



For Immediate Release

April 4, 2024

Phillip Musegaas

914-806-0916

phillip@sdcoastkeeper.org

San Diego Coastkeeper and Coastal Environmental Rights Foundation Initiate Legal Action Against BNSF Railway for Plastic Pollution of Coastal Lagoons

Illegal Discharges of Tiny Plastic Nurdles from BNSF Trains Violates Clean Water Act

SAN DIEGO — On Tuesday, April 2, San Diego Coastkeeper (Coastkeeper) and Coastal Environmental Rights Foundation (CERF) sent a Clean Water Act Notice of Intent to Sue letter (NOI) to the BNSF Railway Company (BNSF) for discharges of large volumes of plastic nurdles from its freight train cars into our region's coastal lagoons and the Pacific Ocean, resulting in a steady stream of toxic plastic pollution that degrades the coastal marine environment and contributes to the global plastic pollution crisis. The letter serves as formal notice that Coastkeeper and CERF will file a lawsuit in federal court if the violations are not addressed within the 60-day notice period required by law.

BNSF is a national railway company which owns and operates freight trains transporting goods along the coast of San Diego County. The rail line used by BNSF and owned by the North County Transit District (NCTD) crosses all the major coastal tidal lagoons in the county, including Buena Vista, Agua Hedionda, Batiquitos, San Elijo, San Dieguito, and Los Penasquitos Lagoons. BNSF trains routinely carry cars loaded with plastic nurdles, tiny plastic beads used in the manufacture of plastic bottles and other disposable plastic products. Large numbers of nurdles spill or leak from the moving train cars and either land directly in the lagoons or accumulate on and around the tracks and are then flushed into the lagoons and ocean by rain, or carried down storm drains directly into the water. Coastkeeper and CERF members and staff of Trash4Tokens have documented the presence of nurdles on well over thirty separate occasions at numerous locations along this rail corridor, as shown in the attached photographs.

Coastal wetlands are critically important ecosystems for birds, fish, invertebrates, and both terrestrial and marine mammals. Accordingly, each of the impacted lagoons are protected with

sdcoastkeeper.org | info@sdcoastkeeper.org | 619.609.0860

8305 Vickers Street, Suite 209

San Diego, CA 92111



special status as California State Ecological Reserves. Tragically, California has lost more than 95% of its coastal wetlands, further underscoring the importance of protecting these waterbodies and ecosystems from plastic pollution.

The nurdles' small size allow them to be widely dispersed in marine waters and are extremely difficult to clean up once they are dispersed in the coastal estuary environment. Nurdles also resemble fish eggs, and are often eaten by fish, sea turtles and seabirds, causing severe impacts. Like all plastics, nurdles do not naturally break down, but persist in the marine ecosystem for decades, absorbing and releasing toxic chemicals as they slowly degrade into microplastics and spread throughout the ocean.

The Clean Water Act prohibits the discharge of pollutants into waters of the United States without a permit. BNSF does not have a state or federal permit to discharge nurdles into coastal waters, and as a result is in violation of federal law. BNSF must improve its loading and transport of nurdles to prevent these ongoing discharges of nurdles to coastal lagoons and the Pacific Ocean.

"BNSF's freight trains are routinely leaking and spilling toxic plastic nurdles into our precious coastal lagoons and Pacific Ocean, degrading our coastal waters, threatening sea turtles and other marine life, and directly contributing to our global plastic pollution crisis," said Phillip Musegaas, Executive Director of Coastkeeper. "BNSF is now on notice to clean up its act and secure its noxious nurdle cargo, or we will hold them accountable in federal court to fix their plastic problem."

"Given the frequency and size of nurdle spills, something has to be done to secure the cars," said Livia Borak Beaudin, CERF's Legal Director. "It's a huge problem, with a simple fix."

"In the wake of the devastation wrought by nurdles on our delicate ecosystems, urgent action is paramount to prevent further harm," said Clare Swithenbank-Bowman of Trash4Tokens. "With over 230,000 metric tons entering the world's oceans annually, we can no longer afford to treat this as an isolated incident. Let's ensure that nurdles are transported and handled with the same care and diligence as hazardous substances, sparing our oceans from further desecration and safeguarding the future of marine life for generations to come."



About San Diego Coastkeeper

Founded in 1995, San Diego Coastkeeper protects and restores San Diego County's bays, beaches, watersheds, and ocean for the people and wildlife that depend on them. Coastkeeper balances community outreach, education, science, advocacy, and legal enforcement to promote clean water stewardship and a healthy coastal ecosystem. For more information, visit sdcoastkeeper.org.

About Coastal Environmental Rights Foundation

CERF is an environmental nonprofit founded in 2008 by surfers in Encinitas, CA. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. To learn more, visit www.cerf.org or contact Livia Borak Beaudin – livia@coastlaw.com, 858-205-2533.

About Trash4Tokens

Trash4Tokens.org, established in 2022 as the sister organization to Litter4Tokens.org in South Africa, is committed to incentivizing community involvement in clean-up initiatives. It has prevented over 1,972,896 bags of ocean-bound waste from reaching landfills and the ocean feeding, educating and empowering over 365 987 via tokens. Following the alarming discovery of 10,000 nurdles on California's beaches since 2022, Trash4Tokens.org initiated the California National Nurdle Hunt. Through educational outreach in schools and beach clean-ups with prizes, Trash4Tokens.org raises awareness about plastic pollution and engages citizens in conservation efforts. Their innovative Mermaid Tear Catcher, crafted from ocean-bound waste, aids in nurdle clean-up and provides valuable data to the Global Nurdle Hunt initiative. Founded by Clare Swithenbank-Bowman, Trash4Tokens.org remains dedicated to safeguarding oceans and coastal environments. Visit www.trash4tokens.org more information Clare Swithenbank-Bowman – clare@litter4tokens.co.za +1650 4213893.