

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

_____)	
UNITED STATES OF AMERICA, and)	
THE STATE OF ILLINOIS,)	
)	
Plaintiffs,)	Case No. _____
)	
v.)	
)	
THE CITY OF PEORIA, ILLINOIS,)	
and)	
THE GREATER PEORIA SANITARY)	
AND SEWAGE DISPOSAL DISTRICT,)	
)	
Defendants.)	
_____)	

COMPLAINT

The United States of America (“United States”), by authority of the Attorney General of the United States and through the undersigned attorneys, acting on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), and the State of Illinois (“State” or “Illinois”), by and through Lisa Madigan, Attorney General of the State of Illinois, on behalf of the People of the State of Illinois on her own motion and upon the request of the Illinois Environmental Protection Agency (“Illinois EPA”), file this Complaint, and allege as follows:

NATURE OF ACTION

1. This is a civil action brought by the United States and the State against the City of Peoria, Illinois (“Peoria”) and the Greater Peoria Sanitary and Sewage Disposal District (“GPSSD”) (collectively, “Defendants”), for permanent injunctive relief and assessment of civil penalties regarding the operation of a wastewater treatment plant, combined sewage (raw sewage, stormwater, and other wastewater) collection and conveyance system, and separate

sewage collection and conveyance system. The United States and the State allege that Defendants discharged, and continue to discharge, pollutants to the waters of the United States in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and/or that Defendants violated conditions established in the National Pollutant Discharge Elimination System (“NPDES”) permits issued to them by Illinois EPA in violation of the Act, including the requirement to develop a Long Term Control Plan (“LTCP”) as mandated by EPA’s Combined Sewer Overflow (“CSO”) Control Policy. Through this action, the Plaintiffs seek to prevent illegal discharges from both the combined and separate sewer systems to the Illinois River and Peoria Lake, as well as onto public and private property. The Plaintiffs also seek to remedy violations by Defendants of their respective NPDES permits. This case is brought under Section 309(b) and (d) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1319 (b) and (d), and Section 42(d) and (e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(d) and (e).

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 309(b) of the CWA, 33 U.S.C. §§ 1319(b), and 28 U.S.C. §§ 1331, 1345, and 1355.

3. This Court has supplemental jurisdiction over the State law claims alleged herein pursuant to 28 U.S.C. § 1367(a) because the State claims under the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq., are related to the federal claims and form part of the same case or controversy.

4. Venue is proper in the Central District of Illinois pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and 1397, because the Defendants are located in this judicial district and the causes of action alleged in this Complaint arose in this district.

5. As a signatory to this Complaint, the State of Illinois has actual notice of the commencement of this action pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

6. Authority to bring this civil action is vested in the Attorney General of the United States pursuant to Section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

7. Plaintiff State is acting through the Illinois Attorney General on her own motion and at the request of the Illinois EPA. Authority to bring this action is vested in the Illinois Attorney General by Section 4 of the Illinois Attorney General Act, 15 ILCS 205/4, and Section 42(d) and (e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(d) and (e).

DEFENDANTS

8. Peoria is a political subdivision of the State of Illinois located in Peoria County, Illinois. Peoria owns and has authority and control over combined and separate sanitary sewer systems, which collect wastewater from residential, commercial, and industrial sources within Peoria and transports it to the WWTP for treatment.

9. Peoria is a “municipality” and a “person” within the meaning of Section 502(4) and (5) of the CWA, 33. U.S.C. § 1362(4) and (5).

10. GPSSD is a municipal corporation created pursuant to a special election in 1927 under the Sanitary District Act of 1917, 70 Ill. Comp. Stat. Ann. 2405/1. GPSSD owns and operates a Waste Water Treatment Plant (“WWTP”), located in Peoria County, at 2322 South Darst Street, Peoria, Illinois, and a separate sanitary sewer collection system for Peoria’s surrounding communities. GPSSD also owns and operates the Riverfront Interceptor, which transports combined wastewater from Peoria to the WWTP. GPSSD jointly operates Peoria’s combined and separate sanitary sewer systems.

11. GPSSD is a “municipality” and a “person” within the meaning of Section 502(4) and (5) of the CWA, 33 U.S.C. § 1362(4) and (5).

LEGAL BACKGROUND

Federal Clean Water Act

12. The purpose of the CWA is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). The CWA established a national goal to eliminate the discharge of pollutants to navigable waters. 33 U.S.C. § 1251(a)(1).

13. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the “discharge of any pollutant” by any person to navigable waters of the United States except as authorized by an NPDES permit issued by EPA or an authorized State pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

14. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

15. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), includes “sewage” in the definition of the term “pollutant.”

16. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” to be “the waters of the United States, including the territorial seas.”

17. In turn, “waters of the United States” has been defined to include, *inter alia*, all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; and tributaries to such waters. 40 C.F.R. § 122.2 (1993).

18. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines the term “point source” as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit...from which pollutants are or may be discharged.”

19. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the permit issuing authority, EPA or an authorized state, may issue a NPDES permit which authorizes the discharge of any pollutant to navigable waters, but only in compliance with the applicable requirements of Section 301 of the CWA, 33 U.S.C. § 1311, and such other conditions as the Administrator determines are necessary to carry out the provisions of the CWA and are set forth in such permit.

20. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), provides that EPA may authorize a state to administer the NPDES program and issue NPDES permits within its jurisdiction. At all times relevant to this complaint, EPA has authorized the Illinois EPA to administer the NPDES program for regulating discharges of pollutants to navigable waters within its jurisdiction.

21. EPA retains concurrent enforcement authority pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i).

State Law

22. Section 12(a) of the Illinois Environmental Protection Act, 415 ILCS 5/12(a), prohibits any person from causing, threatening, or allowing the discharge of any contaminant so as to cause or tend to cause water pollution in Illinois or so as to violate regulations or standards adopted by the Illinois Pollution Control Board under the Illinois Environmental Protection Act.

23. Section 12(f) of the Illinois Environmental Protection Act, 415 ILCS 5/12(f), prohibits the discharge of any contaminant into waters of the State without an NPDES permit for

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