

WATER POLLUTION

Greens settle lawsuit over pollution of Colo. river

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WildEarth Guardians and the state of Colorado announced today they have settled a federal lawsuit against a nationally recognized brownfield remediation company that the lawsuit said had failed to stop polluted discharges into the South Platte River, which supplies drinking water to the Denver metropolitan area.

The settlement resolves the 2014 lawsuit filed in U.S. District Court for the District of Colorado against IRG Bayaud LLC, which was responsible for cleaning up a more than century-old mining and chemical manufacturing site on the banks of the South Platte that WildEarth Guardians claimed was continuing to pollute the river with arsenic and acidic wastewater.

IRG took over the 37-acre site in 2008 from General Chemical Corp. with the goal of cleaning up decades of polluted soils and groundwater, then selling the parcel back to the city and county of Denver. IRG the following year conveyed the property to the city, which has since moved its Denver Animal Shelter and a public works maintenance facility to the site.

As part of the settlement, IRG will partner with the city to drill new monitoring wells on-site for both groundwater and surface water. The agreement also establishes a monitoring program designed to measure arsenic levels under the site and determine if any of the toxic metal will reach the river. A response plan will be triggered if arsenic levels reach a certain level.

"Through this settlement, the parties have agreed to implement a precedent-setting water quality monitoring program that will thoroughly investigate the groundwater and surface water impacts of the General Chemical site on the South Platte River," Martha Rudolph, director of environmental programs for the Colorado Department of Public Health and Environment, said in a statement. "The information gathered from this collaborative monitoring program will provide in-depth information about water quality without the need for continuing litigation."

IRG also agreed to pay \$250,000 toward a city park redesign project that will improve stormwater quality by removing pollutants before they wash off into the South Platte.

"The South Platte River is the lifeblood of our city and communities across the front range," said Zach Clayton, manager of environmental land use and planning with the Denver Department of Environmental Health. "This settlement will help us improve water quality and achieve our ultimate goal of making the South Platte River an amenity for all."

IRG dug up and removed contaminated soils with high levels of acids and heavy metals and placed a permeable soil cap on top of the site.

But WildEarth Guardians claimed in the lawsuit that the site is still polluting in violation of the Clean Water Act.

IRG submitted monthly reports to the state Department of Public Health and Environment that "plainly acknowledge that the Facility has repeatedly and consistently violated and is continuing

to violate the requirements" in its permit mandated under the Clean Water Act, according to the WildEarth Guardians complaint.

Among other things, the complaint stated that IRG "failed to timely report violations of discharges that exceed effluent limitations and to take steps to reduce and eliminate the non-compliance," and that it also "failed to properly operate and maintain all pollution treatment and control systems necessary to comply with the limits" in the permit.

Yet IRG, according to the complaint, notified the state in January 2014 "that it would no longer perform any of the obligations required by the Permit, including monitoring and reporting concentrations of toxic heavy metals, including arsenic, in the groundwater under the Facility," as well as conducting toxicity testing and filing monthly reports.

The Colorado attorney general's office "informed IRG that it continues to be legally bound to comply with the requirements" of the permit despite conveying the property to the city and county, "and warned IRG against its continued violations of state and federal law, but has not taken any enforcement action," according to the complaint.

Thus, WildEarth Guardians was forced to file the lawsuit.

"The South Platte River is a sanctuary for people and wildlife in Denver," said Jen Pelz, director of WildEarth Guardians' Wild Rivers Program. "We are thankful the parties could work together to protect the health of local communities, clean water and this unique urban river corridor."

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