

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HACKENSACK RIVERKEEPER, INC. and  
NEW CITY NEIGHBORHOOD ASSOCIATION, INC.,

Plaintiffs,

v.

SENECA MEADOWS, INC.; WASTE CONNECTIONS  
US, INC.; WASTE CONNECTIONS OF NEW YORK,  
INC.; and WEST NYACK TRANSFER STATION,

Defendants.

Case No. 21-7659

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

(Federal Water Pollution Control  
Act, 33 U.S.C. §§ 1251 to 1387)

Plaintiffs Hackensack Riverkeeper, Inc. (“Hackensack Riverkeeper”) and New City  
Neighborhood Association, Inc. (“New City Neighborhood Association”) (collectively,  
“Plaintiffs”) by and through their counsel, hereby allege:

**I.**

**INTRODUCTION**

1. This is a civil suit brought under the citizen suit enforcement provisions of the  
Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean Water Act” or “the  
Act” or “CWA”) to address and abate the above-named Defendants’ ongoing and continuous  
violations of the Act. 33 U.S.C. § 1365.

2. Defendants discharge polluted stormwater runoff from a scrap metal processing  
and recycling facility (the “Facility”) into the waters of the United States in violation of CWA  
Sections 301(a) and 402(p), 33 U.S.C. §§ 1311(a), 1342(p), and the New York State Department  
of Environmental Conservation SPDES Multi-Sector General Permit for Stormwater Discharges

Associated with Industrial Activity, Permit No. GP-0-17-004 (March 1, 2018), [https://www.dec.ny.gov/docs/water\\_pdf/msgp017004.pdf](https://www.dec.ny.gov/docs/water_pdf/msgp017004.pdf) (“General Permit”).

3. Defendants’ violations of the General Permit and the Clean Water Act include, *inter alia*: discharges of polluted stormwater and other pollution that are not authorized by the General Permit; inadequate pollution control measures; an inadequate stormwater pollution prevention plan; and the release of pollutants that cause or contribute to violations of water quality standards in receiving waters.

4. Stormwater runoff is one of the most significant sources of water pollution in the nation—comparable to, if not greater than, contamination from industrial and sewage sources. With every rainfall event, hundreds of millions of gallons of polluted rainwater pour into waters across New York. The State of New York has designated as “impaired” more than 7,000 river miles; 319,000 acres of larger waterbodies; 940 square miles of harbors, bays, and estuaries; 10 miles of coastal shoreline; and 592 miles of Great Lakes shoreline. Under the Clean Water Act, “impaired” means not meeting water quality standards and/or unable to support beneficial uses, such as fish habitat and water contact recreation. In many of these waters, state water quality standards for metals, oil and grease, nutrient enrichment and oxygen depletion, inorganic pollutants, pathogens, taste, color, odor, and other parameters are consistently exceeded. For the overwhelming majority of water bodies listed as impaired, stormwater runoff is cited as a primary source of the pollutants causing the impairment.

5. Defendants’ stormwater discharges contribute to this endemic stormwater pollution problem. Defendants engage in industrial activities such as the storage and processing of scrap metal, vehicle maintenance, and vehicle traffic in and out of the Facility. 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 Defendants' scrap metal recycling facility can and must be controlled to the fullest extent required by law in order to allow these water bodies a fighting chance to regain their health.

## II.

### JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the parties and this action pursuant to 33 U.S.C. § 1365(a)(1), and 28 U.S.C. § 1331 (an action arising under the laws of the United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201–02 (power to issue declaratory relief in case of actual controversy and further necessary relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

7. On June 16, 2021, Plaintiffs provided notice of Defendants' violations of the Act and of its intention to file suit against Defendants ("Notice Letter") to the above-named Defendants, the Administrator of the United States Environmental Protection Agency ("EPA"); the Administrator of EPA Region 2; and the Commissioner of the New York Department of Environmental Conservation ("DEC"), as required by Section 505(b)(1)(A) of the Act, 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 Plaintiffs' Notice Letter is attached as Exhibit A, and is incorporated herein by reference.

8. More than sixty days have passed since the notice letter was served on Defendants and the State and federal agencies. Plaintiffs have complied with the Act's notice requirements. 33 U.S.C. § 1365(b)(1).

9. Neither the EPA nor the State of New York 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).

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

11. Venue is proper in the United States District Court for the Southern District of New York pursuant to CWA Section 505(c)(1), 33 U.S.C. § 1365(c)(1), and 28 U.S.C. § 1391(b)(2) and (d) because at least one of the Defendants resides in the Southern District of New York and all of the Defendants reside within New York State.

### III.

#### PARTIES

12. Plaintiff Hackensack Riverkeeper, Inc. (“Hackensack Riverkeeper”) is a non-profit corporation whose mission is to protect, preserve, and restore the ecological integrity and productivity of the Hackensack River and its watershed through enforcement, field work, and community action.

13. Plaintiff New City Neighborhood Association, Inc. is a non-profit corporation whose mission is to educate residents of New City, New York on the various issues affecting their neighborhood, and to protect and preserve their quality of life.

14. Plaintiffs have members and supporters in the New York and New Jersey region, many of whom use and enjoy the Hackensack River, which is polluted by industrial stormwater runoff from the Defendants’ Facility.

15. One such affected member and supporter lives in New City, New York.

16. This individual is a supporter of Hackensack Riverkeeper and a member of New

City Neighborhood Association.

17. This individual is passionate about advocating for cleaner water in and around New City, and believes that the Hackensack River should be protected and remain in a pristine state.

18. On one occasion, this individual was too worried about the state of the Hackensack River to fish in it, since the water had an offensive odor, was cloudy, and had no visible life.

19. This individual has not fished in the Hackensack River since that event.

20. This event led this individual to become greatly concerned about the river's water quality and ecology.

21. If the water downstream of the Facility was cleaner, then this individual would visit, hike, and fish that portion of the Hackensack River.

22. This individual is also concerned about the impact of the Facility's discharges of polluted stormwater on his drinking water, which is sourced from the Hackensack River downstream from the Facility.

23. Defendants' discharges of stormwater associated with industrial activity containing pollutants therefore specifically impair this individual's use and enjoyment of the Hackensack River.

24. The interests of this individual, as well as many other supporters and members of Plaintiffs Hackensack Riverkeeper and New City Neighborhood Association, Inc., have been, are being, and will continue to be adversely affected by Defendants' failure to comply with the CWA.

25. This individual, and Plaintiffs' other members harmed by Defendants' pollution,

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