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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

**IDAHO CONSERVATION LEAGUE and
NORTHWEST ENVIRONMENTAL
DEFENSE CENTER,**

Plaintiffs,

v.

ATLANTA GOLD CORPORATION,

Defendant.

Case No. 1:11-cv-161

COMPLAINT

INTRODUCTION

1. This is a complaint for injunctive and declaratory relief and civil penalties under the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.* (“CWA” or “Act”). Plaintiffs Idaho Conservation League (“ICL”) and Northwest

Environmental Defense Center (“NEDC”) bring this citizen suit under section 505(a)(1) of the CWA, 33 U.S.C. §1365(a)(1), against Atlanta Gold Corporation of America, Inc. (“Atlanta Gold”) for past and continuing violations of the conditions of its National Pollutant Discharge Elimination System (“NPDES”) Permit (No. ID-G91-0006), issued by the Environmental Protection Agency (“EPA”) on August 6, 2009.

2. Atlanta Gold has violated, and continues to violate, the terms of its Permit by failing to properly treat and control its discharges of polluted water from a mine adit known as the 900 Level Adit (“Adit”) into Montezuma Creek, a tributary of the Middle Fork Boise River. As a result, Atlanta Gold discharges arsenic and other pollutants in excess of the limits set forth in the Permit. These violations are ongoing.

3. Plaintiffs seek declaratory and injunctive relief and the imposition of civil penalties resulting from these violations. Plaintiffs also seek an award of costs and attorney fees pursuant to 33 U.S.C. § 1365(d).

JURISDICTION AND VENUE

4. Jurisdiction over this action is conferred by 28 U.S.C. § 1331 (federal question) and 33 U.S.C. § 1365(a) (Clean Water Act jurisdiction). An actual, justiciable controversy exists between Plaintiffs and Atlanta Gold. The requested relief is proper under 28 U.S.C. § 2201, 28 U.S.C. § 2202, and 33 U.S.C. § 1365(a).

5. As required by the CWA, 33 U.S.C. § 1365(b), on December 24, 2010, Plaintiffs sent Atlanta Gold a sixty-day Notice of Intent to sue for violations of the CWA. Pursuant to 40 C.F.R. § 135.2(a)(1), Plaintiffs also sent copies to the Administrator of the EPA, the Regional Administrator of EPA for the region in which the violations occurred, and the chief administrative officer of the Idaho Department of Environmental Quality (DEQ).

6. Venue is properly vested in this Court pursuant to 33 U.S.C. § 1365(c)(1), because the events giving rise to this claim occurred at Atlanta Gold's 900 Level Adit ("Adit"), located near the town of Atlanta, in Boise County, within this judicial district.

PARTIES

7. Plaintiff IDAHO CONSERVATION LEAGUE ("ICL") is an Idaho non-profit corporation with its principal place of business in Boise, Idaho. ICL was founded in 1973 and is dedicated to protecting Idaho's environment. ICL and its members are interested in and work to protect Idaho's water, air, wilderness, and public lands. ICL has more than 20,000 supporters, many of whom have a deep personal interest in protecting and restoring water quality throughout the Boise River watershed.

8. Plaintiff NORTHWEST ENVIRONMENTAL DEFENSE CENTER ("NEDC") is an Oregon non-profit corporation with its principal place of business in Portland, Oregon. NEDC was founded in 1969 and is dedicated to the preservation and protection of the natural resources of the Pacific Northwest. NEDC's members are lawyers, scientists, students, and citizens interested in protecting the environment of the Pacific Northwest, including the waters of the Columbia River Basin and its tributaries within the Boise River watershed.

9. Plaintiffs have members and supporters who live, recreate, and work throughout the Boise River watershed, including near and downstream of the Adit. Plaintiffs have staff, members, and/or supporters who frequently visit, recreate, and engage in activities in the area of the Adit's discharge and in areas downstream, including Montezuma Creek and the Middle Fork Boise River, which are impacted by this discharge. For instance, Plaintiffs' members engage in recreational activities downstream from the Adit such as fishing, boating, swimming, and other activities that include contact with the water. Members and staff of Plaintiffs have visited the

Adit's point of discharge numerous times. ICL members and supporters own property in the immediate vicinity of the discharge. Plaintiffs' members also enjoy viewing aquatic species during their visits to the Middle Fork Boise River, Montezuma Creek, and other areas downstream of the Adit, and thus have an interest in protecting these species from harmful activities.

10. Many of Plaintiffs' members who participate in water activities near and downstream from the Adit are gravely concerned about the harmful impact of this discharge. Specifically, members of ICL and NEDC are concerned about the discharges of arsenic, iron, and water with low pH (*i.e.*, acidic) from the Adit. Arsenic and iron are toxic heavy metals. Arsenic, for example, is known to cause short-term health effects such as irritation of the stomach and intestines, skin and lung irritation, and long-term health effects, including cancer of the bladder, lungs, skin, kidneys, nasal passages, liver and prostate. Iron intake, in turn, has been linked to diseases of aging such as Alzheimer's disease, other neurodegenerative diseases, arteriosclerosis, and diabetes mellitus, among others. In addition, iron may become toxic to fish at high concentrations and can cause algae blooms, which in turn create biological oxygen demand, can kill fish, smother aquatic plants and produce potent neurotoxins. Aquatic life, particularly aquatic invertebrates with exoskeletons or shells, may experience non-lethal adverse effects at the high and low ends of pH. Low pH may also lead to conditions injurious to fish if metals are also present in the water, because low pH can bring metals to a more dangerous dissolved state.

11. Plaintiffs are therefore reasonably concerned that Atlanta Gold's discharges detrimentally affect their members' health and the health of species that Plaintiffs' members observe and enjoy which depend on Montezuma Creek and the Boise River watershed for food

and habitat, including species which are precipitously declining due in part to the already degraded water quality in Idaho, such as bull trout.

12. As a result of these concerns, Plaintiffs' members continuing use and enjoyment of Montezuma Creek and the Middle Fork Boise River have been, are being, and will continue to be impaired because of Atlanta Gold's CWA violations. Unless the requested relief is granted, Defendant's CWA violations will continue to injure Plaintiffs' members.

13. Defendant ATLANTA GOLD CORPORATION is an Idaho corporation in the business of gold exploration and development. It is also known as Atlanta Gold Corporation of America, Inc. It is also known as and trades on the Toronto Stock Exchange as Atlanta Gold Inc. Atlanta Gold operates the facility at issue, the Atlanta Gold Project 900 Level Adit, which is regulated by the Permit. The Adit is near the town of Atlanta, Idaho, in Boise County.

LEGAL BACKGROUND

14. Congress enacted the CWA to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a)(1). The CWA establishes an "interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife" *Id.* § 1251(a)(2). To these ends, Congress developed both a water quality-based and technology-based approach to regulating discharges of pollutants from point sources into waters of the United States. "Discharge of a pollutant" means any "addition of a pollutant to navigable waters from any point source." *Id.* § 1362(12). Pollutant is defined to include solid, chemical, and industrial waste discharged into water. *Id.* § 1362(6). A point source is "any discernible, confined and discrete conveyance," *Id.* § 1362(14), and navigable waters are broadly defined as "the waters of the United States." *Id.* § 1362(7).

15. The NPDES program regulates point source discharge. 33 U.S.C. § 1342.

Section 301 of the CWA expressly prohibits the discharge of pollutants into waters of the United States unless such discharges comply with the terms of any applicable NPDES permit, and sections 301, 302, 306, 307, 318, 402, and 404 of the CWA. *Id.* § 1311(a)(1).

The CWA Permitting Scheme and Enforcement

16. The NPDES permitting scheme is the primary mechanism for regulating discharges of pollutants. NPDES permits must include conditions that will ensure compliance with the CWA. At a minimum, NPDES permits must include technology-based effluent limitations, any more stringent limitations necessary to meet water quality standards, and monitoring and reporting requirements. *See* 33 U.S.C. §§ 1342, 1311, 1318.

17. Section 402 of the CWA requires each discharger to meet minimum technology-based treatment requirements. Under section 402, all permits must meet all applicable requirements under section 301 of the CWA. 33 U.S.C. § 1342(a)(1). Section 301, in turn, requires all discharges to use, at a minimum, the best practicable control technology (“BPT”). *Id.* § 1311(b)(1)(A). Discharges of toxic pollutants must be treated using the best available technology (“BAT”), *id.* § 1311(b)(2)(A), and other pollutant discharges must comply with best conventional technology (“BCT”). *Id.* § 1311(b)(2)(E). Each of these treatment categories is translated into effluent limitations, which must be reflected in permits as restrictions on rates, quantities, and concentrations of pollutants.

18. EPA is primarily responsible for identifying BPT, BCT, and BAT and converting these technology controls into numeric effluent limitation guidelines for particular categories of industrial point sources. *See* 33 U.S.C. § 1314(b). Once EPA establishes effluent limitation

guidelines for a particular industrial point source category, permitting agencies must apply any applicable guidelines to all point source discharges within that category.

19. In addition to implementing technology-based controls, each point source discharger must achieve “any more stringent limitation necessary to meet water quality standards, treatment standards, or schedules of compliance, . . . or [any requirement] to implement any applicable water quality standard established pursuant to this chapter.” 33 U.S.C. § 1311(b)(1)(C).

20. Water quality standards establish the water quality goals for a water body. 40 C.F.R. § 131.2. Water quality standards serve as the regulatory basis for the establishment of water quality-based controls over point sources, as required under sections 301 and 306 of the CWA. Water quality standards must include three elements: (1) one or more designated “uses” of a waterway; (2) numeric and narrative “criteria” specifying the water quality conditions, such as maximum amounts of toxic pollutants, maximum temperature levels, and the like, that are necessary to protect the designated uses; and (3) an antidegradation policy and implementation methods that ensure that “[e]xisting instream water uses and the level of water quality to protect the existing uses [will] be maintained and protected” and that high quality waters will be maintained and protected. 33 U.S.C. §§ 1313(c)(2), 1313(d)(4)(B); 40 C.F.R. Part 131, Subpart B.

21. Once water quality standards are established for a particular water body, any NPDES permit authorizing discharges of pollutants into that water body must ensure that the applicable water quality standard will be met. 33 U.S.C. § 1311(b)(1)(C); 40 C.F.R. §§ 122.4(d), 122.4(i), 122.44(d).

22. Once regulated by an NPDES permit, discharges must strictly comply with all of the terms and conditions of that permit. Any discharge of pollutants not otherwise in compliance with the terms of the CWA, including conditions imposed by a NPDES permit, is unlawful. 33 U.S.C. § 1311(a).

23. EPA is the primary administrator of the CWA. Section 402 of the CWA authorizes EPA to delegate its authority to states to implement and administer the CWA. 33 U.S.C. § 1342(b). While most states are authorized to implement the NPDES program, Idaho has not been authorized to do so and thus does not administer the NPDES permitting program. Idaho does play a significant role in the NPDES permit program, however, pursuant to section 401 of the CWA, which allows the state to ensure that the permit complies with applicable water quality standards. *Id.* § 1341(a)(1).

24. Section 505 of the CWA authorizes citizens to bring suit against any person, including a corporation, who is alleged to be in violation of an effluent standard or limitation under the CWA. 33 U.S.C. § 1365(a). Effluent limitation is defined broadly to include “a permit or condition thereof issued under [section 402] of this title,” and “any unlawful act under subsection (a) of [section 301] of this title.” *Id.* § 1365(f).

25. Citizens are required to provide notice of any alleged violations sixty days prior to commencing suit. 33 U.S.C. § 1365(b). After sixty days have passed, citizens may bring an action in federal district court to enforce ongoing CWA violations.

26. Section 309 of the CWA, 33 U.S.C. § 1319(d), as adjusted by 40 C.F.R. § 19.4, provides for civil penalties of up to \$37,500.00 per day per violation.

Regulation of Groundwater Remediation Discharge Facilities in Idaho

27. EPA has authority to issue general permits to different categories of discharges. 40 C.F.R. § 122.28. EPA may issue a general permit to a category of point sources located within the same geographic area whose permits warrant similar pollution control measures. Exercising such authority, EPA promulgated the Idaho Groundwater Remediation Discharge General Permit (No. ID-G91-0000) (“General Permit”), which became effective on July 1, 2007. The General Permit provides CWA authorization for facilities that discharge treated groundwater to waters of the United States within the State of Idaho from contaminated sites.

28. EPA regulates a number of pollutants that can be harmful to humans and/or the environment. Specifically, EPA selected thirteen metals, including arsenic and iron, as parameters to be limited. *See* General Permit at 58.

29. Under the General Permit, effluent limitations are set for each pollutant. Specifically, the General Permit has limits of 10 micrograms per liter (ug/L) for arsenic, 1000 ug/L for iron, and a pH level between 6.5 and 9.0 standard units (s.u.). Permittees shall not exceed these or the other enumerated effluent limitations. General Permit at 17-21.

30. Under the General Permit, “[a] permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by a permittee to achieve compliance with the conditions of this general NDPES permit.” General Permit at 27. The General Permit also requires that the permittee “comply with all conditions of this general NDPES permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification” *Id.* Notably, “[i]t shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or

reduce the permitted activity in order to maintain compliance with the conditions of [the] permit.” *Id.* at 30. The permittee also has a duty to mitigate by taking “all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.” *Id.*

31. The General Permit requires the permittee to develop a Quality Assurance Plan (“QAP”) for required monitoring, which must be “completed and implemented within 90 days of the authorization to discharge under this general permit.” General Permit at 23. The Permittee must also “develop and implement an Operations and Maintenance (“O&M”) Plan within 90 days of authorization to discharge under this general permit.” *Id.* at 24.

FACTUAL BACKGROUND

Atlanta Gold Project 900 Level Adit, Montezuma Creek and the Middle Fork Boise River

32. An adit is a nearly horizontal entry passage from a mine to the surface. The 900 Level Adit at issue here is located on the Boise National Forest, near Atlanta, Idaho. The Adit is the entry point to a gold mine, and is maintained and used by Atlanta Gold to gain access for continuing exploration and operations. Atlanta Gold has applied for and received permission from the U.S. Forest Service to conduct exploration, exploratory drilling, and excavation in the mine several times since the early 1990s, including specifically in the 900 Level portion of the mine accessed through the 900 Level Adit; and it has conducted those activities.

33. Groundwater and seepage collect in the Adit and pass over and/or through mine waste rock and other soil and rock exposed by exploration and mining activities. This water flows out of the Adit and is directed by Atlanta Gold into small settling ponds. There Atlanta Gold adds various chemicals to the settling ponds in an attempt to reduce the pollution levels. Atlanta Gold then channels and discharges the water directly into Montezuma Creek, which

flows into the Middle Fork Boise River. Such discharges occur on a regular and continuous basis.

34. EPA has expressed concern that Atlanta Gold's underground exploration work, which serves to expose new rock, exacerbates pollutant loading in the water flowing out of the Adit.

35. Atlanta Gold has legal control over and operates the Level 900 Adit and the settling ponds. The Adit, associated settling ponds, and outflow channel, together and individually, constitute a "point source" pursuant to 33 U.S.C. § 1362(14).

36. Water discharged from the Adit and the Adit settling ponds contains numerous metal compounds, including arsenic and iron, and other pollutants.

37. The Middle Fork Boise River is used extensively by anglers and boaters. The Middle Fork Boise River is home to a variety of fish and other aquatic species, including bull trout, which is listed as "threatened" under the Endangered Species Act. 63 Fed. Reg. 31,647 (June 10, 1998). The Middle Fork Boise River was designated as critical habitat for bull trout in 2010. 75 Fed. Reg. 63,898, 64,039 (Oct. 18, 2010). The Middle Fork Boise River also provides municipal, domestic, agricultural, and industrial water supplies for Idaho's major population centers in the Treasure Valley.

38. Idaho's Department of Environmental Quality ("DEQ") has designated water quality standards for the Middle Fork Boise River. *See* IDAPA 58.01.02. The standards include the designated uses of aquatic life (cold water) and salmonid spawning, which require "water quality appropriate for the protection and maintenance of a viable aquatic life community for cold water species" and "waters which provide or could provide a habitat for active self-propagating populations of salmonid fishes," respectively.

39. Primary contact recreation is also an enumerated designated use and demands “water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving.”

40. Finally, domestic water supply (“water quality appropriate for drinking water supplies”) is another designated use.

41. The Middle Fork Boise River is also designated as a special resource water.

42. In 2008, DEQ listed tributaries to the Middle Fork Boise River watershed, including Montezuma Creek, as impaired, under CWA section 303(d), due to arsenic pollution. DEQ noted the cause was arsenic contamination in Montezuma Creek. In DEQ’s draft 2010 report, Montezuma Creek is still listed as impaired due to arsenic pollution.

The Previous Clean Water Act Enforcement Action

43. For many years, Atlanta Gold discharged pollution from the Adit into Montezuma Creek with *no* NPDES permit. On May 25, 2005, ICL initiated an action in this Court against Atlanta Gold for discharging heavy metals and other mining wastes from the Adit without any NPDES permit. *Idaho Conservation League v. Atlanta Gold Corp. of America, Inc.*, Civ. No. 05-212-S-EJL.

44. That action was resolved by Consent Decree, dated October 6, 2005 and approved by the Court on December 9, 2005.

45. Under the terms of the Consent Decree, Atlanta Gold agreed to submit a new or revised application to EPA, by March 1, 2006, for a NPDES permit for the Level 900 Adit.

Consent Decree ¶ 6.

46. The Consent Decree also required Atlanta Gold to construct and operate a treatment system no later than December 1, 2005; and “[i]n the event Atlanta Gold believes any measure described [] should not be implemented, or that different measures should be implemented in place of those described [], Atlanta Gold shall provide written notice to ICL of such change(s), including a brief statement describing how such change(s) will ensure full compliance with applicable water quality standards.” *Id.* ¶ 5.

47. For its part, ICL released Atlanta Gold from the claims alleged in the Complaint. *Id.* ¶ 10. The Consent Decree provided for future enforcement: if Atlanta Gold implemented a treatment system described in the agreement, “ICL shall be required to bring a new civil action to redress any violation of the Clean Water Act allegedly committed by Atlanta Gold after December 1, 2005.” *Id.* ¶ 5.

48. ICL has communicated and cooperated with Atlanta Gold for the past several years, in an attempt to encourage it to treat its discharge water so as to meet the effluent standards in its NPDES permit. However, these efforts ultimately proved unsuccessful.

Defendant Atlanta Gold’s NPDES Permit

49. On February 28, 2005, Atlanta Gold applied for a NPDES permit. It amended its application on February 26, 2006.

50. EPA issued a NPDES permit to Atlanta Gold on August 6, 2009 (Permit No. ID-G91-0006) (“Permit”). It includes requirements specific to the Adit, as well general requirements from the NPDES General Permit for Groundwater Remediation Discharge Facilities in Idaho (ID-G91-0000). The Permit places effluent limitations and monitoring requirements on the Adit’s discharges of mine drainage.

51. Specifically, the Permit applies the following five effluent limitations: total suspended solids (“TSS”) (30,000 ug/l), arsenic (10 ug/l), iron (1,000 ug/l), temperature (19° C daily maximum during most times, but 9° C daily maximum during periods of salmonid spawning), and pH (6.5–9.0 s.u. (at all times)). Permit Enclosure 1 at 2.

52. The Permit further requires weekly sampling of each of these parameters as long as the facility is discharging. *Id.* Discharge Monitoring Reports (“DMRs”) must be submitted quarterly, postmarked by the 15th of the month. *See* Permit at 22–23. Similarly, as part of the Permit’s CWA § 401 certification, Atlanta Gold must collect surface water samples from two locations in Montezuma Creek and analyze them for arsenic and temperature. Permit Enclosure 4. Atlanta Gold shall collect these samples monthly, submit them in accord with DMR requirements, and summarize the results in an annual monitoring report. *Id.*

53. Finally, the Permit requires Atlanta Gold to complete and implement a Quality Assurance Plan (“QAP”) within ninety days of the authorization to discharge under the Permit; develop and implement an Operations and Management (“O&M”) Plan within ninety days of the Permit; and upon completion, send copies of both to EPA and IDEQ. Permit Enclosure 1 at 2.

Defendant Atlanta Gold’s NPDES Violations

54. Atlanta Gold is in violation of its NPDES Permit. Indeed, Atlanta Gold’s discharge exceeded the Permit’s daily maximum concentration effluent limit for arsenic and the daily maximum concentration effluent limit for iron on every occasion it was sampled between August, 2009, when the Permit issued, and March 31, 2011, the date of the most recent DMR. To be clear, therefore, Atlanta Gold has violated the Permit every day since receiving its Permit.

55. In addition, Atlanta Gold also violated the pH effluent limitation in the Permit on at least six occasions, and has violated the Total Suspended Solids effluent limit on at least one occasion.

56. Defendant's violations are ongoing and are likely to continue into the future. Despite these continuous, ongoing violations, Atlanta Gold has failed to take the steps necessary to come into compliance with the Permit and the CWA. Indeed, the concentrations of arsenic and iron discharged by Atlanta Gold have increased over time. In other words, the violations are getting more severe. *See* Notice of Intent at 8–9 (Chart of Effluent Limit Violations, showing upward trend in effluent concentration).

57. Atlanta Gold has submitted several proposals (known as “Plans of Operations”) to expand or upgrade the water treatment facility on Forest Service land, but they have been rejected as inadequate by the Forest Service. Most recently, Atlanta Gold submitted a proposed Plan of Operations to the Forest Service in February 2010, which was rejected as inadequate by the Forest Service on February 14, 2011. The Forest Service noted deficiencies with the current facility's operations; that previously-identified deficiencies had not been addressed; and that Atlanta Gold “must develop, and commit to, a long-term, comprehensive plan for treating 900 Level discharges.” Specifically, the plan must include treatment methods that extend long into the future and include long-term bonding adequate to ensure continued operation.

58. Because Atlanta Gold has failed to provide any firm plan or date for improving its treatment facility or have a plan accepted by the Forest Service, and the violations have continued since the filing of Plaintiffs' Notice Letter and in fact appear to be getting worse, the violations are likely to continue.

CLAIM FOR RELIEF

(Violation of CWA Section 301(a), 33 U.S.C. § 1311(a))

NDPES Permit Violations

59. Plaintiffs reallege all preceding paragraphs.

60. Atlanta Gold violated sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. §§1311(a) and 1342, by discharging pollutants, from a point source, into waters of the United States in violation of its NPDES permit.

61. Atlanta Gold is a person within the meaning of section 1362(5) of the CWA.

62. Atlanta Gold's discharge violated its Permit's effluent limitations. Specifically, Atlanta Gold has discharged effluent in exceedance of its effluent limits for arsenic and iron almost daily since the Permit issued in August of 2009, the effluent limit for pH on at least six occasions, and Total Suspended Solids on at least one occasion. Each of these exceedances is a violation of the Permit.

63. Atlanta Gold has violated and continues to violate the CWA, 33 U.S.C. § 1311(a), by failing to comply with the conditions contained in its Permit.

64. These violations are continuing and are reasonably likely to continue after the filing of this Complaint.

65. Plaintiffs seek injunctive relief under section 505 of the CWA, 33 U.S.C. § 1365(a), declaratory relief under 28 U.S.C. § 2202, civil penalties under section 309(d) of the CWA, 33 U.S.C. § 1319(d), adjusted by 40 C.F.R. § 19.4, in the amount of \$37,500.00 per day per violation occurring, and reasonable attorney fees and costs under section 505(d) of the CWA, 33 U.S.C. § 1365(d).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Declare that Defendant Atlanta Gold Corporation violated and continues to violate section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), by discharging pollutants in violation of its NPDES permit;
2. Permanently enjoin Atlanta Gold from discharging pollutants into Montezuma Creek in violation of its NPDES permit;
3. Issue injunctive relief requiring Atlanta Gold to remediate the environmental damage and ongoing impacts resulting from Atlanta Gold's illegal discharges to Montezuma Creek;
4. Assess civil penalties against Atlanta Gold in the amount of \$37,500.00 per day per violation;
5. Award Plaintiffs their attorneys' fees and costs for bringing this action; and
6. Grant such other relief as the Court deems just and proper.

DATED this 18th day of April, 2011.

Respectfully submitted,

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