

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SUNCOAST WATERKEEPER,  
OUR CHILDREN'S EARTH  
FOUNDATION, TAMPA BAY  
WATERKEEPER, and  
MANASOTA-88,

Plaintiffs,

v.

CITY OF BRADENTON, FLORIDA,

Defendant.

Civil Case No. 8:22-cv-00037

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

Suncoast Waterkeeper ("SCWK"), Our Children's Earth Foundation ("OCE"), Tampa Bay Waterkeeper ("TBWK"), and ManaSota-88, (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 November 4, 2021, Plaintiffs issued a sixty (60) day notice letter (“Notice Letter”) to the City of Bradenton (“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 Acting 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).

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 Manatee 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. FL0021369 (“NPDES Permit”) (Causes of Action One, Two, and Eight); (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 Three); (3) violations of the *State of Florida Municipal Separate Storm Sewer System (“MS4”) Permit*, NPDES Permit No. FLS000037 (“MS4 Permit”) (Cause of Action Four); and (4) violations of the NPDES and MS4 Permits’ reporting requirements (Causes of Action Five, Six, and Seven). The City’s violations of the Clean Water Act, its NPDES Permit and its MS4 Permits are ongoing and continuing.

### III. PARTIES AND BACKGROUND

#### A. Plaintiffs

##### i. Suncoast Waterkeeper

7. SCWK is a Florida non-profit public benefit corporation with members throughout Southwest Florida, including Manatee and Sarasota Counties and the broader Tampa Bay region. SCWK is dedicated to protecting and restoring the Florida Suncoast's waterways through fieldwork, advocacy, environmental education, and enforcement, for the benefit of the communities and SCWK's members who rely upon these precious coastal resources. SCWK aims to protect local waterways for use for water contact recreation, aesthetic enjoyment, fishing, wildlife observation, educational study, and spiritual contemplation. To further its mission, SCWK 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. SCWK has been registered as a non-profit corporation in Florida since 2012 and has maintained its good and current standing in Florida since that time. SCWK is a licensed member of Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 300 separate Waterkeeper programs, such as SCWK.

8. SCWK represents its members in and around the City of Bradenton, the Manatee River, Tampa Bay and Sarasota Bay who have personally suffered

harm to their aesthetic, recreational, and employment-related interests due to the City's illegal discharges of wastewater effluent into the Manatee River, Wares Creek, Palma Sola Creek, and Palma Sola Bay which flow into Lower Tampa Bay, Sarasota Bay and the Gulf of Mexico (collectively, "Receiving Waters"), which are all Waters of the United States, 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 the Receiving Waters. SCWK members enjoy some or all of these waters for boating, fishing, wading, body-contact water sports and other forms of recreation, wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation.

9. SCWK members include residents in the vicinity of the Receiving Waters affected 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 the Receiving Waters 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 them and human health and the environment. SCWK members also include: (1) residents of the communities that border the Manatee River, Tampa Bay and Sarasota 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

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