

1 SAN DIEGO COASTKEEPER  
2 PATRICK MCDONOUGH (SBN 288285)  
3 COURTNEY BROWN (SBN 360257)  
4 8305 Vickers Street, Suite 209  
5 San Diego, CA 92111  
6 Ph: (760) 525-6838  
7 Email: [patrick@sdcoastkeeper.org](mailto:patrick@sdcoastkeeper.org)

8 COAST LAW GROUP, LLP  
9 MARCO A. GONZALEZ (SBN 190832)  
10 LIVIA BORAK BEAUDIN (SBN 259434)  
11 NATALIE CLAGETT (SBN 351072)  
12 1140 South Coast Highway 101  
13 Encinitas, CA 92024  
14 Ph: (760) 942-8505  
15 Email: [marco@coastlaw.com](mailto:marco@coastlaw.com)

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

SAN DIEGO COASTKEEPER, a non-profit  
corporation; COASTAL  
ENVIRONMENTAL RIGHTS  
FOUNDATION,  
a non-profit corporation,

Plaintiffs,

v.

SEAWORLD PARKS &  
ENTERTAINMENT, INC., a Delaware  
Stock Corporation; SEA WORLD LLC, a  
Delaware Limited Liability Company,

Defendants.

Civil Case No. '25CV0532 CAB AHG

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

**(Federal Water Pollution Control Act,  
33 U.S.C. § 1251 *et seq.*)**

1 Coastal Environmental Rights Foundation, (“CERF”) and San Diego Coastkeeper  
2 (“Coastkeeper”) (collectively “Plaintiffs”), by and through their counsel, hereby allege:

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provision of  
5 the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (“Clean Water Act”  
6 or “CWA”). *See* 33 U.S.C. § 1365. This Court has subject matter jurisdiction over the  
7 parties and this action pursuant to 33 U.S.C. § 1365(a)(1) and 28 U.S.C. §§ 1331 and  
8 2201.

9 2. On November 27, 2024, Plaintiffs issued a 60-day notice letter (“Notice  
10 Letter”) to Defendant SeaWorld Parks & Entertainment, Inc. and Defendant Sea World  
11 LLC (collectively called “SeaWorld” or “Defendants”) regarding their violations of the  
12 Clean Water Act and Order R9-2022-0002 General National Pollutant Discharge  
13 Elimination System (“NPDES”) Permit for Residual Firework Pollutant Discharges to  
14 “Waters of the United States” (“WOTUS”) in the San Diego Region from the Public  
15 Display of Fireworks (“2022 Fireworks Permit”), and the predecessor to the 2022 Permit,  
16 Order No. R9-2011-0022, NPDES Permit for Residual Firework Pollutant Discharges to  
17 WOTUS in the San Diego Region from the Public Display of Fireworks (“2011  
18 Fireworks Permit,” collectively the “Fireworks Permit”).

19 3. The Notice Letter also provided notice of SeaWorld’s violations of Order  
20 No. R9-2018-0004, NPDES Permit and Waste Discharge Requirements for SeaWorld  
21 LLC DBA SeaWorld San Diego Discharge to Mission Bay, San Diego County (“Waste  
22 Discharge Permit”) for the SeaWorld San Diego facility at 500 SeaWorld Drive, San  
23 Diego, CA 92109 (“SeaWorld Facility”). True and correct copies of the Notice Letter and  
24 all enclosures are attached hereto as Exhibit 1 and incorporated herein.

25 4. Plaintiffs also sent the Notice Letter to the registered agent for Defendants,  
26 the Administrator of the United States Environmental Protection Agency (“EPA”), the  
27 Administrator of EPA Region IX, the Executive Director of the California State Water  
28 Resources Control Board (“State Board”), and the Executive Officer of the San Diego

1 Regional Water Quality Control Board (“Regional Board”) as required by 40 C.F.R.  
2 § 135.2(a)(1) and 33 U.S.C. § 1365(b)(1)(A).

3 5. More than sixty (60) days have passed since the Notice Letter was served on  
4 Defendants and the State and Federal agencies. Neither the EPA nor the State of  
5 California has commenced or is diligently prosecuting an action to redress the violations  
6 alleged in the Notice Letter and in this Complaint. *See* 33 U.S.C. § 1365(b)(1)(B). This  
7 action is not barred by any prior administrative penalty under Section 309(g) of the  
8 CWA. 33 U.S.C. § 1319(g).

9 6. Venue is proper in the Southern District of California pursuant to 33 U.S.C.  
10 § 1365(c)(1) because the source of the violations is located within this judicial district.

11 **II. INTRODUCTION**

12 7. The SeaWorld Facility is an aquatic amusement park that houses various  
13 marine animals in exhibit pools and aquaria, located within Mission Bay Park at 500 Sea  
14 World Drive, San Diego, CA 92109. In addition to its aquatic exhibit attractions,  
15 SeaWorld offers evening entertainment, including fireworks displays over Mission Bay.

16 8. For up to 150 nights a year, SeaWorld’s fireworks displays discharge waste  
17 and contaminants into Mission Bay, which empties into the Pacific Ocean (collectively  
18 the “Receiving Waters”).

19 9. Typical chemical constituents within fireworks include aluminum, antimony,  
20 barium, carbon, calcium, chlorine, cesium, copper, iron, potassium, lithium, magnesium,  
21 oxidizers including nitrates, chlorates and perchlorates, phosphorus, sodium, sulfur,  
22 strontium, titanium, magnesium, and zinc. 2022 Fireworks Permit, §§ 1, 3.2; Attachment  
23 F § 1.1.

24 10. SeaWorld’s sediment quality monitoring data indicates “an accumulation of  
25 pollutants over time within the fireworks fallout area when compared to the reference  
26 sites.” *Id.*, Attachment F § 1.3.5.2.

27 11. These pollutants are known to have adverse impacts on surrounding coastal  
28 ecosystems, as well as the potential to cause exceedances of applicable water and

1 sediment quality objectives. For instance, barium and strontium, used in fireworks for  
2 their vibrant colors, can be toxic to fish and invertebrates. The contaminants cause  
3 population decline and alter community dynamics. US EPA Ecological Toxicity  
4 Information, <https://archive.epa.gov/reg5sfun/ecology/web/html/toxprofiles.html#ba>.

5 12. The debris left behind from fireworks—comprised of plastic shell casings,  
6 cardboard, and other materials—adds to the pollution burden. As stated in the 2022  
7 Fireworks Permit, “combustion residue is produced in the form of smoke, airborne  
8 particulates, chemical pollutants, and debris including paper, cardboard, wires, and  
9 fuses.” 2022 Fireworks Permit, §§ 1, 3.2.

10 13. These remnants can cause nuisance conditions, entangle marine life, and the  
11 non-biodegradable components can persist in the environment for years. The long-lasting  
12 effects of this pollution threaten recreational opportunities and coastal ecosystems in  
13 Mission Bay, underscoring the need for more sustainable alternatives.

14 14. Plaintiffs’ members have found paper, plastic, and metal fireworks debris in  
15 the water surrounding SeaWorld’s fireworks barge and on the shoreline of Fiesta Island  
16 on numerous occasions.

17 15. In October 2024, Plaintiffs’ members documented extensive lengthy  
18 exposed wires, foil, spent fireworks components, and other fireworks debris within the  
19 sensitive seagrass under the SeaWorld fireworks barge.

20 16. On information and belief, this submerged debris has been present and  
21 accumulating in the SeaWorld fallout zone for years.

22 17. On information and belief, SeaWorld has failed to properly secure its  
23 fireworks wires and other components for years, resulting in their frequent discharge into  
24 Mission Bay.

25 18. On information and belief, SeaWorld has failed to properly conduct  
26 fireworks debris cleanup efforts at the SeaWorld Facility, under the launch barge, on the  
27 barge itself, and along the shoreline as required by the Fireworks Permit.

28 19. SeaWorld also holds a Waste Discharge Permit, which regulates its storm

1 water and aquarium waste discharges.

2 20. Wastewater from SeaWorld has the potential to contain a variety of  
3 pollutants attributable to feeds, (directly or indirectly through feces), residuals of drugs  
4 used for animal health, and tank cleaning chemicals.

5 21. Such pollutants result in discharges of (1) solids and nutrients, (2) toxics,  
6 and (3) pathogens and bacteria to the Receiving Waters, and contribute to antibiotic  
7 resistance.

8 22. In addition, storm water discharged from SeaWorld has the potential to  
9 contain pollutants, including pesticides used for landscape maintenance.

10 23. SeaWorld’s effluent regularly exceeds Waste Discharge Permit effluent  
11 limitations, compounding any existing water quality issues in the Receiving Waters.

12 24. Specifically, SeaWorld has routinely exceeded its effluent limitations since  
13 January 2020 for total coliform, total suspended solids (“TSS”), copper, and enterococci.

14 25. These exceedances pose serious threats to public health and the surrounding  
15 ecosystems.

16 26. For instance, copper is a toxic pollutant in aquatic environments under the  
17 California Toxics Rule (“CTR”).

18 27. SeaWorld’s discharges of total coliform and enterococci have exceeded the  
19 public health thresholds for safe shellfish harvesting and recreation.

20 28. Additionally, TSS can clog aquatic animal’s gills, block sunlight from  
21 reaching plants, damage shellfish, and is deleterious to benthic organisms.

22 29. Plaintiffs seek relief for Defendants’ substantive and procedural violations  
23 of the Clean Water Act resulting from SeaWorld’s failure to comply with the Fireworks  
24 Permit and the Waste Discharge Permit.

25 **III. PARTIES**

26 30. Defendant SeaWorld Parks & Entertainment, Inc. is the manager or member  
27 of Defendant Sea World LLC.

28 31. SeaWorld Parks & Entertainment, Inc. is listed as the Owner and Operator

1 of the SeaWorld Facility in the California Integrated Water Quality System (“CIWQS”).  
2 SeaWorld Parks & Entertainment, Inc. and Sea World LLC are listed as Owners of the  
3 SeaWorld Fireworks Event Location in CIWQS.

4 32. Plaintiff Coastkeeper is a non-profit public benefit corporation organized  
5 under the laws of the State of California with its main office in San Diego, California.  
6 Coastkeeper is committed to protecting and restoring the San Diego region’s water  
7 quality and supply. A member of the international Waterkeeper Alliance, San Diego  
8 Coastkeeper’s main purpose is to preserve, enhance, and protect San Diego’s inland  
9 waters and watersheds, marine sanctuaries, coastal estuaries, wetlands, and bays.

10 33. Plaintiff CERF is a non-profit public benefit corporation organized under the  
11 laws of the State of California with its office located in Encinitas, California. CERF was  
12 founded by surfers in North San Diego County and is active throughout California’s  
13 coastal communities. CERF was established to advocate for the protection and  
14 enhancement of coastal natural resources and the quality of life for coastal residents. One  
15 of CERF’s primary areas of advocacy is water quality protection and enhancement.

16 34. Many of Plaintiffs’ members live, work, and/or recreate in and around the  
17 Receiving Waters. Plaintiffs’ members use and enjoy the Receiving Waters to fish, sail,  
18 boat, kayak, paddleboard, surf, swim, hike, view wildlife and scenery, and engage in  
19 scientific studies, among other activities.

20 35. Plaintiffs are persons as defined by the Clean Water Act and thus able to  
21 pursue citizen enforcement.

22 36. Defendants’ failure to comply with the procedural and substantive  
23 requirements of the CWA results in discharges of pollutants into the Receiving Waters.  
24 Defendants’ pollutant discharges degrade water quality and harm aquatic life in the  
25 Receiving Waters and thus impair Plaintiffs’ members’ use and enjoyment of those waters.

26 37. CERF’s and Coastkeeper’s members donate their time and resources to  
27 protect, enhance, and assist in the preservation of coastal and inland water bodies.

28 38. The relief sought herein will redress the harms to Plaintiffs’ members caused

1 by Defendant’s activities. Continuing commission of the acts and omissions alleged herein  
2 will irreparably harm Plaintiffs’ members, for which it has no other plain, speedy, or  
3 adequate remedy at law.

4 39. An actual controversy exists as to the rights and other legal relations  
5 between Defendants and Plaintiffs.

6 **IV. FACTUAL BACKGROUND**

7 **A. SeaWorld’s Facilities and Fireworks Shows.**

8 40. Defendant SeaWorld Parks & Entertainment, Inc. is listed as an Owner and  
9 Operator of the SeaWorld Facility in CIWQS. On information and belief, Defendant  
10 SeaWorld Parks & Entertainment, Inc., exercises control over the SeaWorld Facility’s  
11 point sources, including the treatment tanks, discharge infrastructure, and monitoring and  
12 reporting requirements.

13 41. Defendant Sea World LLC is also listed as an Owner and Operator of the  
14 SeaWorld Facility in CIWQS and as the discharger on the latest iteration of the Waste  
15 Discharge Permit. On information and belief, Defendant Sea World LLC exercises  
16 control over the SeaWorld Facility’s point sources, including the treatment tanks,  
17 discharge infrastructure, and monitoring and reporting requirements.

18 42. Defendant SeaWorld Parks & Entertainment, Inc. and Defendant Sea World  
19 LLC are both listed as Owners of the SeaWorld – Fireworks Event Location in CIWQS.

20 43. On information and belief, both Defendants exert control over the fireworks  
21 point source discharges and the waste outfall point sources.

22 44. The entities thus share liability under the CWA for the below-listed  
23 violations as either the owner and/or operator of the discharge locations.

24 45. SeaWorld has been enrolled under the 2022 Fireworks Permit since May 2,  
25 2023. SeaWorld was enrolled under the 2011 Fireworks Permit from June 1, 2011 to May  
26 2, 2023.

27 46. Under the current SeaWorld Master Plan, the SeaWorld Facility can operate  
28 up to 150 fireworks shows per year, divided between 6-minute shows (up to 129 per

1 year), 12-minute shows (up to 15 per year) and 20-minute shows (up to 6 per year).

2 SeaWorld Master Plan Update (July 2002) § II.E.

3 47. Typical performances start around 9:50 PM, near the closing of the park, and  
4 use approximately 250 shells per show for the shortest shows and up to 1750 shells per  
5 show for the longest.

6 48. Fireworks are most often launched from a barge anchored in Mission Bay  
7 near the south end of Fiesta Island Pacific Passage. According to the Master Plan, major  
8 shows are launched from Fiesta Island, due to the increased number of shells used.

9 49. SeaWorld discharges storm water and treated aquarium wastewater, which is  
10 regulated under its Waste Discharge Permit.

11 50. SeaWorld pumps seawater from Mission Bay through two intake structures,  
12 an East and West intake, for use in its mammal pools, aquariums, and other exhibits.  
13 Waste Discharge Permit, Attachment F § II.A.

14 51. The intake streams are separate, and each contains its own treatment system  
15 and outfall.

16 52. Seawater pumped from Mission Bay is filtered and treated with disinfectants  
17 such as chlorine, ozone, or ultraviolet (UV) light to produce suitable habitats in various  
18 mammal exhibits and fishtanks. *Id.*

19 53. Wastewater from the salt water aquarium chemical treatments is discharged  
20 to Mission Bay, while wastewater from the fresh water aquarium chemical treatments is  
21 discharged to the City of San Diego's sanitary sewer system.

22 54. According to the Waste Discharge Permit, SeaWorld's wastewater discharge  
23 into Mission Bay contains various pollutants associated with aquarium and animal  
24 maintenance. *Id.*

25 55. For instance, SeaWorld periodically uses copper sulfate mixed with acetic  
26 acid to control parasite infestations in seven aquariums.

27 56. Other drugs and chemicals used in a bath treatment include Cipro  
28 (ciprofloxacin) and Dylox (Trichlorfon).



1 57. Dylox is an organophosphate pesticide that is used to control parasites in  
2 aquariums, and Cipro is an antibacterial drug that is used at the SeaWorld Facility as  
3 needed for ill animals.

4 58. SeaWorld has routinely exceeded its effluent limitations since January 2020  
5 for total coliform, total suspended solids (“TSS”), copper, and enterococci. Ex. 1,  
6 SeaWorld’s Waste Discharge Monitoring Data Exceedances.

7 **B. The Receiving Waters.**

8 59. SeaWorld’s discharges enter Mission Bay, the largest aquatic park (4,235  
9 acres) in the United States, which empties into the Pacific Ocean.

10 60. Mission Bay is one of San Diego’s most popular marine recreation areas,  
11 attracting an estimated 15 million visitors each year who come to recreate in the Bay and  
12 surrounding parks.

13 61. Mission Bay was constructed from approximately 4,000 acres of marshland  
14 that was historically the outlet for the San Diego River. Today, there are only 40 acres of  
15 wetlands remaining in Mission Bay.

16 62. Wetlands such as those in Mission Bay serve as natural filtration systems,  
17 carbon sinks, vital breeding grounds for both terrestrial and aquatic migratory species,  
18 and habitats for a diverse array of other species.

19 63. The Bay hosts a rich diversity of wildlife, including hundreds of bird  
20 species, and an estimated 100 native plant species.

21 64. Mission Bay is a breeding ground for endangered species such as the  
22 California Least Tern (“CLTE”), underscoring its significance in preserving biodiversity  
23 and the delicate balance of nature.

24 65. In addition to the four protected nesting sites for CLTEs (Mariner’s Cove,  
25 FAA Island, Stony Point, and North Fiesta Island), West Ski Island is now an established  
26 seabird breeding colony for larids in Mission Bay since 2020.

27 66. The San Diego Water Quality Control Plan (“Basin Plan”) identifies the  
28 Beneficial Uses of water bodies in the region. The Beneficial Uses for Mission Bay

1 Include Industrial Service Supply; Contact Water Recreation; Non-Contact Water  
2 Recreation; Commercial and Sport Fishing; Estuarine Habitat; Wildlife Habitat;  
3 Preservation of Rare, Threatened or Endangered Species; Marine Habitat; Migration of  
4 Aquatic Organisms; Spawning, Reproduction, and/or Early Development; and Shellfish  
5 Harvesting. Basin Plan Table 2-3. The Beneficial Uses for the Pacific Ocean include  
6 Industrial Service Supply; Navigation; Contact Water Recreation; Non-contact Water  
7 Recreation; Commercial and Sports Fishing; Preservation of Biological Habitats of  
8 Special Significance; Wildlife Habitat; Rare, Threatened, or Endangered Species; Marine  
9 Habitat; Aquaculture; Migration of Aquatic Organism; Spawning, Reproduction, and/or  
10 Early Development; and Shellfish Harvesting. Basin Plan Table 2-3.

11 67. According to the current 303(d) List of Impaired Water Bodies, Mission Bay  
12 is impaired for Mercury and PCBs (Polychlorinated biphenyls). Additionally, the  
13 segment of Mission Bay near SeaWorld (Mission Bay at Quivira Basin) is impaired for  
14 copper. The Pacific Ocean Shoreline, Scripps HA, at Belmont Park, Mission Beach  
15 (“Pacific Ocean Shoreline”) is impaired for trash. Coastkeeper Receiving Water  
16 monitoring data collected in Mission Bay also indicates that Mission Bay exceeds water  
17 quality objectives for copper, phosphorus, total coliform, and enterococcus. *See Ex. 1.*

18 **C. Impacts to the Receiving Waters.**

19 68. Elevated pollutant levels and disturbances associated with SeaWorld’s waste  
20 and fireworks discharge harm the special aesthetic and recreational significance of the  
21 Receiving Waters, adversely impacting the public’s ability, as well as that of  
22 Coastkeeper’s and CERF’s members, to use and enjoy these unique waterbodies.

23 69. Pollutants discharged from SeaWorld harm the health of the Receiving  
24 Waters, and thus the plant and animal life of the surrounding habitats.

25 70. Damage to these natural habitats, and thus the flora and fauna within them,  
26 harms the ability of the public, including Coastkeeper’s and CERF’s members’ ability, to  
27 use and enjoy these unique recreational and scientific/research opportunities.

28 71. SeaWorld’s discharges also negatively impact human health.

1 72. Coastkeeper’s and CERF’s members are less likely to recreate in and around  
2 waters known to be polluted with harmful metals, excessive nutrients, trash, and other  
3 pollutants.

4 73. The Fireworks Permit recognizes that pollutants released during SeaWorld’s  
5 fireworks shows adversely impact Mission Bay and requires continued water quality and  
6 sediment monitoring.

7 74. This is due to a combination of specific factors, such as “(1) the restricted  
8 circulation of waters within Mission Bay, (2) the shallow depth of the bay in the vicinity  
9 of the fireworks events, and (3) the high frequency of repeat fireworks events throughout  
10 the year at the same location.” 2022 Fireworks Permit, Attachment F § 1.3.5.1.

11 75. As described in Section II, *supra*, fireworks contain an array of chemical  
12 constituents that are harmful to water quality.

13 76. In addition to SeaWorld’s own sediment monitoring data, Plaintiffs’  
14 sediment monitoring data near the fireworks barge further demonstrates a pattern of  
15 pollutant loading from fireworks discharges.

16 77. On October 2, 2024, CERF and Coastkeeper collected sediment samples  
17 near SeaWorld’s fireworks launch barge at 32°46'2.97"N, 117°13'8.99"W, and at a  
18 reference point at 32°46'46.07"N, 117°13'33.53"W.

19 78. In particular, Plaintiffs’ samples collected beneath the fireworks barge  
20 contained concentrations of aluminum, antimony, calcium, copper, potassium, strontium,  
21 magnesium, and titanium that were higher than those of the reference site sediment. Ex.  
22 1, CERF and Coastkeeper’s Sediment Sampling Results.

23 79. For example, antimony and copper concentrations near the barge were 794  
24 percent higher and 610 percent higher, respectively, as compared to the reference site.

25 80. SeaWorld also routinely discharges debris from its fireworks shows into  
26 Mission Bay in the form of unexploded shells as well as paper, cardboard, wires,  
27 shattered plastic caps, and fuses from exploded shells, all of which can persist in the  
28 environment for years.

1 81. Aerial explosions from fireworks release fine particulate matter (PM2.5) and  
2 gases like sulfur dioxide and nitrogen oxide.

3 82. These pollutants are known to cause a wide range of adverse health effects  
4 in humans, including premature mortality, respiratory and cardiovascular diseases,  
5 adverse pregnancy outcomes, and neurological diseases.

6 83. Airborne particulate matter is particularly dangerous because, when inhaled,  
7 it can enter the lungs and be transported to other tissues in the body. It also poses risks to  
8 wildlife, because as particles settle into the water, they can smother delicate ecosystems,  
9 reduce light penetration, and disrupt photosynthesis in vital habitats like seagrass beds.

10 84. Another main chemical constituent in firework discharges is perchlorate, an  
11 oxidizing agent in rocket fuels, explosives, and some fertilizers.

12 85. Perchlorate can severely interfere with iodide uptake into the thyroid gland  
13 in humans.

14 86. When it contaminates water bodies, perchlorate can adversely affect fish  
15 development.

16 87. As described in Section II, *supra*, SeaWorld's wastewater discharges have  
17 routinely exceeded allowable limits for TSS, copper, and indicator bacteria, which pose  
18 multiple threats to human health and the environment.

19 88. In addition to the threats described in Section II, total coliform and  
20 enterococci are indicators of the presence of fecal material in water and, therefore, of the  
21 possible presence of disease-causing bacteria, viruses, and protozoa. As such, high levels  
22 of bacteria directly threaten human health, and can cause beach closures, swimming and  
23 boating bans, and closures of fishing and shell fishing areas.

24 **V. LEGAL BACKGROUND**

25 **A. The Clean Water Act.**

26 89. The CWA requires point source discharges of pollutants to navigable waters  
27 be regulated by an NPDES permit. 33 U.S.C. § 1311(a); 40 C.F.R. § 122.26(c)(1).

28 90. Section 301(a) of the Clean Water Act prohibits the discharge of any

1 pollutant into a WOTUS unless the discharge complies with the CWA. Among other  
2 things, Section 301(a) prohibits discharges not authorized by, or in violation of, the terms  
3 of an NPDES permit issued pursuant to Section 402 of the CWA.

4 91. WOTUS are defined as “navigable waters” and “all waters which are  
5 currently used, were used in the past, or may be susceptible to use in interstate or foreign  
6 commerce, including waters which are subject to the ebb and flow of the tide.” 33 U.S.C.  
7 § 1362(7); 40 C.F.R. § 122.2.

8 92. The “discharge of a pollutant” means, among other things, “any addition of  
9 any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).

10 93. The EPA interprets WOTUS to include not only traditionally navigable  
11 waters, but also other waters, including waters tributary to navigable waters. *See* 40  
12 C.F.R. § 122.2.

13 94. Mission Bay is subject to the ebb and flow of the tide, and is directly  
14 connected to the Pacific Ocean, and is therefore a WOTUS.

15 95. The CWA requires all point source dischargers, including those discharging  
16 polluted storm water, achieve technology-based effluent limitations by utilizing the Best  
17 Available Technology Economically Achievable (“BAT”) for toxic and nonconventional  
18 pollutants and the Best Conventional Pollutant Control Technology (“BCT”) for  
19 conventional pollutants. 33 U.S.C. § 1311(b); 40 C.F.R. §125.3(a)(2)(ii)–(iii).

20 96. If granted a permit, the discharger must comply with all permit limitations  
21 and terms. Each and every violation of an NPDES permit is a violation of the CWA for  
22 which the permittee is liable, including liability for civil penalties. 40 C.F.R. § 122.41  
23 (applicable to federally-issued NPDES permits); *id.* § 123.25(a)(12) (incorporating this  
24 standard into state-issued NPDES permits, such as the General Permit); Fireworks  
25 Permit, Attachment D § 1.1.1; Waste Discharge Permit, Attachment D § 1.1.1.

26 97. Violations of provisions of the Fireworks Permit and Waste Discharge  
27 Permit, including those detailed below, constitute violations of the CWA and are subject  
28 to civil penalties. 33 U.S.C. §§ 1365(f), 1319(d); 40 C.F.R. §§ 19.1-19.4.

1 98. An entity that exercises control over a point source is a responsible party  
2 under the CWA. *Puget Soundkeeper Alliance v. Total Terminals International, LLC*  
3 (W.D. Wash. 2019) 371 F.Supp.3d 857, 862 (collecting cases and noting: “Liability is not  
4 limited to the permit-holder” (or any other category of defendant)).

5 99. CWA section 402(b), 33 U.S.C. § 1342(b), allows each state to administer  
6 its own EPA-approved permit program for discharges. In California, the State Board has  
7 approval from EPA to administer an NPDES permit program for the state. The CWA and  
8 its implementing regulations require any person who discharges or proposes to discharge  
9 pollutants into waters of the United States in California to submit an NPDES permit  
10 application to the State Board. 40 C.F.R. §§ 122.21(a), 122.26(a)(ii); 33 U.S.C. §  
11 1342(p)(2)(B).

12 100. The State Board and its nine Regional Boards issue individual and general  
13 NPDES permits regulating discharges from various categories of dischargers. As relevant  
14 here, the San Diego Regional Board adopted the 2011 Fireworks Permit, the 2022  
15 Fireworks Permit, and the Waste Discharge Permit as detailed below.

16 101. CWA section 505(a)(1) provides for citizen enforcement actions against any  
17 “person,” including individuals, corporations, or partnerships, for violations of NPDES  
18 permit requirements and for unpermitted discharges of pollutants.. 33 U.S.C. §  
19 1365(a)(1), (f)(6); 33 U.S.C. § 1362(5); *Russian River Watershed Prot. Comm. v. City of*  
20 *Santa Rosa*, 142 F.3d 1136, 1139 (9th Cir.1998).

21 102. CWA section 505(a) authorizes a citizen suit action for injunctive relief. 33  
22 U.S.C. § 1365(a). CWA violators are also subject to an assessment of civil penalties of up  
23 to \$68,445 per day per violation for violations occurring after November 2, 2015 and  
24 assessed on or after January 8, 2025. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4 (EPA  
25 regulation adjusting the CWA’s statutory civil penalties for inflation).

26 **B. The California Thermal Plan, California Toxics Rule, San Diego Basin**  
27 **Plan, and California Water Code.**

28 103. The State Water Board adopted the Control of Temperature in the Coastal

1 and Interstate Waters and Enclosed Bays and Estuaries (“Thermal Plan”) to set water  
2 quality standards for the temperature of discharges.

3 104. The Thermal Plan mandates that for Mission Bay “the maximum  
4 temperature of waste discharges shall not exceed the natural temperature of the receiving  
5 waters by more than 20°F.” Waste is defined as “[l]iquid, solid, or gaseous material.  
6 Thermal Plan, pg. 1, 4-5.

7 105. The U.S. EPA promulgated a final rule prescribing water quality criteria for  
8 toxic pollutants in inland surface waters, enclosed bays, and estuaries in California on  
9 May 18, 2000, known as the CTR. 40 C.F.R. § 131.38.

10 106. The CTR criteria govern numerous toxic pollutants such as copper,  
11 antimony, and zinc, which are commonly present in fireworks.

12 107. The Basin Plan designates beneficial uses for water bodies in the San Diego  
13 region and establishes water quality objectives and implementation plans to protect those  
14 beneficial uses.

15 108. The Basin Plan prohibits discharges of waste to receiving waters unless the  
16 discharge complies with water quality objectives. Basin Plan at 4-31.

17 109. The Basin Plan incorporates the CTR criteria as applicable water quality  
18 objectives. “CTR criteria constitute applicable water quality criteria in California.” Basin  
19 Plan at 3-34; *see also* 40 C.F.R. §131.38.

20 110. The Basin Plan water quality objective relating to floating material is  
21 “waters shall not contain floating material, including solids. . . in concentrations which  
22 cause nuisance or adversely affect beneficial uses.” Basin Plan at 3-19.

23 111. Pursuant to the California Water Code Section 13050, “nuisance” means  
24 anything which meets all of the following requirements:

25 (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction  
26 to the free use of property, so as to interfere with the comfortable enjoyment of life  
27 or property.

28 (2) Affects at the same time an entire community or neighborhood, or any

1 considerable number of persons, although the extent of the annoyance or damage  
2 inflicted upon individuals may be unequal;

3 (3) Occurs during, or as a result of, the treatment or disposal of wastes.

4 112. "Pollution" is defined by Water Code section 13050 as "an alteration of the  
5 quality of the waters of the state by waste to a degree which unreasonably affects . . .  
6 [t]he waters for beneficial uses."

7 113. "Waste" is defined as "any and all other waste substances, liquid, solid,  
8 gaseous, or radioactive, associated with human habitation, or of human or animal origin,  
9 or from any producing, manufacturing, or processing operation, including waste placed  
10 within containers of whatever nature prior to, and for purposes of, disposal." Cal. Water  
11 Code § 13050.

12 114. At the point of discharge, firework debris and residue become "waste" that is  
13 subject to regulation.

14 **C. Fireworks Permit.**

15 115. "Fireworks residue waste discharged into surface waters constitutes  
16 discharge of a pollutant from a point source within the meaning of the CWA. Therefore,  
17 coverage under an NPDES permit is required before residual pollutant discharges  
18 associated with the public display of fireworks can be lawfully discharged." 2022  
19 Fireworks Permit, Attachment F § 1.1.

20 116. Within the Regional Board's territory, any person who discharges fireworks  
21 for public shows over a WOTUS must enroll and comply with the terms of the Fireworks  
22 Permit. 2022 Fireworks Permit § 2; *see also*, 33 U.S.C. §§ 1311(a), 1342.

23 117. On May 11, 2011, pursuant to Order No. R9-2011-0022, the Regional Board  
24 adopted the Fireworks Permit.

25 118. On June 1, 2022, pursuant to Order R9-2022-0002, the reissued 2022  
26 Fireworks Permit took effect.

27 119. The 2022 Fireworks Permit includes terms that are as stringent or more  
28 stringent than the 2011 Fireworks Permit.



**1 1. Fireworks Permit Discharge Prohibitions.**

2 120. The Fireworks Permit contains certain absolute discharge prohibitions. 2022  
3 Fireworks Permit § 4; 2011 Fireworks Permit § IV.

4 121. “The discharge of residual firework pollutant waste to waters of the state in a  
5 manner causing, or threatening to cause a condition of pollution, contamination or  
6 nuisance as defined in Water Code section 13050 is prohibited.” 2022 Fireworks Permit §  
7 4.1; 2011 Fireworks Permit § IV.A.

8 122. The discharge of residual firework pollutant discharges “shall not cause,  
9 have a reasonable potential to cause, or contribute to exceedances of any applicable  
10 criterion promulgated by USEPA pursuant to section 303 of the CWA, or water quality  
11 objective adopted by the State Water Board or [Regional Board].” 2022 Fireworks Permit  
12 § 4.2; 2011 Fireworks Permit § IV.B.

13 123. Dischargers under the Fireworks Permit must comply with the discharge  
14 prohibitions within the Water Quality Control Plan for the San Diego Basin (“Basin  
15 Plan”). 2022 Fireworks Permit § 4.6; 2011 Fireworks Permit § IV.E.

16 124. The Fireworks Permit prohibits the discharge of residual firework pollutants  
17 to a WOTUS unless a notice of intent for coverage (“NOI”) has been submitted and the  
18 San Diego Water Board “has provided the Discharger with an NOA [Notice of  
19 Applicability]. . . . Discharge in a location or manner not prescribed in the issued NOA is  
20 prohibited.” 2022 Fireworks Permit § 4.4; *see also* 2011 Fireworks Permit § IV.D.

21 125. In addition, “[t]he Discharger must submit a request for an amended NOA  
22 when a fireworks event is proposed at new location.” 2022 Fireworks Permit § 2.3.

23 126. Discharges of residual firework pollutants in a manner, or to a location  
24 which have not been specifically regulated by WDRs of the Fireworks Permit are  
25 prohibited. 2022 Fireworks Permit § 4.7; 2011 Fireworks Permit § IV.F.

26 **2. Fireworks Permit Discharge Specifications.**

27 127. The Fireworks Permit contains discharge specifications that require  
28 permittees to reduce or prevent pollutants associated with fireworks through the

1 implementation of a Fireworks Best Management Practices Plan (“FBMPP”). 2022  
2 Fireworks Permit § 5.2.1; 2011 Fireworks Permit § V.B.

3 128. Compliance with the FMBPP is intended to control and abate the discharges  
4 to surface waters, protect water and sediment quality, and demonstrate compliance with  
5 the Fireworks Permit. 2022 Fireworks Permit § 8; 2011 Fireworks Permit § VIII.

6 129. A failure to comply with the FBMPP is a failure to comply with the  
7 Discharge Specifications of the Fireworks Permit and to implement technology-based and  
8 water quality-based requirements of the CWA. 2022 Fireworks Permit § 5.2.1;  
9 Attachment F, § 4.2.3 (“The primary mechanism for regulating such discharges are  
10 through the development and implementation of a FBMPP, as required by section 5.2.1  
11 of this Order. The [best management practices (“BMPs”)] required herein constitute best  
12 available technology economically achievable and best conventional pollutant control  
13 technology”); *see also*, 2022 Fireworks Permit, §8.

- 14 130. Pursuant to the 2022 Fireworks Permit, the FBMPP, at a minimum must:
- 15 [1] consider the use of alternative fireworks produced with new pyrotechnic  
16 formulas that replace perchlorate with other oxidizers and propellants that burn  
17 cleaner, produce less smoke, and reduce pollutant loading to surface waters;
  - 18 [2] remove all plastic and aluminum labels and wrappings from aerial shells and  
19 special effect pyrotechnic devices prior to use and before they are launched or  
20 detonated;
  - 21 [3] select fireworks that do not contain plastic outer casings or have non-  
22 biodegradable inner components that make up more than five percent of the mass of  
23 the shell/device;
  - 24 [4] design the firing range and evaluate alternative firing ranges, to eliminate or  
25 reduce residual firework pollutant discharges to WOTUS;
  - 26 [5] collect, remove, and manage particulate matter and debris from ignited and un-  
27 ignited pyrotechnic material including aerial shells, stars (small pellets of  
28 composition that produce color pyrotechnic effects), paper, cardboard, wires, and

1 fuses found during inspection of the entire firing range and adjacent affected surface  
2 water(s);

3 [6] If the fireworks are launched or ignited on barges or floating platforms . . . electric  
4 igniter wires used to trigger the fireworks shall be secured to minimize the risk that  
5 the wires would fall into the water during or after the discharge. As soon as  
6 practicable, and no later than 24 hours following a display of fireworks, the decks of  
7 each barge or floating platform that contained fireworks shall be raked or swept to  
8 collect fireworks debris and prevent it from being deposited into the water. 2022  
9 Fireworks Permit § 5.2.

10 131. If a discharger’s FBMPP fails to meet these minimum requirements, the  
11 discharger is in violation of the Fireworks Permit. *See* 2022 Fireworks Permit § 8,  
12 Attachment F §§ 4.2.3, 4.7.

13 132. If the FBMPP fails to meet the Fireworks Permit’s minimum BMP  
14 requirements, or fails entirely to include an enumerated element, the discharger must still  
15 comply with the minimum BMP standards outlined in the Fireworks Permit. *Id.*

16 **3. Fireworks Permit Reporting Requirements.**

17 133. The Fireworks Permit requires SeaWorld to complete four types of  
18 monitoring reports, a Visual Monitoring Report (“Visual Report”), a Post-Event Report  
19 Form (“Event Form”), a Post-Fireworks Display Log (“Log”), and an Annual Report.  
20 2022 Fireworks Permit, Attachment E § 9.

21 134. The Visual Report details the weather and receiving water conditions at the  
22 time of the event. *Id.*, Attachment E § 8.1.

23 135. The Event Form contains information about the display and discharger, such  
24 as the name of the organization, the pyrotechnic operator, and the particulars of the  
25 display. *Id.* Attachment E, § 9.2. The Event Form requires the discharger to certify to the  
26 truthfulness of its contents. *Id.*

27 136. The Logs contain information about each event, such as the date, start time,  
28 and duration of the event, the affected receiving water, and a certification that the

1 FBMPP was fully implemented. The discharger must submit the Visual Report, the Log,  
2 and the Event Form to CIWQS within thirty days following the end of the month of the  
3 event as a self-monitoring report, also called the monthly report. 2022 Fireworks Permit,  
4 Attachment C-1, C-2, C-3.

5 137. The Log must be completed within ten days of an event and is also  
6 submitted with the Annual Report. The Annual Report must be uploaded to CIWQS by  
7 August 30 of the year and include any permit violations, the Visual Report(s), Event  
8 Form(s), Log(s), list of all firework shows, and a certification to the accuracy of the  
9 information included. *Id.*

10 138. The Fireworks Permit also requires dischargers to conduct water and  
11 sediment monitoring. This data is submitted with the Annual Report.

12 **D. Waste Discharge Permit.**

13 139. The Regional Board adopted the Waste Discharge Permit on June 20, 2018.

14 140. The Waste Discharge Permit governs the SeaWorld Facility’s discharges of  
15 storm water; wastewater from marine mammal and aquarium exhibits; landscape  
16 irrigation runoff; and overspray from Facility cleaning to Mission Bay. Waste Discharge  
17 Permit § I.

18 141. The discharge may contain a variety of pollutants including waste from  
19 confined aquatic animals; uneaten feed; aquaculture drugs and chemicals; and chemicals  
20 used for cleaning, maintaining landscapes, or enhancing water quality conditions. *Id.*

21 142. Pursuant to the Waste Discharge Permit, the SeaWorld Facility “shall  
22 maintain compliance” with the effluent limitations therein. Waste Discharge Permit §  
23 IV.A.

24 143. The Permit contains effluent limitations for bacteria, metals, TSS, and  
25 toxicity, among other parameters. *Id.*, Table 4; *see also* Ex. 1, Effluent Exceedances.

26 144. The SeaWorld Facility’s total coliform discharges cannot exceed median  
27 concentration of 70/100 mpn/100mL, and “230 mpn/mL for a five-tube decimal dilution  
28 test in more than 10 percent of samples collected.” Waste Discharge Permit § V.A.1.a.

1 145. For enterococcus, the discharge must not exceed a concentration of 35  
2 mpn/mL. *Id.* § V.A.1.c.

3 146. The Waste Discharge Permit requires the SeaWorld Facility to “report all  
4 instances of noncompliance” for the effluent limitations on the monthly self-monitoring  
5 reports. *Id.*, Attachment E § VIII.A.

6 147. The report must detail “a description of the noncompliance and its cause; the  
7 period of noncompliance, including exact dates and times, and if the noncompliance has  
8 not been corrected, the anticipated time it is expected to continue; and steps taken or  
9 planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.” *Id.*,  
10 Attachment E § VIII.B.7. This information must also be provided in the cover letter  
11 submitted with the monthly self-monitoring report. *Id.*,

12 **VI. CLEAN WATER ACT VIOLATIONS**

13 **A. SeaWorld’s Violations of the Fireworks Permit.**

14 148. SeaWorld has violated and continues to violate the Fireworks Permit’s (1)  
15 discharge prohibitions; (2) discharge specifications; and (3) reporting requirements.

16 **1. Fireworks Permit Discharge Prohibitions Violations.**

17 149. As described herein, SeaWorld’s discharges of fireworks have violated and  
18 continue to violate several of the Fireworks Permit’s discharge prohibitions by (1)  
19 polluting and contaminating the Receiving Waters in such a way that impacts the  
20 beneficial uses, (2) causing a nuisance in the Receiving Waters, (3) exceeding the Basin  
21 Plan water quality objective for floating materials, and (4) discharging debris more than  
22 20°F above the Receiving Water’s temperature.

23 150. CERF and Coastkeeper representatives have collected SeaWorld fireworks  
24 debris in Mission Bay and along the Fiesta Island shoreline on numerous occasions.

25 151. Recovered SeaWorld fireworks debris included foil pieces from the label  
26 and wrappings, and multiple nonbiodegradable components, including plastic caps for the  
27 shells’ fuse caps (located within the shell), cross matches, and igniters, all of which were  
28 observed littering the seafloor and shoreline.

1 152. On October 6, 2024, CERF members conducted a dive beneath and around  
2 the fireworks barge to observe the condition of Mission Bay’s seafloor. The entire  
3 observed area near the barge was strewn with fireworks debris. *See generally*, Ex. 1,  
4 Section 2.

5 153. The debris collected during the dive included numerous lengthy, spiky  
6 wires, foil, shattered plastic ignitors, and cross matches with sharp ends littering the  
7 sensitive seagrass below the barge. *Id.*

8 154. SeaWorld’s fireworks debris discharged into Mission Bay is frequently  
9 contaminated with residues of numerous toxic metals. *See* Section IV.C, *supra*.

10 155. Burning material from SeaWorld’s fireworks displays also discharges  
11 directly into Mission Bay during each and every fireworks show.

12 156. As discussed in Section VI.A.2 *infra*, SeaWorld has failed and continues to  
13 fail to follow the BMPs outlined in the Fireworks Permit.

14 157. SeaWorld’s residual fireworks pollutant discharges into the Receiving  
15 Waters cause widespread negative impacts to water quality, ecosystem health, food webs,  
16 biodiversity, and public health, as enumerated in Section IV.C, *supra*.

17 158. In addition to the negative impacts set forth in Section IV.C, SeaWorld’s  
18 residual fireworks pollutant discharges disrupt human enjoyment of Receiving Waters by  
19 exposing the public to unpleasant debris and sharp, dangerous physical hazards.

20 159. This pollution also detracts from the natural beauty and tranquility of the  
21 area. SeaWorld’s release of thousands of pounds of waste disturbs the peace, safety, and  
22 comfort of these waters and the surrounding areas.

23 160. SeaWorld’s residual fireworks pollutant discharges cause nuisance, as they  
24 are injurious to health, indecent or offensive to the senses, obstruct the free use and  
25 comfortable enjoyment of Receiving Waters. *See* Cal. Water Code § 13050.

26 161. SeaWorld’s residual fireworks pollutant discharges negatively impact  
27 multiple Beneficial Uses of Mission Bay and the Pacific Ocean.

28 162. SeaWorld’s residual fireworks pollutant discharges result in “pollution” as

1 they alter the quality of Receiving Waters to a degree which unreasonably affects  
2 Beneficial Uses.

3 163. SeaWorld’s residual fireworks pollutant discharges cause pollution,  
4 contamination, and/or nuisance in violation of the Fireworks Permit. 2022 Fireworks  
5 Permit § 4.1; 2011 Fireworks Permit § IV.A.

6 164. The Basin Plan water quality objective relating to floating material is  
7 “waters shall not contain floating material, including solids. . . in concentrations which  
8 cause nuisance or adversely affect beneficial uses.” Basin Plan at 3-19.

9 165. Significant quantities of SeaWorld’s fireworks debris floats, and thus  
10 constitutes floating material under the Basin Plan.

11 166. This floatable fireworks debris is commonly covered in the residue of toxic  
12 metals and other pollutants, and routinely ends up on the shores of Mission Bay,

13 167. These toxic floatables cause nuisance and adversely affect beneficial uses.

14 168. As explained in Section IV.B, *supra*, approximately 15 million people use  
15 and enjoy Mission Bay in various capacities each year. This includes walking, beaching,  
16 swimming, boating, paddleboarding, fishing, viewing wildlife and scenery, and engaging  
17 in scientific studies. SeaWorld’s discharges negatively impact these recreational uses  
18 because members of the public, including members of CERF and Coastkeeper, are less  
19 likely to engage in these activities when chemical-laden fireworks debris is in the water  
20 and washed ashore.

21 169. SeaWorld’s chemical-laden fireworks debris is also deleterious to aquatic  
22 flora and fauna, and thus adversely affects Mission Bay’s ecological beneficial uses such  
23 as Estuarine Habitat; Wildlife Habitat; Preservation of Rare, Threatened or Endangered  
24 Species; Marine Habitat; Migration of Aquatic Organisms; Spawning, Reproduction,  
25 and/or Early Development.

26 170. The Thermal Plan prohibits discharges into Mission Bay that exceed the  
27 ambient water temperature by 20°F. SeaWorld’s fireworks routinely violate this standard,  
28 with dangerously hot debris entering the bay at hundreds of degrees Fahrenheit. This

1 occurs when (1) malfunctioning fireworks fall into the water before combustion and (2)  
2 hot particulates from the lift mechanism are released after ignition. *See* Ex. 1.

3 171. Fireworks are solid waste as defined by the Thermal Plan. SeaWorld  
4 routinely discharges fireworks into Mission Bay. During SeaWorld's shows, burning  
5 material can be seen depositing into Mission Bay. *See* Ex. 1.

6 172. SeaWorld routinely fails to secure the wires and ignitors to its launch barge  
7 and these materials also discharge into Mission Bay, while burning. *See* Ex. 1. SeaWorld  
8 discharges waste that exceeds Mission Bay's ambient water temperature by 20°F in  
9 violation of the Thermal Plan and Fireworks Permit Discharge Prohibition 4.2.

10 173. Information available to CERF and Coastkeeper, including the SeaWorld  
11 Master Plan, suggests SeaWorld discharges fireworks from a location other than the  
12 fireworks barge.

13 174. On information and belief, SeaWorld's July 4<sup>th</sup> fireworks shows are  
14 launched from Fiesta Island, instead of the barge.

15 175. On information and belief, each of SeaWorld's July 4<sup>th</sup> fireworks events in  
16 the last five years have been launched from Fiesta Island, in violation of the CWA and  
17 the Fireworks Permit's Discharge Prohibitions.

18 176. However, the SeaWorld NOA reflects only one discharge location – the  
19 coordinates of the barge.

20 177. SeaWorld has not requested an amended NOA for moving a fireworks event  
21 to a proposed new location.

22 178. Therefore, SeaWorld has violated the Fireworks Permit discharge  
23 prohibition and discharged pollutants without a valid NPDES permit each and every time  
24 it has launched fireworks from a location other than its barge. *See* 2022 Fireworks Permit  
25 §§ 2.3, 4.4, 4.7.

## 26 **2. Fireworks Permit Discharge Specifications Violations.**

27 179. SeaWorld has also failed and continues to fail to comply with multiple  
28 provisions of its applicable FBMPP since at least January 1, 2020.



1 180. Each failure to comply with its own FBMPP is a violation of Section 5.2’s  
2 BMP requirements. 2022 Fireworks Permit § 8; *see also* Section V.C.2, *supra*.

3 181. SeaWorld submitted its most recent application to enroll under the  
4 Fireworks Permit in April 2023, which included its current FBMPP (“2023 FBMPP”).

5 182. The 2023 FBMPP states “none of our devices use plastic shell casings. All  
6 our devices are manufactured using paper and cardboard. All identifying marks and  
7 labels are made of paper, not aluminum. All . . . devices are 100% biodegradable.” 2023  
8 FBMPP, Attachment D, pg. 4.

9 183. Contrary to its own 2023 FBMPP, SeaWorld has utilized and continues to  
10 utilize fireworks with non-biodegradable, plastic components.

11 184. SeaWorld fireworks debris recovered by CERF includes foil pieces from the  
12 label and wrappings, and multiple nonbiodegradable components, including plastic caps  
13 for the shells’ fuse caps, cross matches, and igniters, all of which were observed littering  
14 the seafloor and shoreline.

15 185. SeaWorld’s use of plastic fireworks components and failure to remove foil  
16 and plastic labels on its fireworks devices constitute ongoing violations of the 2023  
17 FBMPP Section 3.c. and 2022 Fireworks Permit Section 5.2.1.3.

18 186. The 2023 FBMPP requires that “[n]o later than 12 hours following the  
19 fireworks event . . . all plastic, cardboard, aluminum foil, fuses, wires and other debris  
20 resulting from the firework event on the barge or floating platform shall be collected and  
21 bagged. The deck of the barge or floating platform should then be raked or swept to  
22 remove any residual debris to prevent it from entering the water 2023 FBMPP.”  
23 Attachment D, pg. 8.

24 187. On information and belief, based in part on CERF’s October 6, 2024 dive  
25 observations of an extremely high quantity of fireworks debris beneath the barge, as well  
26 as other direct observations, SeaWorld regularly fails to comply with this raking and  
27 sweeping requirement in violation of the FBMPP and the Fireworks Permit.

28 188. The 2023 FBMPP requires that “[a]s soon as practical, and no later than 12

1 hours following the fireworks event . . . A motorized boat, with a skimming device and  
2 net (maximum 1-1/2 inch mesh size), shall travers[e] the fallout area and collect any  
3 floating debris or dud shells which resulted from the fireworks event.” 2023 FBMPP,  
4 Attachment D, pg. 8. On information and belief, based in part on CERF’s October 6,  
5 2024 dive observations of exceptional fireworks debris concentrations beneath the barge,  
6 as well as other direct observations, SeaWorld regularly fails to comply with this  
7 skimming debris collection requirement in violation of 2023 FBMPP Section 3.a.ii and  
8 2022 Fireworks Permit Section 5.2.1.5.

9 189. SeaWorld has self-reported such violations. For example, SeaWorld failed to  
10 collect surface debris from Mission Bay by boat within 12 hours of a show. SeaWorld  
11 held fireworks events from June 24, 2024 to June 27, 2024, discharging hundreds of  
12 pounds of debris into Mission Bay. However, SeaWorld did not attempt to recover any of  
13 this toxic trash until June 28, 2024. June 2024 Cover Letter for SeaWorld’s Monthly  
14 Report.

15 190. The 2023 FBMPP requires SeaWorld to “[d]ive the water surrounding the  
16 fireworks launching barge at a radius of 50 feet, once a year to collect debris that has  
17 settled in Mission Bay. If needed the dive will continue for consecutive days to search the  
18 required area. When the entire area has been searched, the collected debris will be  
19 weighted and disposed of properly.” 2023 FBMPP § 3.a.v.

20 191. The sheer amount of submerged fireworks waste indicates SeaWorld has  
21 failed and continues to fail to send a dive team to collect settled debris.

22 192. SeaWorld has violated and continues to violate 2023 FBMPP Section 3.a.v.

23 193. The 2023 FBMPP requires SeaWorld to walk the fallout areas on Fiesta  
24 Island “[f]or five (5) days following the fireworks display . . . once a day; times are  
25 dependent on tidal conditions. All walks shall be during daylight hours and times of  
26 lower tide.” 2023 FBMPP § 3.b.

27 194. SeaWorld regularly fails to conduct these cleanup walks, and to remove  
28 fireworks debris from the Fiesta Island shoreline.

1 195. For example, SeaWorld conducted fireworks shows over the 2024 Labor  
2 Day weekend. A CERF member walked the Fiesta Island shoreline between 4 PM and  
3 5:30 PM on September 3, 2024 gathering fireworks debris. SeaWorld claims it sent its  
4 employee(s) between 2 PM and 6 PM to remove shoreline debris. September 2024 Cover  
5 Letter for SeaWorld’s Monthly Report, Table 1. Contrary to SeaWorld’s report, the  
6 CERF member observed no one else collecting debris along the shoreline. This  
7 observation casts doubt on the accuracy of SeaWorld’s reported collection efforts since at  
8 least January 1, 2020.

9 196. SeaWorld has violated and continues to violate 2023 FBMPP Section 3.b.i,  
10 2011 FBMPP Section 2.2.2, and 2022 Fireworks Permit Section 5.2.1.5.

11 197. Previously, SeaWorld operated under its FBMPP submitted in 2011 (“2011  
12 FBMPP”).

13 198. The Fireworks Permit also requires that electric ignitor wires “shall be  
14 secured to minimize the risk that the wires would fall into the water during or after the  
15 discharge.” 2022 Fireworks Permit § 5.2.1.6; 2011 Fireworks Permit § V.4.

16 199. However, during CERF’s October 6, 2024 dive, the seafloor of the entire  
17 observed area near the barge was strewn with copious fireworks debris, including fistfuls  
18 of wires. The sheer amount of submerged fireworks waste is evidence that SeaWorld has  
19 failed and continues to fail to secure wires and other components to the barge specifically  
20 intended to prevent this type of discharge in violation of the Fireworks Permit.

21 200. The 2011 FBMPP also contained the 2023 FBMPP requirements listed  
22 above, except it did not mandate (1) plastic-free fireworks, (2) a minimum of five days of  
23 shoreline debris removal, and (3) a dive team to remove debris around the barge. *See*  
24 *generally* 2011 FBMPP. The 2011 Fireworks Permit also did not impose these actions.  
25 2011 Fireworks Permit § V.

26 201. Contrary to its 2011 FBMPP, SeaWorld failed to ensure adequate debris  
27 removal from Mission Bay and to properly secure the fireworks wires, ignitors, and other  
28 materials to the barge to prevent discharges.

1 202. SeaWorld has failed to and continues to fail implement an adequate FBMPP  
2 since at least January 1, 2020 in violation of Section 5.2 of the Fireworks Permit.

3 203. SeaWorld has failed to and continues to fail to prepare an adequate FBMPP  
4 since at least May 2, 2023 in violation of Section 5.2 of the Fireworks Permit.

5 204. For example, the Fireworks Permit requires SeaWorld to “identify the  
6 personnel to be trained, their responsibilities, and the type of training they are to receive.”  
7 2022 Fireworks Permit § 5.2.1.12.

8 205. SeaWorld’s FBMPP lists an entertainment department, environmental  
9 department, a dive team, a fireworks debris cleanup crew, and contracted fireworks  
10 operators.

11 206. However, the FBMPP fails to identify any specific individuals responsible  
12 for the implementation of the BMPs set forth therein.

13 207. The FBMPP also fails to identify any training the itemized teams and/or  
14 individuals receive, in violation of the Fireworks Permit.

15 208. Given the numerous violations of the Fireworks Permit described throughout  
16 this Complaint, SeaWorld has also failed and continues to fail to adequately conduct the  
17 required “visual observations to assess the effectiveness of the BMPs and update the  
18 FBMPP accordingly” in violation of Section 5.2.1.13 of the 2022 Fireworks Permit.

19 **3. Fireworks Permit Reporting Requirements Violations.**

20 209. SeaWorld has failed and continues to fail to upload its reports according to  
21 the Fireworks Permit requirements.

22 210. SeaWorld’s reporting history reveals frequent disregard for deadlines and  
23 reporting. For example, SeaWorld failed to upload the Log for its August 2, 2024 show in  
24 its monthly report.

25 211. Similarly, SeaWorld completed its Logs for the July 1, 2024 to July 4, 2024  
26 shows on July 15, 2024, after the expiration of the ten-day deadline.

27 212. SeaWorld has completed these forms haphazardly, omitting pertinent or  
28 accurate information, or uploading reports to the incorrect location.

1 213. SeaWorld’s Event Forms routinely omit the manufacturer of defective  
2 fireworks. For example, the June 8, 2024 Event Form admits that there was a defective  
3 shell that resulted in one 3-inch chain break. The Event Form fails to list the  
4 manufacturer of the defective shell. These careless errors and omissions cast doubt on the  
5 accuracy of the information contained within the different types of monitoring reports.

6 214. On its July 4, 2024 Event Form, SeaWorld failed to accurately report the  
7 particulars of its display, including the number, size, and type of fireworks used.

8 215. These missed deadlines and report omissions violate the Fireworks Permit,  
9 and deprive the public of valuable information about Mission Bay. 2022 Fireworks  
10 Permit, Attachment C-1, C-2, C-3 (see submission instructions); 2022 Fireworks Permit

11 216. SeaWorld routinely uploads reports to CIWQS attesting to compliance with  
12 the Fireworks Permit, the FBMPP, and to the accuracy of report contents. However,  
13 SeaWorld has failed and continues to fail to comply with Fireworks Permit, and the  
14 FBMPP, as detailed extensively throughout this Complaint. 2022 Fireworks Permit §§  
15 9.1, 9.3; *see* 2011 Fireworks Permit, Attachment C.

16 217. SeaWorld knew or should have known that it failed to comply with  
17 numerous procedural and substantive provisions of the Fireworks Permit, and thus the  
18 certifications of these reports are erroneous, and an ongoing violation of the Fireworks  
19 Permit. 2022 Fireworks Permit §§ 9.1, 9.3; *see* 2011 Fireworks Permit, Attachment C.

20 **B. SeaWorld’s Waste Discharge Permit Violations.**

21 218. SeaWorld has violated and continues to violate its Waste Discharge Permit  
22 effluent limitations and reporting requirements.

23 219. SeaWorld has routinely exceeded its effluent limitations since January 1,  
24 2020 for the pollutants total coliform, TSS, copper, and enterococci. *See* Ex. 1, Effluent  
25 Exceedances.

26 220. As a result, SeaWorld has been out of compliance with its Waste Discharge  
27 Permit for at least 500 days since January 1, 2020. *Id.*

28 221. SeaWorld has also failed to document over 15 effluent violations in the

1 specified violations tab on CIWQS as mandated by the Waste Discharge Permit. *See*  
2 Ex.1.

3 222. Because SeaWorld failed to identify these violations, it also failed to report  
4 the requisite information in its monthly report or cover letter. These omissions mislead  
5 the public by underrepresenting SeaWorld’s violations.

6 223. Defendants have failed and continue to fail to operate the SeaWorld Facility  
7 in accordance with the Fireworks Permit and Waste Discharge Permit requirements.

8 224. Defendants have failed and continue to fail to ensure that the treatment tanks  
9 filter pollutants to the requisite levels required by the Waste Discharge Permit.

10 **VI. CLAIMS FOR RELIEF**

11 **FIRST CAUSE OF ACTION**

12 **Discharges of Fireworks Waste in Violation of the Fireworks Permit’s Discharge**  
13 **Prohibitions and the Clean Water Act.**

14 **33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f)**

15 225. Plaintiffs incorporate the allegations contained in the above paragraphs as  
16 though fully set forth herein.

17 226. Defendant SeaWorld Parks & Entertainment, Inc. owns and operates the  
18 SeaWorld Fireworks Event Location and is responsible for ensuring compliance with  
19 Fireworks Permit Discharge Prohibitions.

20 227. Defendant Sea World LLC owns and operates the SeaWorld Fireworks  
21 Event Location and is responsible for ensuring compliance with Fireworks Permit  
22 Discharge Prohibitions.

23 228. Defendants have discharged and continue to discharge debris, pollutants, and  
24 thermal waste in concentrations that cause pollution, contamination, or nuisance in and  
25 around Receiving Waters in violation of Discharge Prohibitions 4.1 of the 2022  
26 Fireworks Permit, and IV.A of the 2011 Fireworks Permit.

27 229. On information and belief, SeaWorld has launched fireworks outside the  
28 designated coordinates on its NOA in violation of Fireworks Permit. *See* 2022 Fireworks  
Permit §§ 2.3, 4.4, 4.7; 2011 Fireworks Permit §§ II.D, IV.D. Each instance where

1 SeaWorld launches fireworks outside the barge is a separate and distinct violation of the  
2 CWA and Fireworks Permit.

3 230. The San Diego Basin Plan states: “[t]he discharge of waste to inland surface  
4 waters, except in cases where the quality of the discharge complies with applicable  
5 receiving water quality objectives, is prohibited.” Basin Plan, p. 4-30.

6 231. The Regional Board has not made an allowance for dilution of SeaWorld’s  
7 discharge of fireworks.

8 232. “Where consideration of a dilution allowance or mixing zone is not  
9 permitted by the water quality standards or is not appropriate, the relevant water quality  
10 criterion must be attained at the point of discharge.” U.S. EPA’s NPDES Permit Writer  
11 Manual § 6.2.3.

12 233. Accordingly, where the “quality of the discharge” does not meet water  
13 quality objectives, the discharge, absent an express “allowance for dilution” by the San  
14 Diego Regional Board, is prohibited.

15 234. Chapter 3 of the Basin Plan confirms the CTR is a “water quality criteria”  
16 that applies to California inland surface waters, enclosed bays, and estuaries. Basin Plan  
17 at 3-34, 3-35.

18 235. The CTR sets forth continuous and maximum levels for numerous toxic  
19 pollutants, in both freshwater and saltwater environments. *See* 40 C.F.R. § 131.38.

20 236. In adopting the CTR, the EPA expressly directed that “[a]ll waters  
21 (including lakes, estuaries and marine waters) . . . are subject to the Criteria promulgated  
22 today. **Such criteria will need to be attained at the end of the discharge pipe, unless**  
23 **the State authorizes a mixing zone.**” (Emphasis added) (65 FR 31682-01).

24 237. The EPA further directed that “[t]hese Federal Criteria are legally applicable  
25 in California . . . for all purposes and programs under the Clean Water Act.” *Id.*

26 238. Defendants have discharged and continue to discharge numerous pollutants  
27 in excess of water quality objectives listed in the Basin Plan in violation of the Fireworks  
28 Permit. Each of these Basin Plan violations constitutes a violation of the Fireworks

1 Permit. 2022 Fireworks Permit §§ 4.2, 4.6; 2011 Fireworks Permit §§ IV.B, IV.E. .

2 239. Defendants have discharged and continue to discharge thermal waste in  
3 violation of Section 4 of the Fireworks Permit. 2022 Fireworks Permit § 4.2; 2011  
4 Fireworks Permit § IV.B.

5 240. Defendants have been in violation of the Fireworks Permit Discharge  
6 Prohibitions every day from at least January 1, 2020 to the present. Defendants’  
7 violations of the Fireworks Permit Discharge Prohibitions are ongoing and continuous.

8 241. Each and every violation of the Fireworks Permit Discharge Prohibitions is a  
9 separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a). By  
10 committing the acts and omissions alleged above, Defendants are subject to an  
11 assessment of civil penalties for each and every violation of the CWA occurring from  
12 January 1, 2020 to the present pursuant to Sections 309(d) and 505 of the CWA, 33  
13 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

14 242. This action for injunctive relief is authorized by the Clean Water Act, 33  
15 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above will  
16 irreparably harm Plaintiffs, for which harm they have no plain, speedy, or adequate  
17 remedy at law.

18 243. Wherefore, Plaintiffs pray for relief as set forth below.

19 **SECOND CAUSE OF ACTION**

20 **Discharges of Fireworks Waste in Violation of the Fireworks Permit Discharge  
21 Specifications and the Clean Water Act.**

22 **33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f)**

23 244. Plaintiffs incorporate the allegations contained in the above paragraphs as  
24 though fully set forth herein.

25 245. Defendant SeaWorld Parks & Entertainment, Inc. owns and operates the  
26 SeaWorld Fireworks Event Location and is responsible for ensuring compliance with  
27 Fireworks Permit Discharge Specifications.

28 246. Defendant Sea World LLC owns and operates the SeaWorld Fireworks  
Event Location and is responsible for ensuring compliance with Fireworks Permit



1 Discharge Specifications.

2 247. Defendants have failed and continue to fail to develop an FBMPP that  
3 complies with the Fireworks Permit. Defendants' failure to adequately develop and  
4 implement an FBMPP violates the Fireworks Permit and the Clean Water Act. 2022  
5 Fireworks Permit § 5; 2011 Fireworks Permit § V; *see also* 33 U.S.C. § 1311(b)

6 248. Defendants have failed and continue to fail to remove foil and plastic labels  
7 in violation of 2022 Permit Section 5.2.1.2. Each instance SeaWorld launched fireworks  
8 after May 2, 2023, without removing foil and plastic labels, is a separate and distinct  
9 violation of the Fireworks Permit and CWA.

10 249. Defendants have failed and continue to fail to adequately sweep and rake  
11 after each show in violation of 2022 Fireworks Permit Sections 5.2.1.5 and 5.2.1.6 and  
12 2011 Fireworks Permit Section V.B.4. Each instance SeaWorld launched fireworks since  
13 at least January 1, 2020, without adequately cleaning the barge after the show, is a  
14 separate and distinct violation of the Fireworks Permit and CWA.

15 250. Defendants have failed and continue to fail to skim the surface water for  
16 fireworks debris by boat within 12 hours after a show in violation of the 2023 FBMPP  
17 Section 3.a.ii and 2022 Fireworks Permit Section 5.2.1.5. Each instance SeaWorld  
18 launched fireworks after May 2, 2023, without skimming the surface water for debris, is a  
19 separate and distinct violation of the Fireworks Permit and CWA.

20 251. Defendants have failed and continue to fail to walk the shoreline and remove  
21 debris in violation of the 2023 FBMPP Section 3.b.i, 2011 FBMPP Section 2.2.2, and  
22 2022 Fireworks Permit Section 5.2.1.5. Each instance SeaWorld launched fireworks since  
23 at least January 1, 2020, without removing fireworks debris from the Receiving Water  
24 shorelines, is a separate and distinct violation of the Fireworks Permit and CWA.

25 252. Defendants have failed and continue to fail to send an annual dive team and  
26 remove debris under the barge in violation of 2023 FBMPP § 3.a.v. Each instance  
27 SeaWorld launched fireworks after May 2, 2023, without sending an annual dive team to  
28 remove debris, is a separate and distinct violation of the Fireworks Permit and CWA.

1 253. Defendants have failed and continue to fail to use plastic-free fireworks in  
2 violation of 2023 FBMPP Section 3.c. and 2022 Fireworks Permit Section 5.2.1.3. Each  
3 instance SeaWorld launched fireworks after May 2, 2023, that contained plastic, is a  
4 separate and distinct violation of the CWA.

5 254. Defendants have failed and continue to fail secure wires and other fireworks  
6 components to the barge in violation of 2023 FBMPP Section 3.c., 2022 Fireworks  
7 Permit Section 5.2.1.6, and 2011 Fireworks Permit Section V.B.4. Each instance  
8 SeaWorld launched fireworks since at least January 1, 2020, without adequately securing  
9 wires and other launch components to the barge, is a separate and distinct violation of the  
10 Fireworks Permit and CWA.

11 255. Defendants have failed and continue to fail to adequately identify its trained  
12 personnel in the FBMPP in violation of the 2022 Fireworks Permit Section 5.2.1.12. Each  
13 instance SeaWorld launched fireworks after May 2, 2023, without an adequate FBMPP,  
14 is a separate and distinct violation of the CWA.

15 256. Defendants have failed and continue to fail to conduct adequate visual  
16 confirmations of the efficacy of the FBMPP in violation of the 2022 Fireworks Permit  
17 Section 5.2.1.12. Each instance SeaWorld launched fireworks after May 2, 2023, without  
18 adequate visual inspections, is a separate and distinct violation of the CWA.

19 257. Each day that Defendants have discharged and/or continue to discharge  
20 fireworks debris without an adequately developed and/or implemented FBMPP is a  
21 violation of the Fireworks Permit Discharge Specifications and is a separate and distinct  
22 violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

23 258. By committing the acts and omissions alleged above, Defendants are subject  
24 to an assessment of civil penalties for each and every violation of the CWA occurring  
25 from January 1, 2020 to the present pursuant to Sections 309(d) and 505 of the CWA, 33  
26 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

27 259. This action for injunctive relief is authorized by the Clean Water Act, 33  
28 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above will

1 irreparably harm Plaintiffs, for which harm they have no plain, speedy, or adequate  
2 remedy at law.

3 260. Wherefore, Plaintiffs pray for relief as set forth below.

4 **THIRD CAUSE OF ACTION**

5 **Failure to follow Fireworks Permit Reporting Requirements in Violation of the  
6 Fireworks Permit and the Clean Water Act.**

7 **33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f)**

8 261. Plaintiffs incorporate the allegations contained in the above paragraphs as  
9 though fully set forth herein.

10 262. Defendant SeaWorld Parks & Entertainment, Inc. owns and operates the  
11 SeaWorld Fireworks Event Location and is responsible for ensuring compliance with  
12 Fireworks Permit reporting requirements.

13 263. Defendant Sea World LLC owns and operates the SeaWorld Fireworks  
14 Event Location and is responsible for ensuring compliance with the Fireworks Permit.

15 264. SeaWorld routinely uploads reports to CIWQS attesting to compliance with  
16 the Fireworks Permit, the FBMPP, and to the accuracy of report contents. However,  
17 SeaWorld has failed and continues to fail to comply with Fireworks Permit, and the  
18 FBMPP, as detailed extensively throughout this Complaint. 2022 Fireworks Permit §§  
19 9.1, 9.3; *see* 2011 Fireworks Permit, Attachment C.

20 265. SeaWorld knew or should have known that it failed to comply with  
21 numerous procedural and substantive provisions of the Fireworks Permit, and thus the  
22 certifications of these reports are erroneous, and an ongoing violation of the Fireworks  
23 Permit. 2022 Fireworks Permit §§ 9.1, 9.3; *see* 2011 Fireworks Permit, Attachment C.

24 266. Defendants have failed and continue to fail to upload reports according to  
25 the Fireworks Permit reporting requirements.

26 267. Defendants have failed and continue to fail to timely upload Logs within 10  
27 days of a fireworks discharge in violation of 2022 Fireworks Permit, Attachment E,  
28 Section 9.1 and 2022 Fireworks Permit, Attachment E, Section III.A.

29 268. Defendants have failed and continue to fail to adequately complete Event

1 Forms in violation of 2022 Fireworks Permit, Attachment E, Section 9.2 and 2022  
2 Fireworks Permit, Attachment E, Section III.B.

3 269. Defendants have failed and continue to fail to submit accurate and/or  
4 complete Annual Reports for the Facility in violation of 2022 Fireworks Permit Section  
5 9.3.

6 270. Defendants have falsified and continued to falsify reports for the Facility in  
7 violation of 2022 Fireworks Permit Sections 9.1 and 9.3 and 2011 Fireworks Permit,  
8 Attachment C.

9 271. Defendants' violations of the reporting requirements of the Fireworks Permit  
10 and the CWA are ongoing and continuous.

11 272. Defendants will continue to be in violation of the Fireworks Permit and the  
12 CWA each and every day it fails to comply with the Fireworks Permit reporting  
13 requirements.

14 273. Defendants have been in violation of the Fireworks Permit requirements  
15 every day from at least January 1, 2020, to the present.

16 274. Each time Defendants launch fireworks without completing Logs and Event  
17 Forms as required is a separate and distinct violation of Section 301(a) of the CWA 33  
18 U.S.C. §1311(a). By committing the acts and omissions alleged above, Defendants are  
19 subject to civil penalties for each and every violation of the CWA occurring since  
20 January 1, 2020. 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

21 275. This action for injunctive relief is authorized by the Clean Water Act, 33  
22 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above will  
23 irreparably harm Plaintiffs, for which harm they have no plain, speedy, or adequate  
24 remedy at law.

25 276. Wherefore, Plaintiffs pray for relief as set forth below.

26 /././

27 /././

28 /././

**FOURTH CAUSE OF ACTION**

**Discharges of Waste in Violation of the Waste Discharge Permit’s Effluent Limitations and the Clean Water Act.**

**33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f)**

277. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

278. Defendant SeaWorld Parks & Entertainment, Inc. owns and operates the SeaWorld Facility and is responsible for ensuring compliance with the Waste Discharge Permit effluent limitations.

279. Defendant Sea World LLC owns and operates the SeaWorld Facility and is responsible for ensuring compliance with the Waste Discharge Permit effluent limitations.

280. Defendants have discharged and continue to discharge pollutants in violation of the Waste Discharge Permit’s effluent limitations. Defendants have violated the Permit’s effluent limitations in at least 34 instances between January 1, 2020 and the present.

281. The discharge of pollutants in excess of the SeaWorld Facility’s effluent limitations is a violation of the Clean Water Act, 33 U.S.C. Sections 1311(a) and 1342.

282. Defendants’ violations of the Waste Discharge Permit and the CWA are ongoing and continuous. Defendants will continue to be in violation of the Waste Discharge Permit and CWA each day they fail to comply with the Waste Discharge Permit’s Effluent Limitations.

283. Each of these effluent limitation exceedances is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

284. Many of these exceedances result in weeks or months of continuous violations as noted in Exhibit 1. Plaintiffs are informed, believe, and thereon allege that SeaWorld has been in violation for at least 500 days within the last five years.

285. By committing the acts and omissions alleged above, Defendants are subject to an assessment of civil penalties for each and every violation of the CWA occurring

1 from January 1, 2020 to the present pursuant to Sections 309(d) and 505 of the CWA, 33  
2 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

3 286. This action for injunctive relief is authorized by the Clean Water Act, 33  
4 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above will  
5 irreparably harm Plaintiffs, for which harm they have no plain, speedy, or adequate  
6 remedy at law.

7 287. Wherefore, Plaintiffs pray for relief as set forth below.

8 **FIFTH CAUSE OF ACTION**

9 **Failure to Submit Self-monitoring Reports in Accordance with Waste Discharge  
10 Permit Requirements**

11 **33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f)**

12 288. Plaintiffs incorporate the allegations contained in the above paragraphs as  
13 though fully set forth herein.

14 289. Defendant SeaWorld Parks & Entertainment, Inc. owns and operates the  
15 SeaWorld Facility and is responsible for ensuring compliance with the Waste Discharge  
16 Permit reporting requirements.

17 290. Defendant Sea World LLC owns and operates the SeaWorld Facility and is  
18 responsible for ensuring compliance with the Waste Discharge Permit reporting  
19 requirements.

20 291. Defendants have failed to upload all self-monitoring reports to CIWQS as  
21 required by the Waste Discharge Permit in violation of Attachment E, Section VIII.B.

22 292. Defendants failed to attach cover letters with the required information and to  
23 add all effluent violations to the CIWQS violations tab in violation of Waste Discharge  
24 Permit Attachment E, Section VIII.B.7.

25 293. Plaintiffs are informed, believe, and thereon allege that Defendants’  
26 monitoring and reporting violations, as alleged herein, are ongoing.

27 294. Defendants will continue to be in violation of the Waste Discharge Permit  
28 and the CWA each and every day they fail to monitor and report in the manner prescribed  
by the Waste Discharge Permit.

1 295. Failure to comply with a CWA permit condition is a violation of the Clean  
2 Water Act, 33 U.S.C. Sections 1311(a) and 1342.

3 296. Each day that Defendants operate the SeaWorld Facility in violation of the  
4 Waste Discharge Permit reporting requirements is a separate and distinct violation of  
5 Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

6 297. By committing the acts and omissions alleged above, Defendants are subject  
7 to an assessment of civil penalties for each and every violation of the CWA occurring  
8 since January 1, 2020. 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

9 298. This action for injunctive relief is authorized by the Clean Water Act, 33  
10 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above will  
11 irreparably harm Plaintiffs, for which harm they have no plain, speedy, or adequate  
12 remedy at law.

13 299. Wherefore, Plaintiffs pray for relief as set forth below.

14 **VII. RELIEF REQUESTED**

15 Plaintiffs respectfully request that this Court grant the following relief:

16 a. A court order declaring Defendants have violated and are in violation of  
17 Sections 301(a) and (b) of the Clean Water Act, 33 U.S.C. §§ 1311(a) and (b), for  
18 discharging pollutants from the SeaWorld Facility and its fireworks barge in violation of  
19 permits issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and for  
20 failing to comply with the other substantive and procedural requirements of the Waste  
21 Discharge Permit and Fireworks Permit as set forth within this Complaint;

22 b. A court order enjoining Defendants from discharging pollutants from the  
23 SeaWorld Facility and fireworks barge in violation of the Clean Water Act and the Waste  
24 Discharge Permit and Fireworks Permit;

25 c. A court order requiring Defendants to implement affirmative injunctive  
26 measures designed to eliminate Defendants’ violations of the substantive and procedural  
27 requirements of the Waste Discharge Permit, Fireworks Permit, and the Clean Water Act  
28 as authorized by U.S.C. section 1365(a);

1 d. A court order assessing civil monetary penalties against Defendants;

2 e. A court order awarding Plaintiffs their reasonable costs of suit, including  
3 attorney, witness, expert, and consultant fees, as permitted by Section 505(d) of the Clean  
4 Water Act, 33 U.S.C. § 1365(d); and

5 f. Any other relief the Court deems appropriate.

6 Dated: March 6, 2025

7 Respectfully submitted,

8 COAST LAW GROUP LLP

9 By: s/Livia B. Beaudin

10 LIVIA B. BEAUDIN

11 Attorney for Plaintiff

12 COASTAL ENVIRONMENTAL  
13 RIGHTS FOUNDATION

14 E-mail: [livia@coastlawgroup.com](mailto:livia@coastlawgroup.com)

15 SAN DIEGO COASTKEEPER

16 By: s/Patrick McDonough

17 PATRICK MCDONOUGH

18 Attorney for Plaintiffs

19 SAN DIEGO COASTKEEPER

20 E-mail: [patrick@sdcoastkeeper.org](mailto:patrick@sdcoastkeeper.org)