

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
STATE OF NEW HAMPSHIRE,)	Civil Action No. 1:20-cv-00762-SM
)	
Plaintiff-Intervenor,)	
)	
v.)	ASSENTED-TO MOTION
)	OF THE STATE OF NEW
CITY OF MANCHESTER, NEW HAMPSHIRE,)	HAMPSHIRE TO INTERVENE
)	AS A PLAINTIFF
Defendant.)	
_____)	

Pursuant to Fed. R. Civ. P. 24(a)(1) , the State of New Hampshire (“State”), acting by and through the Department of Environmental Services and the New Hampshire Office of the Attorney General, hereby moves for leave to intervene as a plaintiff in this action to assert the claims set forth in the complaint submitted herewith.

In support of this motion, the State asserts as follows:

1. The United States of America, through the United States Attorney General at the request of the Administrator of the EPA, brought an action against the City of Manchester (“City”), New Hampshire, pursuant to CWA Sections 309(b) and (d), 33 U.S.C. §§ 1319(b) and (d), seeking, among other things, the City’s compliance with the Clean Water Act, in relation to the operation of its system to collect and treat sanitary sewage, including domestic, industrial, and commercial waste waters, and its system to collect stormwater.
2. In a complaint submitted herewith, the State alleges the same claims against the City for violations of the CWA and asserts supplemental State law claims for violations of N.H. RSA

ch. 485-A and the regulations promulgated thereunder. The State seeks injunctive relief and civil penalties under federal and State law.

3. The State of New Hampshire has a significant interest in the enforcement of the provisions of RSA Ch. 485-A and the protection of its surface waters.

4. The State of New Hampshire is entitled to intervene in this action pursuant to Fed.R.CivP. 24(a) because the State has a significant interest in the transactions which are the subject of this suit. Alternatively, the State of New Hampshire seeks permission to intervene in this action pursuant to Fed.R.Civ.P 24 (b)(2)(B) because the questions of law and fact relating to violations of the Clean Water Act and RSA Ch 485-A are essentially identical.

5. The State is a party to the Consent Decree lodged by the United States in this action. That Consent Decree resolves all claims alleged in the Complaint submitted herewith.

6. Parties to this action, the City and the United States, through counsel, have assented to this motion.

For the foregoing reasons, this Court should grant leave to the State to intervene as a plaintiff in this action.

Respectfully Submitted,

State of New Hampshire
Department of Environmental Services

By its attorney,

GORDON J. MACDONALD
ATTORNEY GENERAL

Date: July 23, 2020

/s/ K. Allen Brooks
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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, Peter Kautsky, Esquire; Adam M. Dumville, Esquire and Gregory H. Smith, Esquire.

/s/K. Allen Brooks

K. Allen Brooks