

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

ST. JOHNS RIVERKEEPER, INC.,

Plaintiff,

v.

JACKSONVILLE METAL RECYCLING, INC.,

Defendant.

Civil Case No. 3:21-cv-01109

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND CIVIL
PENALTIES**

Plaintiff St. Johns Riverkeeper, Inc., by and through its counsel, hereby
alleges:

I.

INTRODUCTION

1. This is a civil suit brought under the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, commonly known as the Clean Water Act (“CWA” or “the Act”), to address and abate Defendant’s ongoing and continuous violations of the Act pursuant to the Act’s citizen suit enforcement provisions at CWA Section 505, 33 U.S.C. § 1365.

2. Defendant discharges polluted stormwater runoff from its scrap metal recycling facility in Jacksonville, FL 32207 (the “Facility”) into the waters of

the United States without authorization, in violation of CWA Sections 301(a) and 402(p), 33 U.S.C. §§ 1311(a), 1342(p), and has failed to obtain coverage under and does not comply with the conditions of an individual National Pollutant Discharge Elimination System (“NPDES”) permit or the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity issued by Florida’s Department of Environmental Protection (“DEP”), in violation of CWA Section 402(p), 33 U.S.C. §§ 1342(p), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1).

3. Industrial stormwater runoff is one of the most significant sources of water pollution in the nation—comparable to, if not greater than, contamination from municipal sewage sources. With every significant rainfall event, millions of gallons of polluted stormwater originating from industrial operations, such as those conducted by Defendant, pour into storm drains and local waterways. In most of the St. Johns River watershed, stormwater flows untreated either directly, or through municipal storm drain systems into the St. Johns River and its tributaries. Stormwater pollution accounts for the majority of the pollution entering the St. Johns River watershed each year. The effects of nonpoint source pollutants on specific waters vary and may not always be fully assessed. Stormwater pollution poses a health risk to humans, harms marine life, closes beaches, contaminates the ocean, and harms the environment. These contaminated stormwater discharges can and must be controlled for the St. Johns River watershed to regain its health.

4. Defendant's stormwater discharges contribute to this endemic stormwater pollution problem. Defendant engages in industrial activities such as scrap metal processing and recycling. As precipitation comes into contact with pollutants generated by these industrial activities, it conveys those pollutants to nearby surface waters. Contaminated stormwater discharges such as those from the Facility can and must be controlled to the fullest extent required by law in order to allow the St. Johns River watershed a fighting chance to regain its health.

II.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over the parties and this action pursuant to CWA Section 505(a)(1) (the citizen suit provision of the CWA), 33 U.S.C. § 1365(a)(1), and 28 U.S.C. § 1331 (an action arising under the laws of the United States).

6. On July 28, 2021, Plaintiff provided notice of Defendant's violations of the Act and of its intention to file suit against Defendant to Defendant, Defendant's registered agent; the Administrator of the United States Environmental Protection Agency ("EPA"); the Administrator of EPA Region IV; the Interim Secretary of DEP; and the Northeast District Director of DEP, as required by the Act under CWA Section 505(b)(1)(A), 33 U.S.C. § 1365(b)(1)(A), and the corresponding regulations at 40 C.F.R. §§ 135.1 to 135.3. A true and

correct copy of Plaintiff's notice letter is attached as Exhibit A, and is incorporated herein by reference.

7. More than sixty days have passed since the notice letter was served on Defendant and the state and federal agencies. Plaintiff has complied with the Act's notice requirements under CWA Section 505(b)(1), 33 U.S.C. § 1365(b)(1).

8. Neither the EPA nor the State of Florida has commenced or is diligently prosecuting a civil or criminal action to redress the violations alleged in this Complaint. *See* CWA § 505(b)(1)(B), 33 U.S.C. § 1365(b)(1)(B).

9. This action is not barred by any prior administrative penalty under CWA Section 309(g), 33 U.S.C. § 1319(g).

10. Venue is proper in the United States District Court for the Middle District of Florida pursuant to CWA Section 505(c)(1), 33 U.S.C. § 1365(c)(1), and 28 U.S.C. § 1391(b)(2) because both the source of the violations complained of is located and the acts and omissions giving rise to the claims occurred, within this judicial district.

III.

PARTIES

11. Plaintiff St. Johns Riverkeeper, Inc. ("St. Johns Riverkeeper") is a Jacksonville-based non-profit public benefit corporation with members throughout Northeast and Central Florida, including Duval County, St. Johns County, Nassau County, Putnam County, Flagler County, Baker County, Clay

County, Volusia County, Marion County, Lake County, Seminole County, Orange County, Alachua County, Osceola County, Brevard County, and Indian River County. St. Johns Riverkeeper's mission is to defend the St. Johns River and advocate for its protection. To further its mission, St. Johns Riverkeeper actively seeks federal and state implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of itself and its members. St. Johns Riverkeeper has been registered as a non-profit corporation in Florida since 1999 and has maintained its good and current standing in Florida since that time. St. Johns Riverkeeper is a licensed member of Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 360 separate Waterkeeper programs, such as the St. Johns Riverkeeper.

12. Plaintiff's members use and enjoy the waters which Defendant has unlawfully polluted and is unlawfully polluting. Plaintiff's members use those waters for fishing, boating, body contact water sports and other forms of recreation, wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation. Defendant's discharges of stormwater associated with industrial activity containing pollutants impair each of those uses. Thus, the interests of Plaintiff's members have been, are being, and will continue to be adversely affected by Defendant's failure to comply with the CWA.

13. The relief sought herein will redress the harms to Plaintiff and its members caused by Defendant's activities. Continuing commission of the acts

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.