PLLC
9 705 Second Avenue, Suite 901
10 Seattle, Washington 98104
11 Telephone: (206) 739-5184
12 Email: erica@kampmeierknutsen.com

13 George A. Kimbrell, WSBA No. 36050
14 CENTER FOR FOOD SAFETY
15 2009 NE Alberta Street, Suite 207
16 Portland, Oregon 97211
17 Telephone: (971) 271-7372
18 Email: gkimbrell@centerforfoodsafety.org

19 *Attorneys for Plaintiffs*

20
21
22
23
24
25
26
27
28
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

CENTER FOR FOOD SAFETY; and
WILD FISH CONSERVANCY,

Plaintiffs,

v.

PACIFIC AQUACULTURE –
NESPELEM, LLC; and PACIFIC
SEAFOOD AQUACULTURE, LLC,

Defendants.

Case No. 2:25-cv-00236

COMPLAINT

I. INTRODUCTION.

1
2 1. This action is a citizen suit brought under section 505 of the Clean
3 Water Act (“CWA”), 33 U.S.C. § 1365, by Plaintiffs Center for Food Safety and
4 Wild Fish Conservancy against Defendants Pacific Aquaculture – Nespelem, LLC
5 and Pacific Seafood Aquaculture, LLC (collectively, “Pacific”) for Pacific’s
6 repeated and ongoing violations of sections 301(a) and 402 of the CWA, 33 U.S.C.
7 §§ 1311(a) and 1342, and the terms and conditions of Pacific’s National Pollutant
8 Discharge Elimination System (“NPDES”) permits authorizing discharges of
9 pollutants from Pacific’s commercial steelhead farms to the Columbia River.
10
11

12
13 2. Center for Food Safety and Wild Fish Conservancy (collectively,
14 “Plaintiffs”) seek declaratory judgment, injunctive relief, the imposition of civil
15 penalties, and an award of costs, including attorney and expert witness fees.
16

II. JURISDICTION AND VENUE.

17
18 3. This Court has jurisdiction pursuant to section 505(a) of the CWA, 33
19 U.S.C. § 1365(a) (CWA citizen suit provision), and 28 U.S.C. § 1331 (federal
20 question). Pacific is in violation of an “effluent standard or limitation” as defined
21 by section 505(f) of the CWA, 33 U.S.C. § 1365(f). The requested relief is
22 authorized by sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d) and
23 1365, and 28 U.S.C. §§ 2201 and 2202.
24
25

26 4. In accordance with section 505(b)(1)(A) of the CWA, 33 U.S.C.
27
28

1 § 1365(b)(1)(A), and 40 C.F.R. § 135.2, Plaintiffs notified Pacific of its violations
2 of its NPDES permits and of the CWA and of Plaintiffs’ intent to sue for those
3 violations by certified letter dated and postmarked April 10, 2025 (“Notice
4 Letter”). Plaintiffs also notified the Administrator of the United States
5 Environmental Protection Agency (“EPA”), the Administrator of EPA Region 10,
6 and the Director of the Washington State Department of Ecology (“Ecology”) of
7 the violations and Plaintiffs’ intent to sue Pacific by mailing copies of the Notice
8 Letter to those officials on April 10, 2025. A copy of the Notice Letter is attached
9 to this Complaint as Exhibit 1.
10
11
12

13 5. At the time of the filing of this Complaint, more than sixty days have
14 passed since Plaintiffs mailed the Notice Letter in the manner described in the
15 preceding paragraph.
16

17 6. At the time of the filing of this Complaint, the violations complained
18 of in the Notice Letter and this Complaint are continuing or reasonably likely to
19 recur. Pacific is in ongoing violation of its NPDES permits and the CWA.
20

21 7. At the time of the filing of this Complaint, neither EPA nor Ecology
22 has commenced any action constituting diligent prosecution to redress the
23 violations alleged in the Notice Letter and the Complaint.
24

25 8. Venue is appropriate in this District under section 505(c)(1) of the
26 CWA, 33 U.S.C. § 1365(c)(1), because the source of the violations complained of
27
28

1 is located in this District, in Okanogan County, Washington.

2 9. A copy of this Complaint will be served on the Attorney General of
3 the United States, the Administrator of EPA, and the Administrator of EPA Region
4 10, as required by section 505(c)(3) of the CWA, 33 U.S.C. § 1365(c)(3), and 40
5 C.F.R. § 135.4.
6

7
8 **III. PARTIES.**

9 10. Plaintiff Center for Food Safety (“CFS”) is a membership-based non-
10 profit 501(c)(3) organization headquartered in California with offices in Portland,
11 Oregon; San Francisco, California; and Washington, D.C. CFS has over a million
12 members, covering every state in the country and including tens of thousands that
13 live in Washington State. Since its inception in 1997, CFS’s mission has been to
14 empower people, support farmers, and protect the environment by addressing the
15 harmful impacts of industrial agriculture. Accordingly, CFS’s activities have
16 focused on the environmental, human health, and economic impacts of the
17 development and commercialization of agriculture and food processing
18 technologies. Principal among these activities are analyses and actions to mitigate
19 the impact of industrial agriculture and industrial aquaculture on public health and
20 the environment. CFS seeks to protect the natural habitats and wildlife that its staff
21 and members enjoy from industrial animal agriculture, including aquaculture.
22 Since its inception over 25 years ago, CFS has had a flagship program on industrial
23
24
25
26
27
28

1 aquaculture, including science, legal, and policy staff. CFS combines multiple
2 tools and strategies in pursuing its mission, including public and policymaker
3 education, outreach, and campaigning. Additionally, and when necessary, CFS
4 leads public interest litigation to address the impacts of industrial food production
5 on its members, the environment, and the public interest, and to ensure that
6 agencies follow the law.
7
8

9 11. Plaintiff Wild Fish Conservancy (“WFC”) is a membership-based
10 501(c)(3) non-profit organization incorporated in the State of Washington with its
11 principal place of business in Duvall, Washington. WFC is dedicated to the
12 preservation and recovery of the Northwest’s native fish species and the
13 ecosystems upon which those species depend throughout the Northwest. WFC
14 brings this action on behalf of itself and its approximately 2,400 members. WFC
15 changed its name from “Washington Trout” in 2007. As an environmental
16 watchdog, WFC actively informs the public on matters affecting water quality,
17 fish, and fish habitat in the Northwest through publications, commentary to the
18 press, and sponsorship of educational programs. WFC also conducts field research
19 on wild fish populations and has designed and implemented habitat restoration
20 projects. WFC advocates and publicly comments on federal and state actions that
21 affect the region’s native fish and ecosystems. WFC routinely seeks to compel
22 government agencies to follow the laws designed to protect native fish species,
23
24
25
26
27
28

1 particularly threatened and endangered species.

2 12. Plaintiffs have representational standing to bring this action. They are
3 membership organizations with some members that are injured by Pacific's
4 violations addressed herein. Plaintiffs' members use and enjoy the waters and the
5 surrounding areas that are adversely affected by Pacific's discharges. Plaintiffs'
6 members use these areas for, *inter alia*, fishing, swimming, hiking, walking,
7 photography, boating, and observing wildlife. Plaintiffs' members derive scientific,
8 educational, recreational, health, conservation, spiritual, and aesthetic benefits
9 from parts of the Columbia River impacted by Pacific's pollution discharges, the
10 surrounding areas, wild native fish species in those waters, and from the existence
11 of natural, wild, and healthy ecosystems. Plaintiffs' members intend to continue to
12 visit these areas on a regular basis, including in the coming months and beyond.

13 13. The environmental, health, aesthetic, scientific, cultural, spiritual,
14 health, and/or recreational interests of Plaintiffs' members have been, are being,
15 and will be adversely affected by Pacific's violations of its NPDES permits and of
16 the CWA addressed herein, and by the members' reasonable concerns related to
17 the effects of the violations and pollutant discharges. Pacific has repeatedly
18 violated the conditions of its NPDES permits by, *inter alia*, exceeding the permits'
19 numeric effluent limits, failing to monitor and report discharges in the manner
20 required, and failing to develop and implement plans for best management
21
22
23
24
25
26
27
28

1 practices to reduce pollution in the manner required. Plaintiffs and their members
2 have serious concerns about the impacts of Pacific's operations and effluent
3 discharges on the affected waterbodies. Plaintiffs' members' uses of the impacted
4 watersheds are thereby diminished, adversely affected, and suppressed. These
5 injuries include reduced enjoyment of time spent in and around parts of the
6 Columbia River impacted by Pacific's commercial steelhead farms and refraining
7 from engaging in certain activities while visiting these areas. These injuries are
8 fairly traceable to Pacific and Pacific's activities and violations described herein,
9 and the relief sought in this lawsuit can redress the injuries to Plaintiffs and to their
10 members' interests.
11
12
13

14 14. For example, one member lives in Ridgefield, Washington, and has
15 fished rivers throughout the Columbia River Basin since the 1950s. This member
16 has fished the Columbia River in and around the area of Rufus Woods Lake and is
17 planning future fishing trips to or near the Confederated Tribes of the Colville
18 Reservation, near Pacific Seafood's facilities. This member regularly uses
19 watersheds that experience direct and indirect impacts from Pacific Seafood's
20 unlawful conduct, including the Methow River and the Hanford Reach of the
21 Columbia River. Additionally, this member worked in natural resources for many
22 years, cares deeply about protecting wild salmonids from polluting aquaculture,
23 and understands the impacts of excess fish food and feces produced by these
24
25
26
27
28

1 facilities as well as the risk of disease commercial net pen aquaculture poses to
2 wild and native fish populations. Pacific Seafood's conduct and this member's
3 knowledge of the violations at issue and their resulting impact on threatened or
4 endangered species throughout the Columbia River Basin adversely impact the
5 member's use and enjoyment of watersheds throughout the Columbia River Basin.
6
7 For example, this member is hesitant to plan future trips in and around this area of
8 the Columbia River due to uncertainty surrounding the health of wild salmon and
9 steelhead populations nearby.
10

11
12 15. As another example, one member lives near Twisp, Washington, and
13 has studied in his profession the Columbia River and its native salmonids for
14 several decades. This member is extremely discouraged with the depressed status
15 and decreasing sizes of native Columbia River salmonid runs. This member is
16 frustrated that the causes of those degraded runs are allowed to continue almost
17 entirely unabated; namely, hatchery production, hydropower facilities, water
18 pollution, and other forms of habitat degradation. This member believes that
19 Pacific's facilities and the violations addressed herein contribute to such degraded
20 habitat conditions and decreased salmonid population sizes. This member would
21 like to fish for salmon and steelhead in the Columbia River and its tributaries near
22 his home in Twisp but refrains from doing so because of his concerns about the
23 degraded conditions of the Columbia River and its native salmonid populations.
24
25
26
27
28

1 This member instead travels regularly to other areas outside of the Columbia River
2 Basin to fish for salmon and steelhead.

3
4 16. Plaintiffs also have organizational standing to bring this action. Both
5 organizations have been actively engaged in a variety of educational and advocacy
6 efforts related to the harmful environmental and ecological impacts caused by
7 commercial aquaculture as recounted above. Plaintiff WFC has also been engaged
8 in educational and advocacy efforts related to declining salmon populations in the
9 Columbia River and measures needed for recovery. Pacific's failure to comply
10 with its NPDES permits deprives Plaintiffs of information that they would
11 otherwise use to further their missions. For example, Pacific's failure to comply
12 with the permits' requirements on effluent monitoring and reporting has deprived
13 Plaintiffs of information on impacts from Pacific's facilities that otherwise would
14 be available and used in their educational and advocacy efforts. This information
15 could assist Plaintiffs in their ongoing efforts to educate and advocate for greater
16 restraints on commercial aquaculture to protect wild fish and the environment. As
17 such, Plaintiffs' organizational interests have been and are being adversely affected
18 by Pacific's violations. These injuries are fairly traceable to Pacific's violations
19 and redressable by the Court.
20
21
22
23
24

25 17. Defendant Pacific Aquaculture – Nespelem, LLC is a corporation
26 incorporated in the State of Washington and is authorized to conduct business
27
28

1 under the laws of the State of Washington.

2 18. Defendant Pacific Seafood Aquaculture, LLC is a corporation
3
4 incorporated in the State of Oregon and authorized to conduct business under the
5 laws of the State of Washington.

6 19. Pacific owns and operates the three commercial steelhead net pen
7
8 facilities on the Columbia River at issue herein.

9 **IV. LEGAL BACKGROUND.**

10 20. Congress enacted the Clean Water Act to “restore and maintain the
11
12 chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C.
13 § 1251(a).

14 21. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the
15
16 discharge of pollutants by any person unless authorized under certain provisions of
17 the CWA, including an NPDES permit issued pursuant to section 402 of the CWA,
18 33 U.S.C. § 1342.

19 22. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines
20
21 “discharge of a pollutant” to include “any addition of any pollutant to navigable
22
23 waters from any point source.”

24 23. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines the term
25
26 “pollutant” broadly to include, *inter alia*, “solid waste . . . , chemical wastes,
27
28 biological materials . . . , and agricultural waste discharged into water.”

1 24. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines the term
2 “navigable waters” as “the waters of the United States, including the territorial
3 seas.”
4

5 25. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point
6 source” as “any discernible, confined and discrete conveyance, including but not
7 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container,
8 rolling stock, concentrated animal feeding operation, or vessel or other floating
9 craft, from which pollutants are or may be discharged.”
10

11 26. EPA regulations implementing the CWA define the term “point
12 source” to include “concentrated aquatic animal production facilities,” which EPA
13 defines to include marine salmon net pens that discharge at least 30 days per year,
14 produce more than 20,000 pounds of salmon per year, or feed more than 5,000
15 pounds of food in the month of maximum feeding. 40 C.F.R. § 122.24 and 40
16 C.F.R. § 122 Appendix C.
17

18 27. Section 402 of the CWA provides that EPA may issue NPDES
19 permits authorizing discharges. 33 U.S.C. § 1342. The CWA implements a
20 technology-forcing approach under which increasingly stringent NPDES permit
21 requirements are imposed over time in an effort to fulfill the CWA’s goal of
22 eliminating pollution. NPDES permits therefore are valid for a period not to exceed
23 five years, after which new permits are required that incorporate any new and more
24
25
26
27
28

1 unit (“ESU”), the Lower Columbia River coho salmon ESU, the Lower Columbia
2 River steelhead distinct population segment (“DPS”), the Columbia River chum
3 salmon ESU, the Middle Columbia River steelhead DPS, the Upper Columbia
4 River spring-run Chinook salmon ESU, and the Upper Columbia River steelhead
5 DPS. Degraded water quality and other habitat conditions have contributed to the
6 decline of these salmonid species.
7
8

9 32. Net pen aquaculture poses significant environmental and ecological
10 risks. These include impacts associated with water pollution from feces, uneaten
11 food, and pharmaceuticals or other chemicals used to treat the fish; disease and
12 parasite amplification and transmission to wild aquatic species; and fish escapes
13 that can disrupt the ecosystem.
14
15

16 33. Pacific owns and operates three commercial steelhead net pen
17 facilities (collectively, the “Facilities” or “Sites” and individually, the “Facility” or
18 “Site”) located on the Columbia River in Washington State. The Facilities are
19 located on the portion of the Columbia River sometimes referred to as Rufus
20 Woods Lake, which is the impoundment behind Chief Joseph Dam.
21
22

23 34. Site 1 is located at or about 3378 Columbia River Road, Nespelem,
24 Washington 99155, at Columbia River Mile 579 (48.1390°N, 119.0951°W).

25 35. Site 2 is located at or about 3560 Columbia River Road, Nespelem,
26 Washington 99155, at Columbia River Mile 581.8 (48.1390°N, 119.0533°W).
27
28

1 36. Site 3 is located at or about Columbia River Mile 576.4 in Nespelem,
2 Washington 99155 (48.1446°N, 119.1578°W).

3
4 37. The Facilities raise rainbow trout (*Oncorhynchus mykiss*), which
5 Pacific markets as steelhead.

6 38. These commercial aquaculture farms house fish in net pens, which are
7 floating facilities that contain young and mature steelhead in permeable enclosures,
8 such as netting, in open water. The fish are hatched at freshwater hatcheries and
9 the smolts are transferred to the net pens where they are cultivated to a marketable
10 size.
11

12
13 39. The Facilities discharge untreated effluent to the Columbia River,
14 including fish feces, uneaten fish feed, fish carcasses and parts thereof, and
15 chemicals used to treat diseases and/or infected fish. Discharges from the Facilities
16 occur each and every day.
17

18 40. The Columbia River at the locations of the Facilities is navigable in
19 fact and is otherwise a water of the United States. The Columbia River at the
20 locations of the Facilities is a permanent river that flows continuously to the
21 Pacific Ocean.
22

23
24 41. Each of Pacific's Facilities qualifies as a concentrated aquatic animal
25 production facility and is considered a "point source" of pollution under 40 C.F.R.
26 § 122.24 and 40 C.F.R. § 122 Appendix C. Specifically, each facility discharges
27
28

1 pollutants in excess of 30 days per year and produces more than 20,000 pounds of
2 steelhead per year or feeds more than 5,000 pounds of food in the month of
3 maximum feeding. These Facilities and their components (including the feeding
4 devices) constitute point sources under the CWA irrespective of EPA’s regulations,
5 as they are confined and discrete conveyances of pollutants. *See* 33 U.S.C.
6 § 1362(14).
7
8

9 42. Pacific is authorized to discharge waste materials from its Facilities
10 under three NPDES permits issued by EPA (collectively, the “Permits” and
11 individually, the “Permit”). The Permits are substantively identical and have an
12 issuance date of April 20, 2020, an effective date of May 1, 2020, and an
13 expiration date of April 30, 2025, but have been administratively continued.
14
15

16 43. The NPDES Permit Number for Site 1 is WA0026336. The NPDES
17 Permit Number for Site 2 is WA0026328. The NPDES Permit Number for Site 3 is
18 WA0026719.
19

20 44. The Permits impose terms and conditions intended to protect water
21 quality, including restrictions on discharges, discharge monitoring and reporting
22 requirements, and pollution prevention requirements.
23

24 45. Pacific has violated the terms and conditions of its Permits. Pacific’s
25 violations of the Permits are set forth in section II of the Notice Letter, attached
26 hereto as Exhibit 1 at 2–11, and all allegations therein are hereby incorporated by
27
28

1 reference. In particular, and among the other violations described in the Notice
 2 Letter, Pacific has violated the Permits by exceeding the Permits’ numeric effluent
 3 limitations, failing to properly monitor and report discharges, and failing to
 4 develop and implement plans for best management practices to reduce pollution in
 5 the manner required.
 6

7
 8 Pacific’s Violations of Numeric Effluent Limitations.

9 46. Condition II of the Permits requires that Pacific’s operations and
 10 effluent discharges comply with numeric effluent limits at all times. This includes
 11 effluent limits for turbidity and dissolved oxygen. The following table, located in
 12 Condition II of the Permits, identifies the applicable numeric effluent limits.
 13

14

Table 1 Effluent Limitations		
Pollutant	Instantaneous Minimum Limit	Instantaneous Maximum Limit
Turbidity— --when background turbidity is 50 NTU ¹ or less	--	5 NTU above background level
		10% over background level
Dissolved Oxygen	8.0 mg/L ²	--
1. Nephelometric Turbidity Units 2. If the upstream DO measure is less than 8.0 mg/L, the sample taken at the edge of the net pen (as described below in Permit Part I.D.1.a.ii.) shall be considered in compliance with the permit requirement if that DO measure is no more than 0.2 mg/L less than the upstream DO measure.		

15
16
17
18
19
20
21
22
23
24
25
26

27
 28 47. Condition II.A.1.a of the Permits specifies that Pacific must monitor

1 its effluent for compliance with the limitations at three separate locations on the
 2 downstream edge of each Facility: at the water surface; at half the water depth; and
 3
 4 within three feet of the lake/river bottom.

5 48. As shown in Table 2 below, Pacific has repeatedly violated these
 6 effluent limitations.
 7

Table 2: Pacific's Violations of the Dissolved Oxygen Effluent Limitation				
Monitoring Period	Monitoring Point	Background Level (mg/L)	Applicable Limit (mg/L)	Result (mg/L)
WA0026336 – SITE 1				
Oct. 2021	surface	8.07	8.0	7.99
	½ depth	8.03	8.0	7.92
	bottom	8.02	8.0	7.93
Sept. 2024	surface	7.66	7.46	NODI A
	½ depth	7.58	7.38	NODI A
	bottom	7.65	7.45	NODI A
Oct. 2024	surface	8.14	8.0	7.46
	½ depth	8.16	8.0	7.58
	bottom	8.13	8.0	7.59
WA0026328 – SITE 2				
Aug. 2021	surface	7.67	7.47	7.41
	½ depth	7.86	7.66	7.55
Sept. 2021	surface	7.54	7.34	7.33
Oct. 2021	surface	8.04	8.0	7.97
	½ depth	8.05	8.0	7.92
	bottom	8.02	8.0	7.91
Sept. 2022	surface	8.23	8.0	7.99
Sept. 2024	surface	7.67	7.47	NODI A
	½ depth	7.71	7.51	NODI A
	bottom	7.66	7.46	NODI A
WA0026719 – SITE 3				
Oct. 2021	surface	8.05	8.0	7.97
	½ depth	8.09	8.0	7.93
	bottom	8.04	8.0	7.88

1	Oct. 2023	½ depth	8.0	8.0	7.82
2	Aug. 2024	surface	8.04	8.0	7.84
3		½ depth	8.05	8.0	7.86
4		bottom	8.0	8.0	7.82
5	Sept. 2024	surface	7.78	7.58	NODI A
6		½ depth	7.74	7.54	NODI A
7		bottom	7.76	7.56	NODI A
8	Oct. 2024	surface	8.23	8.0	7.87
9		½ depth	8.18	8.0	7.91
10		bottom	8.15	8.0	7.92

49. Table 2 above accurately identifies monitoring data reported by Pacific under the requirements of the Permits.

50. The Permits' numeric effluent limit requirements and Pacific's violations thereof are described in section II.A of the Notice Letter, attached hereto as Exhibit 1 at 2–4, and all allegations therein are hereby incorporated by reference.

Pacific's Violations of Discharge Monitoring and Reporting Requirements.

51. Condition II.A.1.c of the Permits requires that Pacific monitor water quality for dissolved oxygen and turbidity on a weekly basis from May through October. Condition II.A.1.a of the Permits requires that Pacific conduct such weekly monitoring for these two parameters at six separate locations for each of the three Facilities.

52. Condition V.B of the Permits requires that Pacific report all monitoring data each month on discharge monitoring reports ("DMRs") to EPA and the Coville Confederated Tribes ("CCT") Environmental Trust Department.

1 The DMRs must be submitted by the 20th of the month following the reporting
2 period.

3
4 53. Pacific has repeatedly violated, and continues to violate, these
5 monitoring and reporting requirements by failing to conduct all required
6 monitoring and to timely submit complete and accurate DMRs containing all
7 required monitoring data. For example, Pacific has monitored and reported for
8 dissolved oxygen and turbidity only once each month from May through October
9 since and including 2020 for each of the three Facilities instead of the required
10 once each week. The Permits' monitoring and reporting requirements and Pacific's
11 violations thereof are described in section II.B of the Notice Letter, attached hereto
12 as Exhibit 1 at 4–5, and all allegations therein are hereby incorporated by
13 reference.
14
15
16

17 Pacific's Violations of Lake Bottom Monitoring and Reporting Requirements.

18
19 54. Condition II.A.2 of the Permits requires Pacific to monitor, document,
20 and report lake/river bottom conditions at the Facilities. Condition II.A.2.a
21 provides that Pacific must document the lake bottom by video recording to the
22 perimeter of the sediment impact zone as prescribed in Table 3 of the Permits and
23 Appendix A to the Permits.
24

25 55. Conditions II.A.2.c and V.B of the Permits require that Pacific submit
26 the monitoring and photographic survey results to EPA and to the CCT
27
28

1 Environmental Trust Department monthly, no later than the 20th of the month
2 following the reporting period.

3
4 56. Pacific has violated these requirements by failing to timely monitor,
5 document, and report lake bottom conditions in accordance with the procedures,
6 specifications, and deadlines imposed by the Permits. These lake bottom
7 monitoring and reporting requirements and Pacific's violations thereof are
8 described in section II.C of the Notice Letter, attached hereto as Exhibit 1 at 5–7,
9 and all allegations therein are hereby incorporated by reference.
10
11

12 Pacific's Violations of Noncompliance Reporting Requirements.

13 57. Conditions V.G and V.H of the Permits require that Pacific report
14 certain events, including any Permit noncompliance, to EPA and the CCT
15 Environmental Trust Department within 24 hours or 5 days of becoming aware of
16 the event, depending on the type of event. The Permits require that Pacific then
17 submit a written report to EPA and to the CCT Environmental Trust Department
18 providing details of the triggering event and efforts taken to eliminate and prevent
19 its recurrence.
20
21

22 58. Pacific has violated these requirements by failing to timely notify
23 EPA and the CCT Environmental Trust Department of triggering events and by
24 failing to timely submit complete and accurate written reports containing all
25 required information. These requirements and Pacific's violations thereof are
26
27
28

1 described in section II.D of the Notice Letter, attached hereto as Exhibit 1 at 7–8,
2 and all allegations therein are hereby incorporated by reference.

3
4 Pacific’s Violations of Quality Assurance Plan and Best Management Practices
5 Plan Requirements.

6 59. Condition II.B of the Permits requires that Pacific develop and
7 implement Quality Assurance Plans (“QAP”) for the Facilities. Condition III of the
8 Permits requires that Pacific develop and implement best management practices
9 (“BMP”) plans for the Facilities. Pacific’s violations of the Permits identified
10 herein, including the exceedances of numeric effluent limits and the failures to
11 monitor and report effluent discharges documented in the publicly available
12 records, indicate that Pacific has failed to develop and/or implement QAPs and
13 BMP plans in accordance with the Permits’ requirements.
14
15

16 60. Upon information and belief, Pacific has violated Conditions II.B and
17 III of the Permits by failing to develop and/or implement QAPs and BMP plans
18 that meet the requirements of the Permits. These requirements and Pacific’s
19 violations thereof are described in section II.E of the Notice Letter, attached hereto
20 as Exhibit 1 at 9–10, and all allegations therein are hereby incorporated by
21 reference.
22
23

24 Pacific’s Violations of the Annual Reporting Requirements.

25 61. Condition IV.F of the Permits requires that Pacific submit complete
26 and accurate annual reports for each Facility to EPA and to the CCT
27
28

1 Environmental Trust Department by January 15 of each year that includes
2 specified information for the prior year.

3
4 62. Pacific has violated these requirements by failing to timely submit
5 complete and accurate annual reports for the Facilities for all reporting years since
6 and including 2020 (which reports were due January 15, 2021). These
7 requirements and Pacific’s violations thereof are described in section II.F of the
8 Notice Letter, attached hereto as Exhibit 1 at 11, and all allegations therein are
9 hereby incorporated by reference.
10

11
12 Pacific’s Violations of Section 301(a) of the CWA.

13 63. Section I.A of the Permits authorizes Pacific to discharge pollutants
14 from the Facilities “within the limits and subject to the conditions set forth” in the
15 Permits. As described above, Pacific has repeatedly and continuously violated the
16 Permits, including by exceeding numeric effluent limitations, failing to monitor
17 and report discharges as required, and failing to develop and/or implement BMP
18 plans to reduce pollution in the manner required. These and the other violations
19 identified herein nullify the Permits’ authorizations to discharge.
20
21

22 64. Pacific has violated section 301(a) of the CWA, 33 U.S.C. § 1311(a),
23 by discharging pollutants from the Facilities to waters of the United States. These
24 violations have occurred each and every day for the last five years and sixty days
25 and are continuing to occur each and every day.
26
27
28

1 65. The allegations of Pacific’s violations of the Permits herein are based
2 on information and belief. As described herein and in the Notice Letter, the Permits
3 require that Pacific timely submit detailed and accurate reports and information to
4 EPA. CFS and its counsel have submitted multiple requests for such records under
5 the Freedom of Information Act and have reviewed the records provided by EPA.
6 The allegations of violations herein are based primarily on those records.
7

8 66. Discharges from Pacific’s Facilities contribute to the polluted
9 conditions of the waters of the United States, including the Columbia River.
10 Discharges from Pacific’s Facilities contribute to the ecological impacts that result
11 from the polluted condition of these waters and to Plaintiffs’ and their members’
12 injuries resulting therefrom.
13

14 67. The vicinity of the Facilities’ discharges are used by the citizens of
15 Washington and visitors, including members of Plaintiffs, for activities including
16 recreating, swimming, boating, fishing, biking, picnicking, and nature watching.
17 The members also derive aesthetic benefits from the receiving waters. Plaintiffs’
18 and their members’ enjoyment of these activities and waters is diminished by the
19 polluted state of the receiving waters and by Pacific’s contributions to such a
20 polluted state.
21

22 68. A significant penalty should be imposed against Pacific under the
23 penalty factors set forth in section 309(d) of the CWA, 33 U.S.C. § 1319(d).
24
25
26
27
28

1 69. Pacific’s violations were avoidable had Pacific been diligent in
2 overseeing the Facilities’ operations and maintenance.

3
4 70. Pacific has benefited economically as a consequence of its violations
5 and its failure to timely implement improvements at the Facilities.

6 **VI. CLAIMS FOR RELIEF.**

7
8 First Claim for Relief: Pacific’s Violations of the Permits.

9 71. Plaintiffs hereby allege and incorporate by reference all of the
10 preceding paragraphs and the allegations in section II of the Notice Letter, attached
11 hereto as Exhibit 1 at 2–11.

12
13 72. Pacific’s violations of the Permits described herein and in the Notice
14 Letter constitute violations of an “effluent standard or limitation” as defined by
15 section 505(f) of the CWA, 33 U.S.C. § 1365(f).

16
17 73. Upon information and belief, these violations committed by Pacific
18 are continuing or are reasonably likely to continue to recur. Any and all additional
19 violations of the Permits that occur after the date of the Notice Letter, but before a
20 final decision in this action, should be considered continuing violations subject to
21 this Complaint.
22

23
24 Second Claim for Relief: Pacific’s Violations of Section 301(a) of the CWA.

25 74. Plaintiffs hereby allege and incorporate by reference all of the
26 preceding paragraphs and the allegations in section III of the Notice Letter,
27
28

1 attached hereto as Exhibit 1 at 11.

2 75. Pacific has violated section 301(a) of the CWA, 33 U.S.C. § 1311(a),
3
4 by discharging pollutants from point sources to navigable waters from the
5 Facilities as described herein without the authorization of NPDES permits each and
6 every day during the last five years and sixty days. These violations are violations
7
8 of an “effluent standard or limitation” as defined by section 505(f) of the CWA, 33
9 U.S.C. § 1365(f).

10 76. Upon information and belief, these violations are continuing and/or
11
12 are reasonably likely to recur. Any and all additional violations of the CWA which
13 occur after those described in the Notice Letter but before a final decision in this
14
15 action should be considered continuing violations subject to this Complaint.

16 **VII. RELIEF REQUESTED.**

17 WHEREFORE, Plaintiffs respectfully request that this Court:

18 A. Issue a declaratory judgment that Pacific has violated and continues to
19
20 be in violation of the Permits and sections 301 and 402 of the Clean Water Act, 33
21 U.S.C. §§ 1311 and 1342;

22 B. Issue an injunction enjoining Pacific from operating the commercial
23
24 steelhead net pen Facilities in a manner that results in further violations of the
25 Permits or the CWA;

26 C. Issue an injunction requiring Pacific to take specific actions to
27
28

1 evaluate and remediate the environmental harm caused by its violations;

2 D. Grant such other preliminary and/or permanent injunctive relief as
3
4 Plaintiffs may from time to time request during the pendency of this case;

5 E. Order Pacific to pay civil penalties up to the maximum authorized by
6 the CWA for each violation committed by Pacific pursuant to sections 309(d) and
7
8 505(d) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a), and 40 C.F.R. § 19;

9 F. Award Plaintiffs their litigation expenses, including reasonable
10 attorney fees and expert witness fees, as authorized by section 505(d) of the CWA,
11
12 33 U.S.C. § 1365(d), and any other applicable authorization; and

13 G. Grant Plaintiffs such additional relief as the Court deems just and
14
15 proper.

16 RESPECTFULLY SUBMITTED this 2nd day of July 2025.

17
18 KAMPMEIER & KNUTSEN, PLLC

19 By: s/ Brian A. Knutsen
20 Brian A. Knutsen, WSBA No. 38806
21 1300 SE Stark Street, Suite 202
22 Portland, Oregon 97214
23 Telephone: (503) 841-6515
24 Email: brian@kampmeierknutsen.com

25 By: s/ Erica L. Proulx
26 Erica L. Proulx, WSBA No. 60155
27 705 Second Avenue, Suite 901
28 Seattle, Washington 98104
Telephone: (206) 739-5184
Email: erica@kampmeierknutsen.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CENTER FOR FOOD SAFETY

By: s/ George A. Kimbrell
George A. Kimbrell, WSBA No. 36050
2009 NE Alberta Street, Suite 207
Portland, Oregon 97211
Telephone: (971) 271-7372
Email: gkimbrell@centerforfoodsafety.org

*Attorneys for Plaintiffs Center for Food Safety &
Wild Fish Conservancy*

EXHIBIT 1

KAMPMEIER & KNUTSEN PLLC
ATTORNEYS AT LAW

ERICA L. PROULX
Licensed in Washington
207.739.5184
erica@kampmeierknutsen.com

April 10, 2025

Via CERTIFIED MAIL—Return Receipt Requested

Managing Agent
Pacific Aquaculture, Inc.
16797 SE 130th Avenue
Clackamas, Oregon 97015-8966

Managing Agent
Pacific Aquaculture – Nespelem, LLC
3378 Columbia River Road
Nespelem, Washington 99155

Managing Agent
Pacific Seafood Aquaculture, LLC
16797 SE 130th Avenue
Clackamas, Oregon 97015-8966

Managing Agent
Pacific Aquaculture – Nespelem, LLC
P.O. Box 665
Nespelem, Washington 99155

Re: NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT

Dear Managing Agent(s):

This letter provides you with 60 days' notice of Center for Food Safety and Wild Fish Conservancy's intent to file a citizen suit against Pacific Aquaculture, Inc., Pacific Aquaculture – Nespelem, LLC, and/or Pacific Seafood Aquaculture, LLC (collectively, "Pacific") under section 505 of the Clean Water Act ("CWA"), 33 U.S.C § 1365, for the violations described below.

Pacific owns and operates three commercial net pen aquaculture facilities (collectively, the "Facilities" or "Sites" and individually, the "Facility" or "Site") at or about the following locations:

- 3378 Columbia River Road, Columbia River Mile 579, Nespelem, Washington 99155 (48.1390°N, 119.0951°W) ("Site 1");
- 3560 Columbia River Road, Columbia River Mile 581.8, Nespelem, Washington 99155 (48.1390°N, 119.0533°W) ("Site 2"); and
- Columbia River Mile 576.4, Nespelem, Washington 99155 (48.1446°N, 119.1578°W) ("Site 3").

The Facilities raise rainbow trout (*Oncorhynchus mykiss*), marketed as steelhead, and discharge untreated effluent to the Columbia River, including to the impoundment of the Columbia River behind Chief Joseph Dam known as Rufus Woods Lake. The Facilities are

classified as concentrated aquatic animal production (“CAAP”) facilities under U.S. Environmental Protection Agency (“EPA”) regulations and require National Pollutant Discharge Elimination System (“NPDES”) permits under the CWA. *See* 40 C.F.R. § 122.24.

EPA issued Pacific substantively identical NPDES permits for the Facilities dated April 20, 2020, effective May 1, 2020, with an expiration date of April 30, 2025¹, under NPDES Permit Nos. WA0026336 for Site 1, WA0026328 for Site 2, and WA0026719 for Site 3 (collectively, the “Permits”). Pacific has violated and continues to violate the terms and conditions of the Permits with respect to the operations of, and discharges of pollutants from, the Facilities. Pacific has also violated and continues to violate section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging pollutants from the Facilities to waters of the United States in a manner that is not authorized by NPDES permits.

I. CENTER FOR FOOD SAFETY AND WILD FISH CONSERVANCY’S COMMITMENT TO PROTECT ECOSYSTEMS FROM HARMFUL COMMERCIAL AQUACULTURE.

Center for Food Safety’s mission is to empower people, support farmers, and protect the earth from harmful impacts of industrial agriculture, including aquaculture. Wild Fish Conservancy is dedicated to preserving, protecting, and restoring the northwest’s wild fish and the ecosystems they depend on. Center for Food Safety and Wild Fish Conservancy are non-profit organizations with members who live, recreate, and work throughout the Columbia River Basin, including near and downstream of the Facilities’ discharges.

II. PACIFIC’S VIOLATIONS OF THE PERMITS.

A. Pacific’s Violations of the Permits’ Numeric Effluent Limitations.

Condition II of the Permits requires that Pacific’s pollution discharges comply with numeric effluent limits at all times. The following table, located in Condition II of the Permits, identifies the applicable numeric effluent limits.

¹ Pacific has submitted renewal applications for the Permits. The Permits will likely be administratively extended until such time as EPA acts on those renewal applications.

Table 1 Effluent Limitations		
Pollutant	Instantaneous Minimum Limit	Instantaneous Maximum Limit
Turbidity— --when background turbidity is 50 NTU ¹ or less --when background turbidity is greater than 50 NTU ¹	--	5 NTU above background level
		10% over background level
Dissolved Oxygen	8.0 mg/L ²	--
<p>1. Nephelometric Turbidity Units</p> <p>2. If the upstream DO measure is less than 8.0 mg/L, the sample taken at the edge of the net pen (as described below in Permit Part I.D.1.a.ii.) shall be considered in compliance with the permit requirement if that DO measure is no more than 0.2 mg/L less than the upstream DO measure.</p>		

Condition II.A.1.a of the Permits specifies that Pacific must monitor its effluent for compliance with the limitations at three separate locations on the downstream edge of each Facility: at the water surface; at half the water depth; and within three feet of the lake/river bottom.

As shown in Table 2 below, Pacific has repeatedly violated the numeric effluent limits imposed by Condition II of the Permits. These violations occurred on the dates that Pacific collected the applicable samples that exceeded the effluent limitations.

Table 2: Pacific's Violations of the Dissolved Oxygen Effluent Limitation				
Monitoring Period	Monitoring Point	Background Level (mg/L)	Applicable Limit (mg/L)	Result (mg/L)
			If upstream < 8.0 mg/L, Instant. Min. = 0.2 mg/L less than upstream	
			If upstream ≥ 8.0 mg/L Instant. Min. = 8.0 mg/L	
WA0026336 – SITE 1				
Oct. 2021	surface	8.07	8.0	7.99
	½ depth	8.03	8.0	7.92
	bottom	8.02	8.0	7.93

Sept. 2024	surface	7.66	7.46	NODI A ²
	½ depth	7.58	7.38	NODI A
	bottom	7.65	7.45	NODI A
Oct. 2024	surface	8.14	8.0	7.46
	½ depth	8.16	8.0	7.58
	bottom	8.13	8.0	7.59
WA0026328 – SITE 2				
Aug. 2021	surface	7.67	7.47	7.41
	½ depth	7.86	7.66	7.55
Sept. 2021	surface	7.54	7.34	7.33
Oct. 2021	surface	8.04	8.0	7.97
	½ depth	8.05	8.0	7.92
	bottom	8.02	8.0	7.91
Sept. 2022	surface	8.23	8.0	7.99
Sept. 2024	surface	7.67	7.47	NODI A
	½ depth	7.71	7.51	NODI A
	bottom	7.66	7.46	NODI A
WA0026719 – SITE 3				
Oct. 2021	surface	8.05	8.0	7.97
	½ depth	8.09	8.0	7.93
	bottom	8.04	8.0	7.88
Oct. 2023	½ depth	8.0	8.0	7.82
Aug. 2024	surface	8.04	8.0	7.84
	½ depth	8.05	8.0	7.86
	bottom	8.0	8.0	7.82
Sept. 2024	surface	7.78	7.58	NODI A
	½ depth	7.74	7.54	NODI A
	bottom	7.76	7.56	NODI A
Oct. 2024	surface	8.23	8.0	7.87
	½ depth	8.18	8.0	7.91
	bottom	8.15	8.0	7.92

B. Pacific’s Violations of Discharge Monitoring and Reporting Requirements.

Condition II.A.1.c of the Permits requires that Pacific monitor water quality for dissolved oxygen and turbidity on a weekly basis from May through October. Condition II.A.1.a of the Permits requires that Pacific conduct such weekly monitoring for these two parameters at six separate locations for each of the three Facilities: three locations upstream of each Facility for background data (at the water surface, at half the water depth, and within three feet of the lake/river bottom) and three locations at the downstream edge of each Facility for compliance with the effluent limitations (at the water surface, at half the water depth, and within three feet of

² “NODI” is a “no data” indicator and NODI code A indicates “general permit exemption.” See *ICIS–NPDES DMR Summary and Data Element Dictionary*, U.S. Env’t Prot. Agency, <https://echo.epa.gov/tools/data-downloads/icis-npdes-dmr-summary> (last visited Apr. 10, 2025). On information and belief, it indicates that Pacific failed to monitor and report on the parameter as required.

the lake/river bottom). Condition V.B of the Permits requires that Pacific report all monitoring data each month on discharge monitoring reports (“DMRs”) to EPA and the Coville Confederated Tribes (“CCT”) Environmental Trust Department. The DMRs must be submitted by the 20th of the month following the reporting period.

Pacific has violated these requirements by failing to monitor and/or report as required by these provisions. Specifically, Pacific has monitored and reported for dissolved oxygen and turbidity only once each month from May through October since and including 2020 for each of the three Facilities. Accordingly, for every month from May through October since and including 2020 (30 months), Pacific failed to monitor and/or report the following:

- three weekly samples upstream of each Facility at the water surface for dissolved oxygen;
- three weekly samples upstream of each Facility at half the water depth for dissolved oxygen;
- three weekly samples upstream of each Facility within three feet of the lake/river bottom for dissolved oxygen;
- three weekly samples at the downstream edge of each Facility at the water surface for dissolved oxygen;
- three weekly samples at the downstream edge of each Facility at half the water depth for dissolved oxygen;
- three weekly samples at the downstream edge of each Facility within three feet of the lake/river bottom for dissolved oxygen;
- three weekly samples upstream of each Facility at the water surface for turbidity;
- three weekly samples upstream of each Facility at half the water depth for turbidity;
- three weekly samples upstream of each Facility within three feet of the lake/river bottom for turbidity;
- three weekly samples at the downstream edge of each Facility at the water surface for turbidity;
- three weekly samples at the downstream edge of each Facility at half the water depth for turbidity; and
- three weekly samples at the downstream edge of each Facility within three feet of the lake/river bottom for turbidity.

Pacific further violated these requirements by failing to conduct any weekly monitoring and/or reporting of effluent for dissolved oxygen in September 2024. Specifically, for all three Facilities, Pacific did not conduct any weekly monitoring and/or reporting in September 2024 for dissolved oxygen at the downstream edge of each Facility at the water surface, at the downstream edge of each Facility at half the water depth, and at the downstream edge of each Facility within three feet of the lake/river bottom.

C. Pacific’s Violations of Lake Bottom Monitoring and Reporting Requirements.

Condition II.A.2 of the Permits requires Pacific to monitor, document, and report lake/river bottom conditions at the Facilities. Condition II.A.2.a provides that Pacific must document the lake bottom by video recording to the perimeter of the sediment impact zone as

prescribed in Table 3 of the Permits and Appendix A to the Permits, both of which are reproduced below.

Table 3 Photographic Surveys		
Parameter	Frequency	Location
Diving and underwater photographic survey for sediment accumulation on lake bottom	Semi-monthly ¹ , June through October	Sediment observation stations at down-current edge of each net pen facility and downstream of the facility to the edge of the sediment impact zone
Remote monitoring of lake bottom	Continuous, June 1 through December 31 each year	Down-current of pens: at the edge of the facility and downstream to the extent of the sediment impact zone
1. Approximately two weeks apart		

Appendix A to the Permits provides the following specifications for the required dive surveys:

The permittee must conduct a dive at the net pen facility twice a month, approximately two weeks apart between June and October, inclusive, each year. Divers must make and document observations from just upstream of the pens to about 150 feet downstream. Observations must be at indexed established reference points (at least 15), so that the same locations can be revisited on later dives. Divers will record a description of the lake bottom and biota for a radius of five feet from each reference point with respect to the presence of feed, feces, demersal fish (such as cottids), or other biota. Any feed, feces or out of the ordinary observations (e.g. *Sphaerolitus* growth) seen at the reference points or elsewhere must be recorded.

Divers must use an underwater camera or video camera to photograph the lake bottom at the 15 reference sites (at least) from a distance of 3-7 feet above the bottom, preferably on each dive. At a minimum, photographs must be taken at each station in late summer during low flow (worst case conditions). Artificial light (50 watt or greater) must be used at all times in taking 4-5 color photographs or 15-30 seconds of motion photography at each site; reference information on linear dimensions, time, date, station location, and net pen facility must be included with each picture or section of film footage. Photographs must clearly portray the appearance of the lake floor at each station.

After every dive, observations must be recorded. Records must be retained for at least five years, or longer upon request by the EPA or CCT Environmental Trust Department. Photographs of each station must be compared to earlier photographs at the same station, and any feed or feces accumulations must be noted in reports. Temporal or spatial trends in sediment accumulations must be described.

At least once per year, photographs must be timed to capture conditions before, during and after feeding. In reports, each photo must have a caption indicating date, location including indexed referenced site, and an observation comment.

Appendix A to the Permits provides the following specifications for the required remote observations:

In order to monitor the effect of the net pen operations on the river/lake bottom, the permittee must install and operate continuous river bottom monitoring camera stations at the down-current edge of the net pen facility. These cameras must be positioned near an indexed sediment observation stations used by the divers.

The permittee will record observations of bottom conditions as viewed by the cameras at least daily between June and December, inclusive, using a qualitative index of conditions, e.g., ranking on a scale of 0 to 3 for feed and feces occurrence and other conditions. Since fish fecal matter often appears similar to feed, this remote survey system must be evaluated and calibrated with diving observations and photography.

The location of diving/underwater and remote survey observation stations may be modified, if warranted by field conditions and bottom sediment accumulation patterns. The intent of the requirement is for the permittee to monitor areas of highest potential sedimentation.

Records of bottom surveys must be retained in accordance with Permit Part IV.F. (at least 5 years, longer if requested by the agencies).

Conditions II.A.2.c and V.B of the Permit require that Pacific submit the monitoring and photographic survey results to EPA and to the CCT Environmental Trust Department monthly no later than the 20th of the month following the reporting period.

Pacific has violated these requirements by failing to timely monitor, document, and report lake bottom conditions in accordance with each of the procedures, specifications, and deadlines identified above. These violations have occurred throughout the months of May through October since and including 2020 for all three Facilities.

D. Pacific's Violations of Noncompliance Reporting Requirements.

Conditions V.G and V.H of the Permits require that Pacific take certain specified actions when it violates or is unable to comply with any permit condition. As documented in Table 2 of this Notice of Intent to Sue, Pacific has repeatedly violated the Permits' numeric effluent limitations and thereby made unauthorized discharges in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). *See* Permit, Condition I (“[T]he permittee is authorized to discharge pollutants at the location specified herein . . . within the limits and subject to the conditions set forth herein.”).

Condition V.G.1 of the Permits requires that Pacific report any of the following events to EPA and the CCT Environmental Trust Department via telephone within 24 hours of becoming aware of the event:

1. any discharge to the receiving water not authorized under the Permits;
2. any unanticipated bypass that exceeds any effluent limitation in the Permits (see Condition VI.F of the Permits, “Bypass Treatment Facilities”);
3. any upset that exceeds any effluent limitation in the Permits (see Condition VI.G of the Permits, “Upset Conditions”);
4. any violation of the maximum daily discharge limitation for total residual chlorine; or
5. any noncompliance that may endanger health or the environment.

Condition V.G.2 of the Permits requires that Pacific submit a written report to EPA and to the CCT Environmental Trust Department for any event that must be reported under Condition V.G.1 within 5 days of becoming aware of the event. The report must contain the following:

1. a description of the noncompliance and its cause;
2. the period of noncompliance, including exact dates and times;
3. the estimated length of time that noncompliance is expected to continue if it has not been corrected; and
4. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Condition V.H of the Permits requires that Pacific report all other instances of noncompliance that are not subject to the 24-hour reporting requirement of Condition V.G.1 of the Permits. These reports must be submitted with the monthly DMRs and other reports under Condition V.B of the Permits (within 20 days of the month following the reporting period) and must contain the information required under Condition V.G.2 of the Permits.

Upon information and belief, Pacific has failed to fully comply with the requirements of Conditions V.G and V.H of the Permits. Pacific has failed to report to EPA and to the CCT Environmental Trust Department each exceedance of the Permits’ numeric effluent limits (including those identified in Table 2 of this Notice of Intent to Sue), and the resulting unauthorized discharges, that have occurred during the last five years within 24-hours of learning of the event. For each of these events, Pacific has further failed to submit complete and accurate reports containing all information required by Condition V.G.2 of the Permits within five days of learning of the exceedance of the numeric effluent limit.

Pacific has violated the requirements of Condition V.H. of the Permits by failing to timely submit complete and accurate reports containing all information required by Condition V.G.2 of the Permits for all other violations of the Permits identified in this Notice of Intent to Sue.

E. Pacific's Violations of Requirements for Quality Assurance and Best Management Practices Plans.

Condition II.B of the Permits requires that Pacific develop and implement Quality Assurance Plans ("QAP"), and Condition III of the Permits requires that Pacific develop and implement best management practices ("BMP") plans for the Facilities. Upon information and belief, including the exceedances of numeric effluent limits and the failures to monitor and report documented in the publicly available records, Pacific has violated these requirements by failing to develop and/or implement QAPs and BMP plans that meet the requirements of the Permits. These violations, described in more detail below, have occurred each and every day during the last five years at all three Facilities and continue to occur each day.

Pacific has violated Condition II.B of the Permits by failing to develop and/or implement QAPs for all monitoring required by the Permits. Pacific has violated Conditions II.B.1 and 2 because its QAPs are not designed to assist in the planning for the collection and analysis of water samples in support of the Permit and in explaining data anomalies when they occur, and because the QAPs do not use EPA-approved QA/QC and chain-of-custody procedures or follow the specified format.

Pacific has violated Condition II.B.3 of the Permits by failing to develop and/or implement QAPs for all three Facilities that include the following: details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements; map(s) indicating the location of each sampling point; qualification and training of personnel; and name(s), address(es), and telephone number(s) of the laboratories used by or proposed to be used by the permittee.

Pacific has violated Condition II.B.4 of the Permits by failing to amend the QAPs for the Facilities whenever there is a modification in sample collection, sample analysis, or other procedures addressed by the QAP.

Pacific has violated Condition III of the Permits by failing to develop and/or implement BMP plans for each Facility that prevent or minimize the generation and the potential release of pollutants from the Facilities to waters of the United States. Pacific violated Condition III.B of the Permits by failing to develop and implement, with written notice to EPA and the CCT Environmental Trust Department, BMP plans by June 30, 2020, by failing to retain the plans on site, and by failing to implement the plans as conditions of the Permits by July 30, 2020. Pacific violated Condition III.E of the Permits by failing to review annually and certify annually BMP plans for the Facilities as fulfilling the requirements of the Permits.

Pacific violated Condition III.G of the Permits by failing to amend the BMP plans whenever there is a change in the Facilities or in the operation of the Facilities which materially increases the generation of pollutants or their release to surface waters or whenever the BMP plans are found to be ineffective in achieving the general objective of preventing and minimizing

the generation and the potential for the release of pollutants from the Facilities to waters of the United States and/or other permit requirements. Pacific violated the Permits by failing to report all changes to the BMP plans for the Facilities to EPA with the required annual certifications of the BMP plans and because the changes were not consistent with the permit objectives and requirements.

Pacific violated Condition III.C of the Permits by failing to develop and/or implement BMP plans for the Facilities that are consistent with specified objectives for the control of pollutants; i.e., by failing to develop and implement plans that: minimize, to the extent feasible by managing each waste stream in the most appropriate manner, the number and quantity of pollutants and the toxicity of effluent generated, discharged, or potentially discharged at the Facilities; ensure the proper operation of and maintenance of the Facilities and contain elements developed in accordance with good engineering practices; and require examination of each Facility component or system for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as rain or snowfall, including examination of all normal operations and ancillary activities including material storage areas, stormwater, in-plant transfer, materials handling and process handling areas, loading or unloading operations, spillage or leaks, sludge and waste disposal, and drainage from raw material storage.

Pacific has violated Condition III.D of the Permits by failing to develop and/or implement BMP plans for the Facilities that are consistent with the general guidance in *Guidance Manual for Developing Best Management Practices* (EPA 833-B-93-004, Oct. 1993) and *Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices* (EPA 832-R92-006) or any subsequent revisions to those guidance documents. Pacific violated Condition III.D of the Permits by failing to develop and/or implement BMP plans for the Facilities that include: (1) a statement of management commitment to provide necessary financial, staff, equipment, and training resources to develop and implement the BMP plans on a continuing basis; (2) a BMP Committee responsible for developing, implementing, and maintaining the BMP plans; (3) standard operating procedures to achieve the BMP plans' objectives; (4) reporting of BMP incidents, including a description of the circumstances, corrective actions taken, and recommended changes to operating and maintenance practices; (5) security; (6) prior evaluation of any planned modifications to the Facilities to ensure that the requirements of the BMP plans are considered as part of the modifications; (7) final constructed site plans, drawings, and maps for the Facilities; (8) feed management to limit feed input and minimize the accumulation of uneaten food; (9) waste collection and disposal; (10) plans to minimize any discharge associated with transport or harvest; (11) carcass removal; (12) materials storage, including proper storage of drugs, pesticides, and feed, procedures for properly containing, cleaning, and disposing of spilled material, and proper management of solid and hazardous waste; (13) maintenance, including routine inspections and regular maintenance of the production systems; (14) recordkeeping; and (15) training for spill prevention, spill response, and proper operation and cleaning of production systems.

F. Pacific’s Violations of the Annual Reporting Requirements.

Condition IV.F of the Permits requires that Pacific submit complete and accurate annual reports for each Facility to EPA and to the CCT Environmental Trust Department by January 15 of each year that includes all information for the prior year specified in Appendix E to the Permits. Pacific has violated these requirements by failing to timely submit complete and accurate annual reports for the Facilities for all reporting years since and including 2020 (which report was due January 15, 2021). These violations include, but are not limited to, a failure to timely submit reports that include: (1) a summary of all noncompliance with the Permits (including the noncompliance identified herein), including descriptions and dates of noncompliance, the reasons for the incidents, and the steps taken to correct the problems; (2) a summary of all changes to the BMP plans; (3) information on solid waste disposal, including all types of solid wastes, the methods of disposal, and when and where the disposals occurred; (4) information on fish mortalities, including total mortalities from all causes and a description and dates for mass mortalities, including the reasons for each incident and the steps taken to correct the problem; (5) information on all chemical usage, including the dates the chemicals were used, identification of the chemicals used, the number of days the chemicals were used, the maximum concentration of the chemicals in the effluent, and the yearly totals of the chemicals used; and (6) information on all inspections and repairs for production and wastewater treatment systems, including the dates of the inspections, the dates of the repairs, and descriptions of the system inspected and/or repaired.

III. PACIFIC’S VIOLATIONS OF SECTION 301(a) OF THE CWA.

Section I.A of the Permits authorizes Pacific to discharge pollutants from the Facilities “within the limits and subject to the conditions set forth” in the Permits. As described above, Pacific has repeatedly and continuously violated the Permits during the last five years, including by exceeding numeric effluent limitations, failing to monitor and report discharges as required, and failing to develop and/or implement plans intended to reduce pollution in the manner required. These and the other violations identified herein nullify the Permits’ authorizations to discharge.

Accordingly, Pacific has violated section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging pollutants from the Facilities to the Columbia River, including Rufus Woods Lake. The pollutants discharged include, but are not limited to, uneaten fish feed, fish feces, deceased fish and parts thereof, and drugs, pesticides, pharmaceuticals, and other chemicals used in fish production. These illegal discharges have occurred each and every day during the last five years at each of the three Facilities and continue to occur.

IV. PARTIES GIVING NOTICE OF INTENT TO SUE.

The full names, addresses, and telephone numbers of the parties giving notice are:

Center for Food Safety
2009 NE Alberta Street, Suite 207
Portland, Oregon 97211

Wild Fish Conservancy
15629 Main Street N.E.
Duvall, Washington 98019

Tel: (971) 271-7372

Tel: (425) 788-1167

V. ATTORNEYS REPRESENTING CENTER FOR FOOD SAFETY AND WILD FISH CONSERVANCY.

The attorneys representing Center for Food Safety and Wild Fish Conservancy in this matter are:

Brian A. Knutsen
Kampmeier & Knutsen, PLLC
1300 S.E. Stark Street, Suite 202
Portland, Oregon 97214
(503) 841-6515
brian@kampmeierknutsen.com

George A. Kimbrell
Center for Food Safety
2009 N.E. Alberta Street, Suite 207
Portland, Oregon 97211
(971) 271-7373
gkimbrell@centerforfoodsafety.org

Erica L. Proulx
Kampmeier & Knutsen, PLLC
705 Second Avenue, Suite 901
Seattle, Washington 98104
(206) 739-5184
erica@kampmeierknutsen.com

VI. CONCLUSION.

The above-described violations reflect those indicated by the information currently available to Center for Food Safety and Wild Fish Conservancy based on their review of the public record. These violations are ongoing. Center for Food Safety and Wild Fish Conservancy intend to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Under section 309(d) of the CWA, 33 U.S.C § 1319(d), Pacific is subject to a separate daily penalty assessment for each violation. The current maximum daily penalty assessment for each violation is \$68,445. 40 C.F.R. § 19.4. In addition to civil penalties, Center for Food Safety and Wild Fish Conservancy will seek injunctive relief to prevent further violations under section 505(a) of the CWA, 33 U.S.C. § 1365(a), and such other relief as is permitted by law. Section 505(d) of the CWA, 33 U.S.C. § 1365(d), further authorizes prevailing parties to recover costs, including attorneys' fees.

Center for Food Safety and Wild Fish Conservancy believe that this Notice of Intent to Sue sufficiently states grounds for filing suit. Center for Food Safety and Wild Fish Conservancy intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against Pacific Aquaculture, Inc., Pacific Aquaculture – Nespelem, LLC, and/or Pacific Seafood Aquaculture, LLC under section 505(a) of the CWA for the violations described herein.

Center for Food Safety and Wild Fish Conservancy are willing to discuss effective remedies for the violations described in this letter during the 60-day notice period. If you believe

that any of the allegations in this Notice of Intent to Sue are incorrect or based on incomplete information in the public record, please bring those facts to our attention.

Thank you for your prompt attention to this matter.

KAMPMEIER & KNUTSEN, PLLC

By: Erica L. Proulx
Erica L. Proulx

*Attorneys for Center for Food Safety and Wild Fish
Conservancy*

CERTIFICATE OF SERVICE

I, Erica L. Proulx, declare under penalty of perjury of the laws of Washington and the United States that I am counsel for Center for Food Safety and Wild Fish Conservancy and that on April 10, 2025, I caused copies of the foregoing Notice of Intent to Sue Under the Clean Water Act to be served on the following by depositing them with the United States Postal Service, certified mail, return receipt requested, postage prepaid:

Managing Agent
Pacific Aquaculture, Inc.
16797 SE 130th Avenue
Clackamas, Oregon 97015-8966

Managing Agent
Pacific Aquaculture – Nespelem, LLC
3378 Columbia River Road
Nespelem, Washington 99155

Managing Agent
Pacific Seafood Aquaculture, LLC
16797 SE 130th Avenue
Clackamas, Oregon 97015-8966

Managing Agent
Pacific Aquaculture – Nespelem, LLC
P.O. Box 665
Nespelem, Washington 99155

Cogency Global, Inc.
(Registered Agent for Pacific Seafood
Aquaculture, LLC)
1780 Barnes Blvd. SW
Tumwater, Washington 98512-0410

Cogency Global, Inc.
(Registered Agent for Pacific
Aquaculture – Nespelem, LLC)
1780 Barnes Blvd. SW
Tumwater, Washington 98512-0410

Administrator Lee Zeldin
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
(Mail Code 1001 A)
Washington, D.C. 20460

Regional Administrator Emma Pokon
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

Director Casey Sixkiller
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600


Erica L. Proulx, WSBA No. 60155