

EXHIBIT A



BRICKLIN & NEWMAN LLP

lawyers working for the environment

Reply to: Seattle Office

March 9, 2020

***VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED***

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Re: Notice of Violations and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

Snake River Waterkeeper (“SRW”)¹ hereby gives notice to the addressed persons of its intent to file suit pursuant to Section 505 of the Federal Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice as required by 40

¹SRW is a not-for-profit 501(c)(3) organization dedicated to the conservation and protection of the Snake River Basin. SRW’s address is 2123 N. 16th St., Boise, ID 83702, and its phone number is (208) 806-1303.

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C.F.R., part 135 (the “Notice”) to the addressed persons of SRW’s intent to file suit in United States District Court of the District of Idaho—seeking appropriate equitable relief, civil penalties, and other relief—no earlier than 60 days from the postmarked date of this Notice.

Idaho Department of Correction (“IDOC”) and its directors, officers, and board members with operational control over IDOC are the persons, as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. IDOC owns and operates Northern Idaho Correctional Institution at 236 Radar Rd in Cottonwood, Idaho (hereinafter, the “Facility”).

As a result of IDOC’s operations, the Facility releases a variety of pollutants into an unnamed creek and downstream receiving waters including Lawyer Creek (which is within the boundary of the Nez Perce Indian Reservation), the Clearwater River, and the Snake River. The unnamed creek is currently a Class 5 impaired waterway. Based on available information, SRW believes IDOC has violated and continues to violate the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, CWA, and IDOC’s National Pollutant Discharge Elimination System (“NPDES”) Permit No. ID0025887 in operating the Facility.

Dischargers of pollutants must comply with the requirements of a NPDES permit issued under Section 402 of the CWA, 33 U.S.C § 1342. Section 301(a) of the Act prohibits discharges not authorized by, or in violation of, the terms of a valid NPDES discharge permit. NPDES discharge permits contain pollutant sampling and monitoring requirements and limits on the amount or concentration of allowable pollutants in addition to requirements regarding control measures, best management practices, and recordkeeping and reporting.

The discharge of any pollutant in violation of a NPDES permit, failure to conduct required monitoring for pollutant discharges, and failure to comply with other requirements of a NPDES permit are all violations of the Clean Water Act, 33 U.S.C. § 1311(a).

During the 5 years prior to the date of this letter, IDOC has repeatedly discharged pollutants from the Facility into waters of the Snake River Basin from and through point sources in concentrations and amounts that exceed the discharge limits set in its NPDES permit. IDOC has also failed to complete regulated Facility activities by certain dates as required by the NPDES permit. Additionally, the IDOC has failed to report discharges to the Environmental Protection Agency (hereinafter, “EPA”) as required under the NPDES permit.

More specifically, IDOC’s violations are as follows:

The attached tables list the dates, ranging through January 2020 (the most recent date for which discharge information is publicly available), on which IDOC has exceeded the parameters set in its NPDES permit for various outfalls at the Facility and/or failed to complete scheduled events. Each exceedance and failure to monitor is a separate and distinct violation of IDOC’s NPDES permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311, 1342. In addition, the data reported for May 2019 and June 2019 appear to be identical, likely in error.

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At a minimum, SRW's lawsuit will include violations for the days on which IDOC was required to sample its discharge(s) as reflected in IDOC's own Discharge Monitoring Reports ("DMRs"). SRW also expects that its lawsuit will include violations that occurred on days in between those required sampling events where legally-required DMRs were not completed.

Additional information, including information in IDOC's possession, may reveal additional violations. This letter expressly covers violations occurring after the date of the most recent publicly available DMR data. This letter also covers violations that continue or reoccur, or that can reasonably be expected to continue or reoccur, after the date of this letter, to the full extent permitted by law.

Every day on which IDOC has failed and continues to fail to comply with the requirements of the CWA and NPDES Permit No. ID0025887 is a separate and distinct violation of IDOC's NPDES permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a). Moreover, multiple violations on a single day each count as a separate and distinct violation.

These violations are ongoing, continuous, and presumed likely to continue indefinitely barring changes to bring the Facility into full compliance with the permitting requirements of the Clean Water Act

IDOC and its directors, officers, and board members acting in their official capacity are liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§19.2, 19.4, each separate violation of the Act subjects IDOC to a penalty up to \$53,833 per day, per violation. SRW intend to seek the full penalties allowed by law.

In addition to civil penalties, SRW will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. SRW will seek an order from the Court requiring IDOC to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), SRW will seek recovery of its litigation costs, including attorneys' and experts' fees.

CONCLUSION

During the 60-day notice period, SRW is willing to discuss possible remedial measures for violations in this Notice that may avoid the necessity of litigation. If you wish to engage in preliminary settlement negotiations, please have your attorney contact Zachary Griefen and Rick Eichstaedt within the next 20 days so that negotiations may be completed before the end of the 60-

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day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are ongoing at the conclusion of the 60-day period.

Sincerely,



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TABLE 1
 Effluent Violations - Quantity
 BOD, 5-day, 20 deg. C

Reporting Period	Outfall	Parameter	Type of Limit	Units	Discharge Limit	Reported Discharge	Percentage Exceedance
June '19	001-A	BOD	Month avg	lb/d	8	47.42	493%
June '19	001-A	BOD	Week avg	lb/d	11	20.66	88%
May '19	001-A	BOD	Month avg	lb/d	8	47.42	493%
May '19	001-A	BOD	Week avg	lb/d	11	20.66	88%
Apr '19	001-A	BOD	Month avg	lb/d	8	27.07	238%
Apr '19	001-A	BOD	Week avg	lb/d	11	23.45	113%
Mar '19	001-A	BOD	Month avg	lb/d	8	34.71	334%
Mar '19	001-A	BOD	Week avg	lb/d	11	35.16	320%
Feb '19	001-A	BOD	Month avg	lb/d	8	31.41	293%
Feb '19	001-A	BOD	Week avg	lb/d	11	28.98	163%
Jan '19	001-A	BOD	Month avg	lb/d	8	28.29	254%
Jan '19	001-A	BOD	Week avg	lb/d	11	28.68	161%
Dec '18	001-A	BOD	Month avg	lb/d	8	13.57	70%
Dec '18	001-A	BOD	Week avg	lb/d	11	12.13	10%
Nov '18	001-A	BOD	Month avg	lb/d	8	18.67	133%
Nov '18	001-A	BOD	Week avg	lb/d	11	18.42	67%
Oct '18	001-A	BOD	Month avg	lb/d	8	12.27	53%
Oct '18	001-A	BOD	Week avg	lb/d	11	12.01	9%
June '18	001-A	BOD	Month avg	lb/d	8	10.12	26.5%
May '18	001-A	BOD	Month avg	lb/d	8	10.42	30.3%
May '18	001-A	BOD	Week avg	lb/d	11	10.05	0%
Apr '18	001-A	BOD	Month avg	lb/d	8	17.31	116%
Apr '18	001-A	BOD	Week avg	lb/d	11	20.31	84.6%
Mar '18	001-A	BOD	Month avg	lb/d	8	21.6	170%
Mar '18	001-A	BOD	Week avg	lb/d	11	24.26	121%
Feb '18	001-A	BOD	Month avg	lb/d	8	18.93	137%
Feb '18	001-A	BOD	Week avg	lb/d	11	18.4	67.3%
Jan '18	001-A	BOD	Month avg	lb/d	8	52.15	552%
Jan '18	001-A	BOD	Week avg	lb/d	11	21.62	96.5%

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TABLE 2
Effluent Violations - Concentration
BOD, 5-day, 20 deg. C

Reporting Period	Outfall	Parameter	Type of Limit	Units	Discharge Limit	Reported Discharge	Percentage Exceedance
Jan '19	001-A	BOD	Week avg	mg/L	45	52.9	17.55%
Dec '19	001-A	BOD	Week avg	mg/L	45	54.4	20.80%
Oct '19	001-A	BOD	Month avg	mg/L	30	50.53	68.4%
Oct '19	001-A	BOD	Week avg	mg/L	45	145	222%
June '19	001-A	BOD	Month avg	mg/L	30	65.7	119%
June '19	001-A	BOD	Week avg	mg/L	45	68.2	52%
May '19	001-A	BOD	Month avg	mg/L	30	65.7	119%
May '19	001-A	BOD	Week avg	mg/L	45	68.2	52%
Apr '19	001-A	BOD	Month avg	mg/L	30	45.8	53%
Apr '19	001-A	BOD	Week avg	mg/L	45	92.9	106%
Mar '19	001-A	BOD	Month avg	mg/L	30	115.63	285%
Mar '19	001-A	BOD	Week avg	mg/L	45	151	236%
Feb '19	001-A	BOD	Month avg	mg/L	30	97.4	225%
Feb '19	001-A	BOD	Week avg	mg/L	45	143	218%
Jan '19	001-A	BOD	Month avg	mg/L	30	135.73	353%
Jan '19	001-A	BOD	Week avg	mg/L	45	182	304%
Dec '18	001-A	BOD	Month avg	mg/L	30	51.73	72%
Dec '18	001-A	BOD	Week avg	mg/L	45	74.6	1.66%
Nov '18	001-A	BOD	Month avg	mg/L	30	52.43	75%
Nov '18	001-A	BOD	Week avg	mg/L	45	61.4	36%
Oct '18	001-A	BOD	Month avg	mg/L	30	36.8	23%
Oct '18	001-A	BOD	Week avg	mg/L	45	44.7	0%
Apr '18	001-A	BOD	Month avg	mg/L	30	30.7	2.33%
Mar '18	001-A	BOD	Month avg	mg/L	30	47.35	57.8%
Mar '18	001-A	BOD	Week avg	mg/L	45	69.1	53.6%
Feb '18	001-A	BOD	Month avg	mg/L	30	38.15	27.2%
Feb '18	001-A	BOD	Week avg	mg/L	45	64.3	42.9%
Jan '18	001-A	BOD	Month avg	mg/L	30	44.55	48.5%
Jan '18	001-A	BOD	Week avg	mg/L	45	47	4.44%

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TABLE 3
 Effluent Violations - Quantity
 Solids, total suspended

Reporting Period	Outfall	Parameter	Type of Limit	Units	Discharge Limit	Reported Discharge	Percentage Exceedance
Jan '20	001-A	Solids	Month avg	lb/d	8	10.86	35.75%
July '19	001-A	Solids	Month avg	lb/d	8	13.65	70.6%
June '19	001-A	Solids	Month avg	lb/d	8	42.9	436%
June '19	001-A	Solids	Week avg	lb/d	11	19.81	80.1%
May '19	001-A	Solids	Month avg	lb/d	8	42.9	436%
May '19	001-A	Solids	Week avg	lb/d	11	19.81	80.1%
Apr '19	001-A	Solids	Month avg	lb/d	8	34.09	326%
Apr '19	001-A	Solids	Week avg	lb/d	11	31.1	183%
Mar '19	001-A	Solids	Month avg	lb/d	8	11.66	45.7%
Mar '19	001-A	Solids	Week avg	lb/d	11	11.78	7.09%
Feb '19	001-A	Solids	Month avg	lb/d	8	12.65	58.1%
Feb '19	001-A	Solids	Week avg	lb/d	11	11.9	8.18%
Dec '18	001-A	Solids	Month avg	lb/d	8	17.32	116%
Dec '18	001-A	Solids	Week avg	lb/d	11	14.48	31.6%
Nov '18	001-A	Solids	Month avg	lb/d	8	20.05	151%
Nov '18	001-A	Solids	Week avg	lb/d	11	23.27	112%
Oct '18	001-A	Solids	Month avg	lb/d	8	22.94	187%
Oct '18	001-A	Solids	Week avg	lb/d	11	22.68	106%
Sep '18	001-A	Solids	Month avg	lb/d	8	12.92	61.5%
June '18	001-A	Solids	Month avg	lb/d	8	28.45	256%
June '18	001-A	Solids	Week avg	lb/d	11	22.08	101%
May '18	001-A	Solids	Month avg	lb/d	8	24.35	204%
May '18	001-A	Solids	Week avg	lb/d	11	22.95	109%
Apr '18	001-A	Solids	Month avg	lb/d	8	19.69	146%
Apr '18	001-A	Solids	Week avg	lb/d	11	23.82	116%
Mar '18	001-A	Solids	Month avg	lb/d	8	8.13	1.62%
Feb '18	001-A	Solids	Month avg	lb/d	8	17.98	125%
Feb '18	001-A	Solids	Week avg	lb/d	11	18.08	64.4%
Jan '18	001-A	Solids	Month avg	lb/d	8	32.06	38.3%

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TABLE 4
Effluent Violations - Concentration
Solids, total suspended

Reporting Period	Outfall	Parameter	Type of Limit	Units	Discharge Limit	Reported Discharge	Percentage Exceedance
Jan '20	001-A	Solids	Month avg	mg/L	30	39	30.00%
Jan '20	001-A	Solids	Week avg	mg/L	45	49	8.80%
Nov '19	001-A	Solids	Month avg	mg/L	30	39	30.00%
Nov '19	001-A	Solids	Week avg	mg/L	45	66	47.00%
Oct '19	001-A	Solids	Month avg	mg/L	30	62.8	109%
Oct '19	001-A	Solids	Week avg	mg/L	45	116	158%
July '19	001-A	Solids	Month avg	mg/L	30	76	153%
July '19	001-A	Solids	Week avg	mg/L	45	104	131%
June '19	001-A	Solids	Month avg	mg/L	30	63	110%
June '19	001-A	Solids	Week avg	mg/L	45	78	73%
May '19	001-A	Solids	Month avg	mg/L	30	63	110%
May '19	001-A	Solids	Week avg	mg/L	45	78	73%
Apr '19	001-A	Solids	Month avg	mg/L	30	60.8	103%
Apr '19	001-A	Solids	Week avg	mg/L	45	84	86.7%
Mar '19	001-A	Solids	Month avg	mg/L	30	38.8	29.3%
Mar '19	001-A	Solids	Week avg	mg/L	45	52	15.6%
Feb '19	001-A	Solids	Month avg	mg/L	30	40	33.3%
Feb '19	001-A	Solids	Week avg	mg/L	45	54	20%
Jan '19	001-A	Solids	Month avg	mg/L	30	36.8	22.7%
Jan '19	001-A	Solids	Week avg	mg/L	45	48	6.67%
Dec '18	001-A	Solids	Month avg	mg/L	30	61.3	104%
Dec '18	001-A	Solids	Week avg	mg/L	45	71	57.8%
Nov '18	001-A	Solids	Month avg	mg/L	30	66.3	121%
Nov '18	001-A	Solids	Week avg	mg/L	45	93	107%
Oct '18	001-A	Solids	Month avg	mg/L	30	69.5	132%
Oct '18	001-A	Solids	Week avg	mg/L	45	101	124%
Sep '18	001-A	Solids	Month avg	mg/L	30	36	20%
July '18	001-A	Solids	Week avg	mg/L	45	51	13.3%
June '18	001-A	Solids	Month avg	mg/L	30	46.5	55%
June '18	001-A	Solids	Week avg	mg/L	45	59	31.1%
May '18	001-A	Solids	Month avg	mg/L	30	40.3	34.3%
May '18	001-A	Solids	Week avg	mg/L	45	57	26.7%
Apr '18	001-A	Solids	Month avg	mg/L	30	36	20%
Apr '18	001-A	Solids	Week avg	mg/L	45	58	28.9%
Feb '18	001-A	Solids	Month avg	mg/L	30	37.5	25%
Feb '18	001-A	Solids	Week avg	mg/L	45	65	44.4%

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TABLE 5
 Effluent Violations – Concentration
 BOD, 5-day, percent removal

Reporting Period	Outfall	Parameter	Type of Limit	Units	Discharge Limit	Reported Discharge	Exceedance
Oct '19	001-A	BOD	Minimum	%	85	71	14
June '19	001-A	BOD	Minimum	%	85	74	11
May '19	001-A	BOD	Minimum	%	85	74	11
Apr '19	001-A	BOD	Minimum	%	85	77	8
Mar '19	001-A	BOD	Minimum	%	85	36	49
Feb '19	001-A	BOD	Minimum	%	85	50	35
Jan '19	001-A	BOD	Minimum	%	85	48	37
Dec '18	001-A	BOD	Minimum	%	85	83	2
Nov '18	001-A	BOD	Minimum	%	85	77	8
Mar '18	001-A	BOD	Minimum	%	85	84	1
Feb '18	001-A	BOD	Minimum	%	85	80	5
Jan '18	001-A	BOD	Minimum	%	85	76	9

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TABLE 6
Effluent Violations – Concentration
Solids, suspended percent removal

Reporting Period	Outfall	Parameter	Type of Limit	Units	Discharge Limit	Reported Discharge	Exceedance
Oct '19	001-A	Solids	Minimum	%	85	78	7
July '19	001-A	Solids	Minimum	%	85	75	10
June '19	001-A	Solids	Minimum	%	85	79	6
May '19	001-A	Solids	Minimum	%	85	79	6
Apr '19	001-A	Solids	Minimum	%	85	76	9
Mar '19	001-A	Solids	Minimum	%	85	83	2
Feb '19	001-A	Solids	Minimum	%	85	85	0
Jan '19	001-A	Solids	Minimum	%	85	85	0
Dec '18	001-A	Solids	Minimum	%	85	76	9
Nov '18	001-A	Solids	Minimum	%	85	71	14
Oct '18	001-A	Solids	Minimum	%	85	76	9
June '18	001-A	Solids	Minimum	%	85	73	12
May '18	001-A	Solids	Minimum	%	85	84	1
Apr '18	001-A	Solids	Minimum	%	85	83	2

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TABLE 7
 Permit Schedule Violations
 Unresolved and Ongoing

Schedule Event	Required Completion Date
Emergency Response and Public Notification Plan	03/01/2018
Industrial User Report	09/01/2019
Operation and Maintenance (O&M) Report	03/01/2018
Plan, Report, or Scope of Work	09/01/2019
Quality Assurance Report	03/01/2018
Status/Progress Report	05/01/2006
Status/Progress Report	11/01/2005
Status/Progress Report	11/01/2004
Status/Progress Report	05/01/2005
Status/Progress Report	11/01/2006
Status/Progress Report	09/01/2018
Surface Water Monitoring Report	01/31/2018
Surface Water Monitoring Report	01/31/2019