

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

TAMPA BAY WATERKEEPER, OUR  
CHILDREN’S EARTH FOUNDATION  
and SUNCOAST WATERKEEPER,

Plaintiffs,

v.

CITY OF LARGO, FLORIDA,

Defendant

Civil Case No. 8:20-cv-1742

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

Tampa Bay Waterkeeper (“TBWK”), Our Children’s Earth Foundation (“OCE”) and Suncoast Waterkeeper (“SCWK”), (collectively, “Plaintiffs”), by and through their counsel, hereby allege as follows:

**I. JURISDICTION AND VENUE**

1. This is a civil suit brought under the citizen suit enforcement provision of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq. (“Clean Water Act” or “CWA”) (see 33 U.S.C. § 1365). This Court has subject matter jurisdiction over the parties and this action pursuant to Section 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1), and 28 U.S.C. §§ 1331 and 2201 (an action for declaratory and injunctive relief arising under the Constitution and laws of the United States).

2. On May 29, 2020, Plaintiffs issued a sixty (60) day notice letter (“Notice Letter”) to the City of Largo (“Defendant” or the “City”). The Notice Letter informed the City of its violations of the Clean Water Act and of Plaintiffs’ intention to file suit against the City. The Notice Letter was sent to the Administrator of the United States Environmental Protection Agency (“EPA”), the Administrator of EPA Region IV, and the Secretary of the Florida Department of Environmental Protection (“FDEP”) as required by Section 505(b)(1)(A) of the Clean Water Act, 33 U.S.C. § 1365(b)(1)(A). The Notice Letter was also sent to the Executive Director of the Southwest Florida Water Management District (“Regional District”).

3. More than sixty (60) days have passed since the Notice Letter was issued to the City and the state and federal agencies.

4. Plaintiffs are informed and believe, and thereon allege, that neither EPA nor the state of Florida has commenced or is diligently prosecuting an action to redress the violations alleged in the Notice Letter and in this Complaint under Section 505(b)(1)(B) of the Clean Water Act, 33 U.S.C. § 1365(b)(1)(B). This action is not barred by any prior administrative penalty matter issued under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Accordingly, because the requirements of 33 U.S.C. § 1365(b)(1)(B) have been met, this matter may be commenced.

5. The venue is proper in the Middle District of Florida, Tampa Division, pursuant to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located within this judicial district, specifically within Pinellas County.

## II. INTRODUCTION

6. Plaintiffs allege the following violations of the Clean Water Act: (1) violations of the *State of Florida Domestic Wastewater Facility Permit National Pollutant Discharge Elimination System* (“NPDES”) Permit No. FL0026603 (“NPDES Permit”) (Causes of Action One and Four); (2) discharges of pollutants to waters of the United States without an NPDES Permit authorization in violation of Section 301(a) of the Clean Water Act 33 U.S.C. §1311(a) (Cause of Action Two); and (3) violations of the *State of Florida Municipal Separate Storm Sewer System Permit*, NPDES Permit Nos. FLS000005-003 and FLS000005-004 (collectively, “MS4 Permits”) (Cause of Action Three). The City’s violations of the Clean Water Act, its MS4 Permits and its NPDES Permit are ongoing and continuous.

## III. PARTIES AND BACKGROUND

### A. Plaintiffs

#### 1. Tampa Bay Waterkeeper

7. TBWK is a Florida non-profit public benefit corporation with members throughout Tampa Bay, including Pinellas County. TBWK is dedicated to protecting and improving the Tampa Bay watershed while ensuring swimmable, drinkable and fishable water for all. TBWK’s approach combines sound science, policy advocacy, grassroots community engagement and education to stand up for clean water together as a community, ensuring a clean and vibrant future for the Tampa Bay watershed. To further its mission, TBWK 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. TBWK is based in Pinellas County and has been registered as a non-profit corporation in Florida since 2017. TBWK is a licensed member of Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 300 separate Waterkeeper programs, such as TBWK.

8. TBWK represents its members in and around Pinellas County who have personally suffered harm to their aesthetic, recreational, and employment-related interests due to the City's illegal discharges of wastewater effluent into Old Tampa Bay in violation of the City's NPDES Permit limits and the City's sanitary sewer overflows ("SSOs") (*i.e.*, the unauthorized discharge of raw sewage, partially treated sewage, or treated reclaimed water) into Old Tampa Bay, Cross Bayou, Lake Seminole, McKay Creek, Seminole Bypass Canal, Clearwater Harbor, Allen Creek, Church Creek, Rattlesnake Creek, Long Bayou, Boca Ciega Bay, Tampa Bay, the Gulf of Mexico, and other water bodies, streams, or tributaries in or adjoining the City (collectively, "Receiving Waters"), which are all waters of the United States. TBWK members use those waters for boating, fishing, wading, body contact water sports and other forms of recreation, wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation.

9. TBWK members include residents of Largo and Pinellas County who reside in the vicinity of the waters directly impacted by the City's violations and who have reasonably founded fears that the pollutants contained in the City's SSOs, the excessive nutrient loading to Old Tampa Bay in violation of the City's NPDES Permit effluent limits, and the City's exceedances of other NPDES Permit limitations have and

will continue to contribute to poor water quality in the Receiving Waters that may be dangerous to human health and the environment. TBWK members also include: (1) residents of the communities that border Tampa Bay who have reasonably founded fears that the excessive nitrogen contained in the City's discharges of raw, partially treated and/or treated reclaimed water cause or exacerbate harmful algal blooms ("HABs") and the decline in abundance and distribution of seagrasses, both of which negatively impact the entire estuary; (2) commercial and charter fishermen who depend upon the ecological health of Tampa Bay for their livelihood, individuals who own and operate businesses in the tourism and marine service industries located within Pinellas County, whose businesses are adversely impacted by the City's illegal discharges and by public perception of poor water quality in Pinellas County; and (3) individuals who devote their time to Tampa Bay cleanup efforts, restoration of seagrass, and participation in wildlife patrols during nesting or hatching season. TBWK members conduct nature surveys and studies, and photograph wildlife in and around affected waterways. TBWK members contact the affected waters directly when they perform maintenance work on boats, participate in body-contact water sports, or participate in organized trash cleanups and seagrass restoration work along the shoreline.

## **2. Our Children's Earth Foundation**

10. OCE is a non-profit public benefit corporation with members throughout the United States, including Tampa Bay and specifically, Pinellas County. OCE's mission is to promote public awareness of domestic and international human rights issues and environmental impacts through education, art, and private enforcement actions for

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