

STATE OF WISCONSIN CIRCUIT COURT PIERCE COUNTY
 BRANCH __

STATE OF WISCONSIN,
17 West Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857,

Plaintiff,

v.

ELLSWORTH COOPERATIVE
CREAMERY,
232 North Wallace Street
Ellsworth, Wisconsin 54011,

Defendant.

Case No. 22-CX-____

Complex Forfeiture: 30109

THE AMOUNT CLAIMED IS
GREATER THAN THE AMOUNT
CLAIMED UNDER WIS. STAT.
§ 799.01(1)(d).

CIVIL COMPLAINT

The State of Wisconsin, by its attorneys, Attorney General Joshua L. Kaul and Assistant Attorney General Bradley J. Motl, brings this complaint against defendant Ellsworth Cooperative Creamery at the request of the Wisconsin Department of Natural Resources (DNR) under Wis. Stat. § 299.95 and Wis. Stat. ch. 283, and alleges as follows:

1. Plaintiff State of Wisconsin is a sovereign state of the United States of America, with its seat of government and principal offices at the State Capitol in Madison, Dane County, Wisconsin.

2. The State of Wisconsin enacted Wis. Stat. ch. 283, and DNR administers regulations and issues permits and orders authorized by these statutes to prevent and minimize water pollution in waters of the State.

3. Defendant Ellsworth Cooperative Creamery (Ellsworth) is a stock cooperative organized under Wis. Stat. ch. 185. Ellsworth's principal office is located at 232 North Wallace, Ellsworth, Wisconsin 54011 and its registered agent is located at Post Office Box 610, 232 North Wallace, Ellsworth, Wisconsin 54011. The Wisconsin Department of Financial Institutions website does not list a registered agent for Ellsworth.

4. At all times relevant to the allegations in this Complaint, Ellsworth owned and operated a milk processing facility located at 232 North Wallace Street, Ellsworth, Pierce County, Wisconsin 54011 (the Facility).

5. Ellsworth is a farmer-owned cooperative with about 280 members and 116 employees. The Facility processes milk into barrel cheese, cheese curds, and dried milk products. The Facility operates 24 hours a day, 365 days a year.

6. The Facility includes a wastewater treatment plant.

7. The design flow rate capacity for the Facility's wastewater treatment plant is 200,000 gallons of wastewater per day. Ellsworth operated the Facility's wastewater treatment plant at or above 200,000 gallons of wastewater per day on at least 721 days between October 1, 2017 and August 31, 2022.

8. Wisconsin Stat. § 283.31(1) prohibits any person from discharging any pollutant into any waters of the State except in compliance with a permit issued by DNR.

9. DNR issued Ellsworth Wisconsin Pollutant Discharge Elimination System (WPDES) Permit No. WI-0022942-10-0, which became effective October 1, 2017 (2017 WPDES Permit).

10. DNR issued Ellsworth WPDES Permit No. WI-0022942-10-1, which became effective May 1, 2021 and modified the 2017 WPDES Permit (2021 WPDES Permit). The 2021 WPDES Permit expired on September 30, 2022.

11. Pursuant to Wis. Stat. §§ 227.51(2) and 283.53(3) and Wis. Admin. Code § NR 200.06, after September 30, 2022, the 2021 WPDES Permit remains in effect and Ellsworth continues to operate under the terms and conditions of the 2021 WPDES Permit until DNR reissues the permit.

12. The 2017 WPDES Permit and 2021 WPDES Permit authorized Ellsworth to discharge wastewater from the Facility to Isabelle Creek—a water

of the State—in the Trimbelle and Isabelle Creek Watershed of the Lower Chippewa River Basin in Pierce County in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in the permits.

13. Isabelle Creek becomes a Class III trout stream about four miles downstream of the Facility and a Class II trout stream about six miles downstream of the Facility.

14. Outfall 001 at the Facility discharges to Isabelle Creek. The discharge from Outfall 001 is treated wastewater that is limited to sanitary, process, noncontact cooling, cream pasteurizer, and milk pasteurizer water. Ellsworth is required to sample the Facility's effluent at Sampling Point (Outfall) 001 prior to discharge from Outfall 001 to Isabelle Creek. The wastewater sampled at Sampling Point (Outfall) 001 is the same wastewater discharged to Isabelle Creek from Outfall 001.

15. Ellsworth collects samples of its wastewater at Sampling Point 102, which is at a location in the Facility prior to the process wastewater being combined with noncontact cooling water.

16. Condition 5.1.1 of the 2017 WPDES Permit and 2021 WPDES Permit requires Ellsworth to report monitoring results to DNR on a Wastewater Discharge Monitoring Report (DMR).

**VIOLATION 1: EXCEEDANCE OF DAILY MAXIMUM BIOLOGICAL
OXYGEN DEMAND LIMITATION (mg/L)**

17. Condition 2.2 of the 2017 WPDES Permit and 2021 WPDES Permit states that “[t]he permittee shall comply with the following monitoring requirements and limitations.”

18. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a daily maximum Biological Oxygen Demand (BOD₅) limitation of 40 milligrams per liter (mg/L) at Sampling Point (Outfall) 001.

19. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded 40 mg/L of BOD₅ on at least 50 days.

20. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded 40 mg/L of BOD₅ on at least 50 days.

21. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 50 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded 40 mg/L of BOD₅.

**VIOLATION 2: EXCEEDANCE OF MONTHLY AVERAGE BOD₅
LIMITATION (mg/L)**

22. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a monthly average BOD₅ limitation of 20 mg/L at Sampling Point (Outfall) 001.

23. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded 20 mg/L of BOD₅ on at least ten months.

24. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded a monthly average of 20 mg/L of BOD₅ on at least ten months.

25. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least ten months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded a monthly average of 20 mg/L of BOD₅.

**VIOLATION 3: EXCEEDANCE OF DAILY MAXIMUM BOD₅
LIMITATION (lbs/day)**

26. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a daily maximum BOD₅ limitation of 127 pounds per day (lbs/day) at Sampling Point (Outfall) 001.

27. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded 127 lbs/day of BOD₅ on at least 39 days.

28. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded 127 lbs/day of BOD₅ on at least 39 days.

29. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 39 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded 127 lbs/day of BOD₅.

**VIOLATION 4: EXCEEDANCE OF MONTHLY AVERAGE BOD₅
LIMITATION (lbs/day)**

30. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a monthly average BOD₅ limitation of 53.4 lbs/day at Sampling Point (Outfall) 001.

31. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded a monthly average of 53.4 lbs/day of BOD₅ on at least ten months.

32. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded a monthly average of 53.4 lbs/day of BOD₅ on at least ten months.

33. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least ten months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded a monthly average of 53.4 lbs/day of BOD₅.

VIOLATION 5: EXCEEDANCE OF DAILY MAXIMUM TOTAL SUSPENDED SOLIDS LIMITATION (mg/L)

34. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a daily maximum total suspended solids (TSS) limitation of 40 mg/L at Sampling Point (Outfall) 001.

35. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded 40 mg/L of TSS on at least 52 days.

36. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded 40 mg/L of TSS on at least 52 days.

37. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 52 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded 40 mg/L of TSS.

**VIOLATION 6: EXCEEDANCE OF MONTHLY AVERAGE TSS
LIMITATION (mg/L)**

38. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a monthly average TSS limitation of 20 mg/L at Sampling Point (Outfall) 001.

39. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded a monthly average of 20 mg/L of TSS on at least nine months.

40. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded a monthly average of 20 mg/L of TSS on at least nine months.

41. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least nine months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded a monthly average of 20 mg/L of TSS.

**VIOLATION 7: EXCEEDANCE OF DAILY MAXIMUM TSS
LIMITATION (lbs/day)**

42. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a daily maximum TSS limitation of 184 lbs/day at Sampling Point (Outfall) 001.

43. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded 184 lbs/day of TSS on at least 25 days.

44. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded 184 lbs/day of TSS on at least 25 days.

45. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 25 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded 184 lbs/day of TSS.

**VIOLATION 8: EXCEEDANCE OF MONTHLY AVERAGE TSS
LIMITATION (lbs/day)**

46. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a monthly average TSS limitation of 77.1 lbs/day at Sampling Point (Outfall) 001.

47. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded a monthly average of 77.1 lbs/day of TSS on at least four months.

48. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded a monthly average of 77.1 lbs/day of TSS on at least four months.

49. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least four months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded a monthly average of 77.1 lbs/day of TSS.

**VIOLATION 9: EXCEEDANCE OF DAILY MAXIMUM NITROGEN,
AMMONIA (NH₃-N) TOTAL LIMITATION (mg/L)**

50. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a daily maximum nitrogen, ammonia (NH₃-N) total (ammonia) limitation of 11 mg/L during May through September annually; 8.8 mg/L during October, November, and April annually; and 7.8 mg/L during December through March annually at Sampling Point (Outfall) 001.

51. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded the Facility's daily maximum ammonia limitation on at least 52 days.

52. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded the Facility's daily maximum ammonia limitation on at least 52 days.

53. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 52 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded the Facility's daily maximum ammonia limitation.

**VIOLATION 10: EXCEEDANCE OF MONTHLY AVERAGE AMMONIA
LIMITATION (mg/L)**

54. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a monthly average ammonia limitation of 3.6 mg/L during May through September annually; 8.8 mg/L during October, November, and April annually; and 7.8 mg/L during December through March annually at Sampling Point (Outfall) 001.

55. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded the Facility's monthly average ammonia limitation on at least nine months.

56. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded the Facility's monthly average ammonia limitation on at least nine months.

57. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least nine months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded the Facility's monthly average ammonia limitation.

VIOLATION 11: EXCEEDANCE OF WEEKLY AVERAGE AMMONIA LIMITATION (mg/L)

58. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a weekly average ammonia limitation of 9.1 mg/L during May through September annually at Sampling Point (Outfall) 001.

59. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded a weekly average of 9.1 mg/L of ammonia on at least 15 weeks.

60. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded a weekly average of 9.1 mg/L of ammonia on at least 15 weeks.

61. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 15 weeks between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded a weekly average of 9.1 mg/L of ammonia.

VIOLATION 12: EXCEEDANCE OF DAILY MINIMUM DISSOLVED OXYGEN LIMITATION (mg/L)

62. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a daily minimum dissolved oxygen limitation of 4.0 mg/L at Sampling Point (Outfall) 001.

63. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 contained less than 4.0 mg/L of dissolved oxygen on at least 168 days.

64. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that contained less than 4.0 mg/L of dissolved oxygen on at least 168 days.

65. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 168 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility contained less than 4.0 mg/L of dissolved oxygen.

**VIOLATION 13: EXCEEDANCE OF MONTHLY AVERAGE TOTAL
PHOSPHORUS LIMITATION (mg/L)**

66. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a monthly average total phosphorus limitation of 1.0 mg/L at Sampling Point (Outfall) 001.

67. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded a monthly average of 1.0 mg/L of total phosphorus on at least 13 months.

68. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded a monthly average of 1.0 mg/L of total phosphorus on at least 13 months.

69. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 13 months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded a monthly average of 1.0 mg/L of total phosphorus.

**VIOLATION 14: EXCEEDANCE OF ROLLING 12-MONTH AVERAGE
TOTAL PHOSPHORUS LIMITATION (mg/L)**

70. Condition 1.2 of the 2017 WPDES Permit and 2021 WPDES Permit states that “[t]he permittee shall comply with the following monitoring requirements and limitations.”

71. Condition 1.2.2 of the 2017 WPDES Permit and 2021 WPDES Permit establishes a rolling 12-month average total phosphorus limitation of 1.0 mg/L at Sampling Point 102.

72. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point 102 between October 1, 2017 and August 31, 2022 exceeded a rolling 12-month average of 1.0 mg/L of total phosphorus on at least 11 months.

73. Between October 1, 2017 and August 31, 2022, effluent sampled at Sampling Point 102 at the Facility exceeded a rolling 12-month average of 1.0 mg/L of total phosphorus on at least 11 months.

74. Ellsworth violated Condition 1.2.2 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 11 months between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point 102 at the Facility exceeded a rolling 12-month average of 1.0 mg/L of total phosphorus.

**VIOLATION 15: EXCEEDANCE OF DAILY MAXIMUM
TEMPERATURE LIMITATION**

75. Condition 2.2.1 of the 2017 WPDES Permit and 2021 WPDES Permit establishes daily maximum temperature limitation of 86 degrees Fahrenheit (°F) at Sampling Point (Outfall) 001.

76. DMRs submitted to DNR by Ellsworth show that effluent sampled at Sampling Point (Outfall) 001 between October 1, 2017 and August 31, 2022 exceeded 86 °F on at least 125 days.

77. Between October 1, 2017 and August 31, 2022, Ellsworth discharged effluent from Outfall 001 that exceeded 86 °F on at least 125 days.

78. Ellsworth violated Condition 2.2.1 of either the 2017 WPDES Permit or the 2021 WPDES Permit on at least 125 days between October 1, 2017 and August 31, 2022 when effluent sampled at Sampling Point (Outfall) 001 at the Facility exceeded 86 °F.

AUGUST 2022 FISH KILL

79. The violations alleged against Ellsworth in Violation 1 through Violation 15 of this Complaint negatively affected the water quality and water environment of Isabelle Creek.

80. Between approximately July 31, 2022 and August 31, 2022, the wastewater treatment plant at the Facility did not operate correctly, which decreased the wastewater treatment plant's performance and ability to remove pollutants from the Facility's wastewater stream.

81. Between approximately July 31, 2022 and August 31, 2022, Ellsworth discharged milky-colored, turbid wastewater from Outfall 001 into Isabelle Creek (August 2022 Discharge).

82. Between approximately July 31, 2022 and August 31, 2022, Ellsworth discharged wastewater from Outfall 001 into Isabelle Creek that exceeded, or otherwise violated, the Facility's effluent limitations in the 2021 WPDES Permit.

83. The wastewater discharged by Ellsworth as part of the August 2022 Discharge was the same wastewater that caused many of the effluent permit limitation violations alleged in Violation 1 through Violation 15 of this Complaint.

84. On August 17, 19, and 22, 2022, DNR staff collected water samples in Isabelle Creek at Outfall 001, upstream of Outfall 001, and downstream of Outfall 001.

85. The August 2022 Discharge negatively impacted the water quality of Isabelle Creek.

86. On August 17, 18, 19, 21, and 22, 2022, DNR fisheries staff investigated the August 2022 Discharge.

87. On August 19, 21, and 22, 2022, DNR fisheries staff collected 596 dead Brown Trout and 59 dead Brook Trout from Isabelle Creek downstream of Outfall 001. DNR fisheries staff did not observe any living fish in the reaches where dead trout were collected. An approximately 2.97-mile segment of Isabelle Creek experienced a complete fish kill.

88. The August 2022 Discharge caused a fish kill in Isabelle Creek.

89. Ellsworth's unlawful discharge of pollutants to Isabelle Creek between approximately July 31, 2022 and August 31, 2022 caused adverse effects upon the water environment in Isabelle Creek.

PENALTY PROVISIONS

90. Wisconsin Stat. § 299.95 authorizes the Attorney General to enforce Wis. Stat. ch. 283 and all rules promulgated and permits issued under those chapters, subject to exceptions not applicable to this case.

91. Wisconsin Stat. § 283.89(1) authorizes DNR to refer any person who violates Wis. Stat. ch. 283 and rules or permits issued pursuant to Wis. Stat. ch. 283 to the Department of Justice for prosecution.

92. Under Wis. Stat. §§ 283.89(4) and 299.95, the circuit court for the county where the violation(s) occurred has jurisdiction to enforce Wis. Stat. ch. 283 and all rules promulgated and permits issued under those chapters “by injunctive and other relief appropriate for enforcement.”

93. Wisconsin Stat. § 283.91(2) states that “[a]ny person who violates this chapter, any rule promulgated under this chapter, any term or condition of a permit issued under chapter . . . shall forfeit not less than \$10 nor more than \$10,000 for each day of violation.”

94. Wisconsin Stat. § 283.91(5) states that “the court may assess as an additional penalty a portion or all of the costs of the investigation, including monitoring, which led to the establishment of the violation. The court may award the department of justice the reasonable and necessary expenses of the prosecution, including attorney fees.”

95. Wisconsin Stat. § 283.87(1) states that “[i]n an action against any person who violates this chapter or any provision of s. 29.601 or chs. 30, 31, 281, 285 or 289 to 299 relating to water quality [DNR] may recover the cost of removing, terminating or remedying the adverse effects upon the water environment resulting from the unlawful discharge or deposit of

pollutants into the waters of the state, including the cost of replacing fish or other wildlife destroyed by the discharge or deposit.”

RELIEF REQUESTED

WHEREFORE, the State of Wisconsin asks for judgment as follows:

1. Forfeitures as provided for in Wis. Stat. § 283.91(2);
2. The 26 percent penalty surcharge pursuant to Wis. Stat. § 814.75(18), the 20 percent environmental surcharge pursuant to Wis. Stat. § 814.75(12), the 1 percent jail surcharge pursuant to Wis. Stat. § 814.75(14), \$25.00 in court costs pursuant to Wis. Stat. § 814.63(1), the \$13.00 crime laboratories and drug law enforcement surcharge pursuant to Wis. Stat. § 814.75(3), the \$68.00 court support services surcharge under Wis. Stat. § 814.75(2), and the \$21.50 justice information system surcharge under Wis. Stat. § 814.75(15);
3. The cost of removing, terminating, and remedying the adverse effect of Ellsworth’s noncompliant discharges upon the water environment of Isabelle Creek, including the costs of replacing fish, as provided for in Wis. Stat. § 283.87(1);
4. An injunction, pursuant to Wis. Stat. § 299.95, requiring Ellsworth to comply in full with the terms and conditions of its applicable WPDES permit;
5. In order to ensure compliance with its applicable WPDES permit, an injunction, pursuant to Wis. Stat. § 299.95, requiring Ellsworth to upgrade

its wastewater treatment plant and make operations changes to its wastewater treatment plant;

6. The costs of the investigation and the reasonable and necessary expenses of the prosecution, including attorney fees, as provided for in Wis. Stat. § 283.91(5); and

7. Any other relief the Court deems just and appropriate.

Dated this 2nd day of November 2022.

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by Bradley J. Motl

BRADLEY J. MOTL
Assistant Attorney General
State Bar #1074743

Attorneys for Plaintiff State of Wisconsin

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 267-0505
(608) 294-2907 (Fax)
motlbj@doj.state.wi.us