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Water and sewer district sued for alleged wrongful discharge

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One of the holding ponds at the Big Sky County Water and Sewer District. A recent lawsuit filed against the district claims discharge from the district is violating the Clean Water Act. PHOTO BY BRANDON WALKER

By Brandon Walker EBS STAFF

BIG SKY – Alleged illegal discharge is the issue at hand according to a recent lawsuit filed against the Big Sky County Water and Sewer District No. 363. Bozeman-based Cottonwood Environmental Law Center filed the suit, alleging the district is violating the Clean Water Act.

“For us, the bottom line is that the water and sewer district is discharging nitrogen pollution out of a pipe into water of the U.S. without a Clean Water Act permit and that is in direct violation of the Clean Water Act,” said John Meyer, Cottonwood Environmental Law Center’s executive director and general counsel.

According to the suit, plaintiffs Cottonwood Law, Montana Rivers, and Gallatin Wildlife Association claim that the water and sewer district is violating: “... the Clean Water Act (CWA) by discharging pollutants into the West Fork of the Gallatin River without a National Pollutant Discharge Elimination System (NPDES) permit ...”

The suit, filed July 10 with the United States District Court for the District of Montana in Butte, identifies Ron Edwards, the general manager of the water and sewer district, as well as the district in its entirety as defendants. According to the suit, Cottonwood Law initially sent out an intent to sue letter to the water and sewer district on April 27, fulfilling the 60-day notice prior to the filing of a suit.

Edwards directed EBS to an April 30 water and sewer district meeting, where he addressed the intent to sue letter. At that meeting, he stated that the discharge in question is not leaking from the ponds themselves but is rather groundwater stemming from a Montana Department of Environmental Quality-specified and permitted under-drain system comprised of a series of pipes that run underneath the holding ponds. Edwards added that groundwater does not require a discharge permit from the DEQ.

“... The reason they’re there is because our ponds are so deep it intersects groundwater and if you’ve got liner sitting in your groundwater, as that water table comes up you run the risk of having the groundwater pick [up] your liner and float it up off the bottom,” Edwards said.

Meyer said that multiple water samples have been collected. The samples were taken from above, below, and at a pipe, the identified site of the alleged illegal discharge.

“We want to ensure that Montana’s rivers are clean and safe,” Meyer said. “We want clean water and healthy rivers.”

According to the suit, a lab analysis of samples collected around the district’s wastewater holding ponds shows heightened detectable levels of material including calcium, chloride, and nitrogen, among other inorganic materials.

“The original ponds were lined with a Bentonite Clay, which did not work very well, so the ponds were effectively leaking into the groundwater for 20 years,” Edwards said at the April meeting. The ponds were upgraded with liners in 1996 and 1997, according to the video, allowing groundwater to flow without pooling underneath the liner.

“The West Fork of the Gallatin River is already water-quality impaired from nitrogen, so the fact that they’re discharging without a permit just makes it even worse,” Meyer said.

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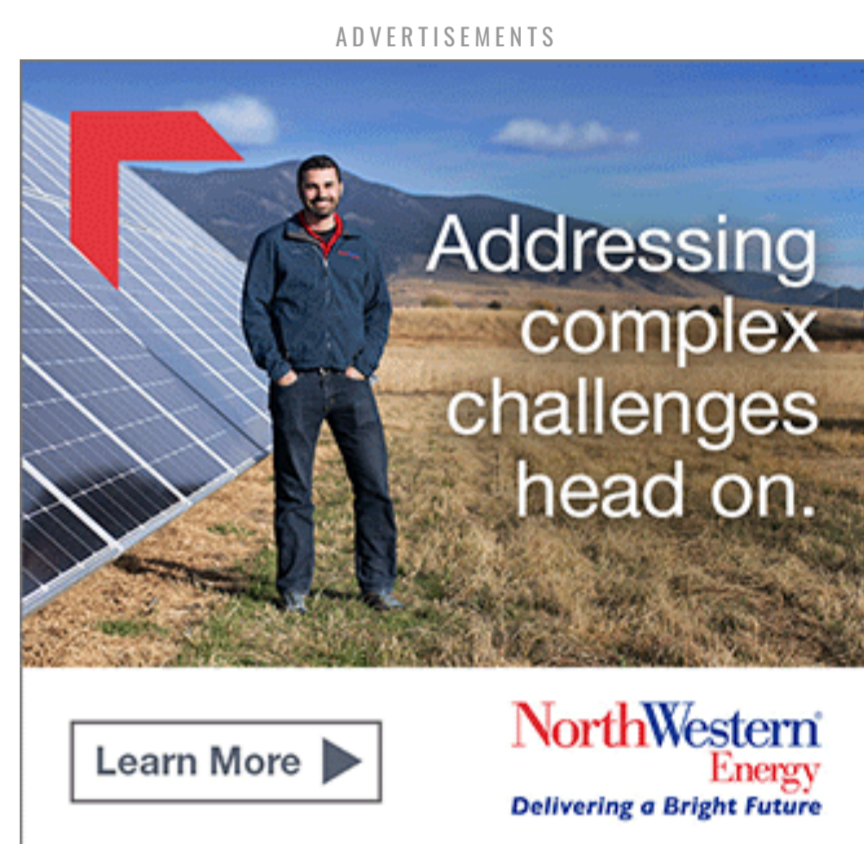
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